CITY COUNCIL MEETING
July 30, 2019
City Council Chambers 400 East Military, Fremont NE
REGULAR MEETING – 7:00 P.M.
PUBLIC COMMENT – 6:30 P.M.
AGENDA

REGULAR MEETING:
1. Meeting called to order
2. Roll call
3. Mayor comments
   (There will be no discussion from the Council or the public regarding comments made by the Mayor. Should anyone have questions regarding the comments, please contact the Mayor after the meeting)

PUBLIC HEARINGS:
4. Resolution 2019-139 for conditional use permit for the Dodge County Historical Society to expand May Museum for a carriage house exhibit building located at 1643 N. Nye Ave. (staff report)
5. Resolution 2019-135 for conditional use permit for Myra Katherine Hale for a conditional use permit to allow a child care center at 1949 E. Military Ave (staff report)
6. Resolution 2019-138 to approve the Class I Liquor License for Senor Tequila at 1680 E. 23rd Street (staff report)

CONSENT AGENDA: All items in the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council Member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.
7. Motion to approve July 10, 2019 through July 30, 2019 claims and authorize checks to be drawn on the proper accounts (staff report)
8. Dispense with and approve July 9, 2019 City Council and Community Development Agency Meeting Minutes, and July 23, 2019 Special City Council Meeting Minutes
10. Resolution 2019-136 approving the request of the Fremont Area Chamber of Commerce to use the upper level of the Ilgenfritz Parking lot, and approve the application for a Special Designated Permit (staff report)
11. Motion to approve payment agreement with Classic Enterprises for water loss (staff report)
12. Motion to approve excavation/asphalt/concrete license applications (staff report)

13. Resolution 2019-137 approving the request of Keep Fremont Beautiful to use the Ilgenfritz Parking Lot at 4th and Park Avenue for the All Metals Market Drop site (staff report)

14. Motion to approve appointments to the NENEDD Council of Officials (staff report)

15. Motion to approve use of Clemmons Park by Fremont High School to host Junior Varsity Cross Country Meet (staff report)

16. Motion authorizing Special Designated License Local Recommendation form for United Way Kick Off (staff report)

17. Resolution 2019-142 accepting and awarding contract of Saunders County Grading to Sawyer Construction Co. (staff report)

18. Resolution 2019-143 for Final Acceptance of the Project for the Reconstruction of Luther Rd and Morningside Rd Intersection; and authorize Mayor to sign Pay Application No. 2 and Final Change Order (staff report)

19. Resolution 2019-144 authorizing City staff to sign a lease agreement with NMC for a Caterpillar Compact Track Loader (staff report)

20. Resolution 2019-145 authorizing City Staff to execute a contract with American Fence Company for the repair and replacement of 6400’ fence at the Fremont Wellfield (staff report)


22. Motion authorizing Special Designated License Local Recommendation form for Taco Smack Anniversary (staff report)

23. Resolution 2019-147 authorizing the Mayor to sign the Northeast Nebraska Economic Development District (NENEDD) Service/Consultant Agreement for General Administration for Community Development Block Grant (CDBG) 18-PP-005 (staff report)

24. Resolution 2019-148 to authorize staff to execute a contract with JEO Consulting for evaluation of the Fremont, Farmland and Railroad Levee (staff report)

25. Resolution 2019-140 approving the request of Dan Layman to use the grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show (staff report)

UNFINISHED BUSINESS: requires individual associated action

26. Resolution 2019-100 Policy for Individual Sewer Connections (staff report)

NEW BUSINESS: requires individual associated action

27. Resolution 2019-149 awarding City Auditorium Renovation Project bid to Cheever Construction (staff report)
28. Resolution 2019-150 to approve the recommendation from the July 30, 2019 Joint Water Management Advisory Board to authorize City Staff to assist the recommended engineering firm in submitting a HMGP application and if awarded, contract with the firm to develop a flood mitigation and resiliency plan to reduce the impacts of flooding on public and private infrastructure in Dodge County (staff report)

29. Resolution 2019-151 to approve a financial commitment for a portion of the local match required by the Hazard Mitigation Grant Program (staff report)

30. Resolution 2019-152 to authorize City Staff to assist JEO Consulting in submitting a HMGP application and if awarded, contract with JEO to develop, execute, and administer a flood mitigation construction program (staff report)

31. Resolution 2019-153 to authorize City Staff to assist JEO Consulting in submitting a HMGP application and if awarded, contract with JEO to develop, execute, and administer a voluntary flood acquisition and demolition program (staff report)

32. Accept Traffic Committee Report and approve Resolution 2019-154 to remove “No Parking” signs from 18th Street immediately east of Main Street (staff report)

33. Ordinance 5497 amending Ordinance 5270 correcting the legal description of the approved planned unit development on property generally located at 1615 E. Military Ave. (first reading) (staff report)

34. Ordinance 5498 to amend Section 5-902, Storage of Dismantled, Wrecked, Junked and Inoperable Motor Vehicle (first reading) (staff report)

35. Resolution 2019-155 accepting and awarding the bid to M.E. Collins Contracting Company for the construction of the Terminal Aircraft Parking Apron at the Fremont Airport (staff report)

36. Resolution 2019-156 to authorize to approval of Amendment No. 1 to the Professional Services Agreement for Engineering Services with Burns McDonnell in connection with the Aircraft Parking Apron at the Fremont Airport (staff report)

37. Resolution 2019-157 to authorize to approval of the Grant Agreement (No. 3-31-0029-012-2019) with the Federal Aviation Association in connection with the Aircraft Parking Apron at the Fremont Airport (staff report)

38. Executive Session to discuss personnel matters

39. Adjournment

Agenda posted at the Municipal Building on July 26, 2019 and online at www.fremontne.gov. Agenda distributed to the Mayor and City Council on July 26, 2019. This meeting is preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, is displayed in the Municipal Building and is open to the public. The official current copy is available at City Hall, 400 East Military, City Clerk’s Office. The City Council reserves the right to go into Executive Session at any time. A copy of the Open Meeting Law is posted in the City Council Chambers for review by the public. The City of Fremont reserves the right to adjust the order of items on this agenda.

§2-109 Audience / Participant; Rules of Conduct.

The following rules are established for audience members and participants at a Council meeting:

1. At the discretion of the presiding officer, any person may address the Council, on any agenda item; however, questions to City officials or staff, other speakers, or members of the audience are not permitted and will not be answered.
2. Any person wishing to address the Council shall first state their name and address
3. Remarks shall be limited to five minutes unless extended or limited by the Presiding Officer or majority vote of the Council.
4. No person will be permitted to address the Council more than once during discussion of a particular agenda item. Rebuttal comments are not permitted.
5. Repetitive or cumulative remarks may be limited or excluded by the Presiding Officer or majority vote of the Council.
6. Profanity or raised voice is not permitted.
7. Applause, booing, or other indications of support or displeasure with a speaker are not permitted.
8. Any person violating these rules may be removed from the Council Chambers.

The following additional rules are established and applicable for public participants at an Open Public Comment Period or Study Session meeting:

9. At the direction of the presiding officer, Open Public Comment Period Speaker Topics will be limited to those not covered by a published agenda for any Study Session, or any regular City Council meeting.

10. A priority to speak at Open Public Comment Periods and Study Session shall be given to those speakers who reside within the City limits, or within the ETJ (Extra-Territorial Jurisdiction – a two (2) mile radius of the City limits) of Fremont, and then, as time allows, to those who do not.

11. Member of the public wishing to speak at a Study Session will be required to limit their comments to those that are directly related to the Publicly Noticed Study Session agenda topic(s).

12. Written letters addressed to the City Council will be accepted, as will comment cards that will be made available and collected from those who attend Open Public Comment Period and Study Session meetings who do not wish to speak publically, but have an issue or concern that they believe the Council should be made aware of.
Staff Report

TO: Honorable Mayor and City Council
FROM: Jennifer L. Dam, AICP, Planning Director
DATE: July 30, 2019
SUBJECT: Request for a Conditional Use Permit to expand the May Museum (public assembly)

RECOMMENDATION: Approval conditioned upon compliance with of all other applicable federal, state, and local permits.

Background:

This item was originally scheduled for the June 17, 2019 Planning Commission meeting. There was not a quorum at the meeting so there was not a public hearing or action taken. The applicant requested that this be continued until the Planning Commission meeting on July 15, 2019. The Planning Commission unanimously recommended conditional approval.

This is a request for approval of an amendment of a conditional use permit to expand a public assembly/cultural center, specifically to expand the May Museum by building a carriage house.

The proposed carriage house will be similar in size, design and location to the original carriage house that was on the property.

The proposal is on property generally located at 17th St. and Nye Avenue.

The area of application is zoned SR, Suburban Residential and is developed with the May Museum, an historic house.

The surrounding area is zoned SR, Suburban Residential. It is developed with apartments to the west and a church and parking lot to the south. Single family residential uses are to the north and east.

11-316.05.B Identifies criteria for approval of a Conditional Use Permit.

11-316.05.B.1 states that “the conditional use shall not be of a type that would tend to undermine the implementation of an adopted plan that includes the lot or tract proposed for development.”

Finding: The proposed conditional use permit will not undermine the implementation of a plan. It will enhance the museum as it recreates the historic carriage house.

11-316.05.B.2 states “The conditional use shall be compatible with surrounding land uses and the natural environment, and will not materially detract from the character of the immediate...
area or negatively affect the planned or anticipated development or redevelopment trajectory.”

Finding: The museum exists. The proposed carriage house is compatible with the surrounding uses.

11-316.05.B.3 states “There is no practicable alternative location where the use is permitted as-of-right within 1,000 feet of the lot or tract proposed for development, or if such a location exists, the proposed location is more favorable in terms of: a) providing a needed community service; b) providing a critical mass of jobs that are likely to pay more than the median wages for the region; c) providing a balance of land uses, ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another; or d) making more efficient use of public infrastructure, such as off-peak street capacity.”

Finding: There is no alternate location for this particular use as it is specifically associated with the museum.

11-316.06.B.4 states “The approval of the conditional use will not create a critical mass of similar conditional uses that is likely to discourage permitted uses by making the area less desirable.”

Finding: The proposed expansion will not make the area less desirable.

11-316.06.B.5 states “The conditional use and any conditions of development shall adequately protect public health and safety against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.”

Finding: The proposed use will protect the public health and safety.

11-316.06.B.6 states “The conditional use will not use an unfairly disproportionate share of public services that would compromise the delivery of those services to other uses in the vicinity. Applicable public services include, but are not limited to, utilities, police protection, fire protection, schools, parks, and libraries.”

Finding: The proposed expansion will provide a public service.

11-504.02.I states: Public Assembly facilities are permitted if it is demonstrated that:

1. “They are located greater than 300 feet from either GI or AV district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a local, collector, or arterial roadway;”

Finding: The proposed use is farther than 300 feet from a GI or AV district.

2. “Primary access to the site is from a collector or arterial roadway; “
Finding: Access is from a collector roadway.

3. “Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise;”

Finding: The proposed expansion includes additional parking and circulation on the site. Arrangements have been made with the Church to the south to share their parking lot during large events.

4. “The use operates in accordance with all other applicable federal, state, and local laws and, if additional permits are required, such permits were obtained prior to beginning operation.”

Finding: This will be a condition of the permit.

**Staff Recommendation:** Approval conditioned upon compliance with all other applicable federal, state, and local permits.
ZONING APPLICATION

APPLICATION

An application for [zoning change or conditional use permit] may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and/or the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies. (Fremont Zoning Ordinance (FZO) § 1203 and 1204)

CHECKLIST (the following items must be submitted as part of the application process)

A. Application (including fees)
B. A copy of the owner’s deed(s) for the subject property.
C. A copy of the plat, survey, surveyor’s field notes (including sketch of the subject property) or other illustration sufficient to locate the subject property on the ground.

For conditional use permit applications:

D. A site plan, floor plan(s) and elevations, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
   1. The date, scale, north point, title, name of owner, and name of person preparing the site plan, floor plan and elevations.
   2. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements (including parking, tree plantings and landscaping improvements).
   3. The location, size, and use of proposed and existing structures on the site.
   4. Floor plans should include walls, windows, doors (including swings), stairs and ramps, shafts, means of egress, etc., and shall be sufficiently dimensioned to describe all relevant space sizes; and label each space according to its use.
   5. Elevations should include grade, references, survey markers/monuments, scale, building height and materials.

Please note that your application will not be accepted or there may be a delay in processing by the Planning Department if any of the required information or materials are missing or improperly presented. To avoid unnecessary delays in processing, please remember to submit the appropriate submittal requirements, i.e., signed application, fees, and all supporting documentation. If you have any questions regarding this application or required materials, please contact the Planning Department at 402-727-2636 between 8:00 am and 4:30 pm, Monday through Friday.
APPLICATION TYPE

☐ Zoning Change (including conventional and planned unit development requests)
☒ Conditional Use Permit

APPLICANT (all correspondence will be directed to the applicant)

Name Dodge County Historical Society
Address 1643 N Nye Ave
City Fremont
Email maymuseum@questoffice.net

PROPERTY OWNER (if not the same as applicant above)

Name Dodge County
Address 435 N Park Ave #102
City Fremont
Email

ENGINEER, SURVEYOR, OR ARCHITECT (if not the same as applicant above)

Name Clark Boschult
Address
City
Email mecbosch@gpcom.net

AGENT (if not the same as applicant above)

Name Boschult Engineering Company
Address PO Box 1238
City Fremont
Email BEC@omni-tech.net

(application continued on next page)
ZONING APPLICATION

PROPERTY INFORMATION

Address of Property 1643 N Nye Ave Fremont, NE
General Location (if no address is available) ____________________________

Brief Legal Description of Property Northeast corner (341' x 300') of block 11
Nye Hawthorne Addition, City of Fremont, NE.

Description of Request Approval to construct the Carriage House Exhibit
Building as indicated on attached preliminary drawings.

An application may be filed only by the owner(s) of the property, or duly authorized officer or agent of
the owner(s). By executing this application, he/she does hereby acknowledge the above statements to
be true and accurate to the best of their knowledge, and understand that knowing and willful
falsification of information will result in rejection of the application and may be subject to criminal
prosecution.

I have received, read and understand the terms and conditions of this request, and agree to compliance
with all applicable codes and ordinances of the City.

Signature ____________________________  Print Name ____________________________  Date __________

Office Use Only

Submittal Date ____________________________  Project No. ____________________________
Payment Amount $500.00  Receipt No. 6970
Other Comments ______________________________________________________________________
__________________________________________________________________________________

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KNOW ALL MEN BY THESE PRESENTS:

THAT I or We,

A. C. Sidner, trustee, herein called the grantor whether one or more,

in consideration of $1.00
received from grantee, do hereby grant, bargain, sell, convey and confirm unto

County of Dodge in the State of Nebraska

herein called the grantee whether one or more, the following described real property in

Dodge County Nebraska

That part of Block 11, Nye Hawthorne's addition to the City of Fremont described as follows: Beginning at the Northeast corner of said Block running thence West along the North side thereof a distance of 341 feet, running thence South parallel to the East margin of said Block 300 feet, running thence East 341 feet, running thence North 300 feet to the place of beginning.

The understanding of this conveyance is that the property is to be used by the County for an Historical Museum, and in the event that the same should ever be abandoned as such an Historical Museum, the title to said above described real estate shall re vest in the trust created w/w Louis E. May, deceased, the trustees of which are presently the First National Bank & Trust Company and A. C. Sidner

To have and to hold the above described premises together with all tenements, hereditaments and appurtenances thereto belonging unto the grantee and to grantee's heirs and assigns forever.

And the grantor does hereby covenant with the grantee and with grantee's heirs and assigns that grantor is lawfully seized of said premises; that they are free from encumbrance

that grantor has good right and lawful authority to convey the same; and that grantor warrants and will defend the title to said premises against the lawful claims of all persons whomsoever.

Dated December 1968

STATE OF Nebraska County of Dodge

Before me, a notary public qualified for said county, personally came

A. C. Sidner, Trustee

known to me to be the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

Witness my hand and notarial seal on December 1968.

Notary Public

My commission expires 1969.

[Notary Public Seal]

STATE OF Nebraska

County of Dodge

Entered on numerical index and filed for record in the Register of Deeds Office of said County the day of December, 1968, at o'clock and minutes A.M., and recorded in Book , at page , of.

[Reg. of Deeds Seal]

Reg. of Deeds Deputy
QUITCLAIM DEED

LaMAR, a Partnership, GRANTOR, in consideration of VALUABLE CONSIDERATION AND ONE AND NO/100THS DOLLARS ($1.00) received from GRANTEE, COUNTY OF DODGE, a Political Subdivision, quitclaims to GRANTEE the following-described real estate (as defined in R.R.S 1943 §76-201):

Part of Lot 2, Midland College Subdivision and a part of Block 11, Nye Hawthorne Addition described as follows: Commencing at the Northwest corner of Lot 1 of Midland College Subdivision and running thence East 121 feet to the point of beginning; thence East 80 feet; thence South 150 feet; thence West 80 feet; thence North 150 feet to the point of beginning, all in the City of Fremont, Dodge County, Nebraska

Executed the 26th day of July, 1994.

LaMAR, a Partnership

By

BRUCE GOCKEN, Partner

STATE OF NEBRASKA )
COUNTY OF DODGE ) ss

The foregoing instrument was acknowledged before me on the 26th day of July, 1994 by BRUCE GOCKEN, Partner, of LaMAR, a Partnership.

Joyce L. Walker
Notary Public
NONEXCLUSIVE LICENSE AGREEMENT

THIS NONEXCLUSIVE LICENSE AGREEMENT (this “Agreement”) is entered into as of this 20th day of May 2019, by and between ST. TIMOTHY LUTHERAN CHURCH ELCA, a Nebraska Nonprofit Corporation (“St. Timothy”), and DODGE COUNTY HISTORICAL SOCIETY OF FREMONT, NEBRASKA, a Nebraska Nonprofit Corporation (“DCHS”).

PRELIMINARY STATEMENT

A. St. Timothy is the owner of church facilities and surrounding parking area located at 538 West 16th Street, Fremont, Nebraska; and,

B. DCHS leases the Louis E. May Museum owned by Dodge County, Nebraska, consisting of a log cabin and other facilities together with a surrounding parking area located at 1643 North Nye Avenue, Fremont, Nebraska; and,

C. St. Timothy has agreed to allow DCHS and its visitors to utilize St. Timothy’s parking stalls on a non-exclusive basis in accordance with the terms of this Agreement; and, further,

D. DCHS has agreed to allow St. Timothy and its visitors to utilize DCHS’s parking stalls on a non-exclusive basis in accordance with the terms of this Agreement.

NOW, THEREFORE, for and in consideration of the foregoing recitals and the mutual covenants and agreements set forth herein, St. Timothy and DCHS hereby agree as follows:

1. PARKING STALL License FROM ST. TIMOTHY TO DCHS. St. Timothy hereby grants DCHS and its employees, invitees and visitors (collectively, “Licensee Parties”) with a license to utilize parking stalls located on the St. Timothy premises at all times other than times in which St. Timothy is engaged in regular or specially planned worship services as well as other planned events requiring the utilization by St. Timothy of such stalls. St. Timothy reserves the right to otherwise utilize its parking areas at all times subject to the terms of this Agreement.

2. PARKING STALL LICENSE FROM DCHS TO ST. TIMOTHY. DCHS hereby grants to St. Timothy and its employees, invitees and visitors (collectively, “Licensee Parties”) with a license to utilize parking stalls located on the DCHS premises at all times other than times in which DCHS is engaged in regular or specially planned events requiring the utilization by DCHS of such stalls. DCHS reserves the right to otherwise utilize its parking areas at all times subject to the terms of this Agreement.

3. LICENSE FEE. No license fees will be charged by either party in connection with this Agreement.

4. TERM. This term of this Agreement shall be perpetual and shall continue until such time as either party elects to terminate this Agreement. In the event that either party elects to terminate this Agreement, then such party shall provide not less than 12 months’ advance written notice to the other party stating the intent to terminate this Agreement and this Agreement shall thereupon terminate 12 months after the date of the delivery of such written notice from the terminating party to the non-terminating party.

5. DODGE COUNTY, NEBRASKA. Dodge County, Nebraska, the owner of the property and improvements located at 1643 North Nye Avenue shall be deemed to be an intended beneficiary of this Agreement and of the rights granted to DCHS, subject to the specific terms of this Agreement.
6. **MISCELLANEOUS.**

6.1 **Entire Agreement.** This Agreement constitutes the entire understanding between the parties with respect to the transaction contemplated herein, and all prior or contemporaneous oral agreements, understandings, representations and statements, and all prior written agreements, understandings, letters of intent and proposals are merged into this Agreement. Except as otherwise expressly provided herein, neither this Agreement nor any provisions hereof may be waived, modified, amended, discharged or terminated except by an instrument in writing signed by the party against which the enforcement of such waiver, modification, amendment, discharge or termination is sought, and then only to the extent set forth in such instrument.

6.2 **Assignment.** Neither this Agreement nor any rights granted under this Agreement may be assigned by either party.

6.3 **No Recording.** The rights granted under this Agreement to either party shall not create any interest in real property. The rights granted hereunder constitute a license and do not constitute a lease. Neither this Agreement nor any memorandum thereof shall be recorded, and the act of recording by either party shall be deemed an event of default by either party hereunder.

6.4 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Nebraska.

6.5 **Construction of Agreement.** In construing this Agreement, all headings and titles are for the convenience of the parties only and shall not be considered a part of this Agreement. Whenever required by the context, the singular shall include the plural and the masculine shall include the feminine and vice versa. This Agreement shall not be construed as if prepared by one of the parties, but rather according to its fair meaning as a whole, as if both parties had prepared it.

6.6 **Partial Invalidity.** The provisions hereof shall be deemed independent and severable, and the invalidity of partial invalidity or enforceability of any one provision shall not affect the validity of enforceability of any other provision hereof.

6.7 **Counterparts.** This Agreement may be executed in multiple counterparts and shall be valid and binding with the same force and effect as if all parties had executed the same Agreement. A fully executed facsimile copy or pdf of this Agreement shall be effective as an original.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date first set forth above.

ST. TIMOTHY LUTHERAN CHURCH ELCA,  
By: Dean R. Carstensen  
Name: Dean R. Carstensen  
Its: Church Treasurer

DODGE COUNTY HISTORICAL SOCIETY,  
By: Elizabeth J. Petersen  
Name: Elizabeth J. Petersen  
Its: EXECUTIVE BOARD MEMBER
RESOLUTION NO. 2019-139

A RESOLUTION OF THE CITY OF FREMONT, NEBRASKA, AUTHORIZING THE EXPANSION OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1643 NYE AVENUE FOR THE PURPOSES OF DEVELOPING A CARRIAGE HOUSE TO EXPAND A MUSEUM (PUBLIC ASSEMBLY).

WHEREAS, the City Council for the City of Fremont, Nebraska, seeks to promote the health, safety, morals, and the general welfare of the community; and

WHEREAS, a request for approval of the expansion of the May Museum by adding a carriage house for exhibits was filed with the offices of the Department of Planning, City of Fremont (City); and

WHEREAS, the City has determined that the subject property is currently zoned SR, Suburban Residential;

WHEREAS, Public Assembly uses in the SR, Suburban Residential zoning district requires a Conditional Use Permit; and

WHEREAS, a public hearing on the proposed Conditional Use Permit was held by the Planning Commission on July 15, 2019, and subsequently by the City Council on July 30, 2019; and

WHEREAS, the City has determined that the proposal meets sections 11-316.05 and 11-504.02.I of the Fremont Municipal Code; and

WHEREAS, the City has determined that such proceedings were in compliance with Neb. Rev. Stat. §19-904 pertaining to zoning regulations and restrictions;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA, Issuance of a Conditional Use Permit for the purpose of expanding the May Museum by adding a Carriage House is hereby authorized for the following described real estate:

The northeast corner (341’ x 300’) of Block 11, Nye Hawthorne Addition, City of Fremont, NE

Subject to the condition that all federal, state and local regulations are met.

PASSED AND APPROVED THIS THE 30th DAY OF JULY 2019.

____________________________
Scott Getzschman, Mayor

ATTEST:

____________________________
Tyler Ficken, City Clerk
Staff Report

TO:    Honorable Mayor and City Council
FROM:  Jennifer L. Dam, AICP, Planning Director
DATE:  July 30, 2019
SUBJECT: Request for a Conditional Use Permit to expand the Pearl Academy Daycare by adding infant facilities

RECOMMENDATION: Approval Resolution 2019-135 of a Conditional Use Permit for a child care facility consisting of up to 12 infants, 24 toddlers, 7 staff and a director to Myra Katherine Hale at 1949 East Military with the conditions that the business being licensed by the State and compliance with all applicable state and local laws and regulations.

Background:
This is a request for approval of a conditional use permit to expand a daycare to add infant and toddler facilities. There would be 12 infants, 24 toddlers, 7 staff and a director.

The proposal is located at 1949 East Military, which is a bay in a commercial strip center on property described as Tax Lot 128 located in S 24, T17N, R8E, Fremont, Nebraska.

The area is developed as a commercial strip center.

The police chief and fire chief reviewed this proposal and neither had concerns.

The area of application is zoned SC, Suburban Commercial.

11-316.05.B Identifies criteria for approval of a Conditional Use Permit.

11-316.05.B.1 states that “the conditional use shall not be of a type that would tend to undermine the implementation of an adopted plan that includes the lot or tract proposed for development.”

Finding: The use of this property for a child care facility will not undermine the implementation of an adopted plan.

11-316.05.B.2 states “The conditional use shall be compatible with surrounding land uses and the natural environment, and will not materially detract from the character of the immediate area or negatively affect the planned or anticipated development or redevelopment trajectory.”

Finding: The proposal is compatible with a commercial strip center and will be used in coordination with an existing child care facility that is already on the premises.
11-316.05.B.3 states “There is no practicable alternative location where the use is permitted as-of-right within 1,000 feet of the lot or tract proposed for development, or if such a location exists, the proposed location is more favorable in terms of: a) providing a needed community service; b) providing a critical mass of jobs that are likely to pay more than the median wages for the region; c) providing a balance of land uses, ensuring that appropriate supporting activities, such as employment, housing, leisure-time, and retail centers are in close proximity to one another; or d) making more efficient use of public infrastructure, such as off-peak street capacity.”

Finding: There is not a site within 1,000 feet in which the use would be permitted as-of-right. Infant and toddler care is a needed community service.

11-316.06.B.4 states “The approval of the conditional use will not create a critical mass of similar conditional uses that is likely to discourage permitted uses by making the area less desirable.”

Finding: This will not create a critical mass, will not discourage permitted uses nor will it make the area less desirable.

11-316.06.B.5 states “The conditional use and any conditions of development shall adequately protect public health and safety against natural and man-made hazards which include, but are not limited to, traffic noise, water pollution, airport hazards, and flooding.”

Finding: The conditional use will not impact the public health.

11-316.06.B.6 states “The conditional use will not use an unfairly disproportionate share of public services that would compromise the delivery of those services to other uses in the vicinity. Applicable public services include, but are not limited to, utilities, police protection, fire protection, schools, parks, and libraries.”

Finding: The proposed use will not use an unfairly disproportionate share of public services.

11-504.02 (D) states “Child Care Centers are conditionally permitted provided that:”

1. “Child Care Centers in the R, SR, AR or UR districts may only be permitted in places of public assembly that provide adequate area for off-street circulation, drop-off and parking.”

   This is not in a residential area.

2. “In all instances the site is 300 feet from a MH, LI, GI, AV or PO district as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a collector or arterial roadway;”


The site is more than 300 feet from a MH, LI, GI, AV or PO district

3. “Primary access to the site is from a collector or arterial roadway;”

Primary access is from an arterial roadway.

4. “Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking and noise;”

The property is in a commercial district with sufficient parking. It will not have an impact greater than other permitted uses.

5. “The application shall be accompanied by the following information a. The number of children and number of staff members on the largest shift; b. A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, property boundaries, structures on the site, the location and arrangement of parking spaces, the traffic circulations pattern, loading and unloading areas, fencing, landscaping, play area, and entrances/exits to such facility. c. Prior to occupancy, such facilities shall comply with all applicable state and local laws and regulations.”

All of the above information has been provided. State licensing is a condition of approval.

Staff Recommendation: Approval of a Conditional Use Permit for a child care facility consisting of up to 12 infants, 24 toddlers, 7 staff and a director to Myra Katherine Hale at 1949 East Military with the conditions that the business being licensed by the State and compliance with all applicable state and local laws and regulations.
ZONING APPLICATION

APPLICATION

An application for [zoning change or conditional use permit] may be filed with the Zoning Administrator, or his/her designee. The application shall include the following information:

1. Name and address of the applicant.
2. Owner, address and legal description of the property.
3. A description of the reason for the rezoning application and/or the nature and operating characteristics of the proposed use.
4. Any graphic information, including site plans, elevations, other drawings, or other materials determined by the Zoning Administrator to be necessary to describe the proposed use to approving agencies. (Fremont Zoning Ordinance (FZO) § 1203 and 1204)

CHECKLIST (the following items must be submitted as part of the application process)

A. Application (including fees)
B. A copy of the owner’s deed(s) for the subject property.
C. A copy of the plat, survey, surveyor’s field notes (including sketch of the subject property) or other illustration sufficient to locate the subject property on the ground.

For conditional use permit applications:

D. A site plan, floor plan(s) and elevations, drawn to a scale sufficient to permit adequate review and dimensioned as necessary, showing the following information:
   1. The date, scale, north point, title, name of owner, and name of person preparing the site plan, floor plan and elevations.
   2. The location and dimensions of boundary lines, easements, and required yards and setbacks of existing and proposed buildings and site improvements (including parking, tree plantings and landscaping improvements).
   3. The location, size, and use of proposed and existing structures on the site.
   4. Floor plans should include walls, windows, doors (including swing), stairs and ramps, shafts, means of egress, etc., and shall be sufficiently dimensioned to describe all relevant space sizes; and label each space according to its use.
   5. Elevations should include grade, references, survey markers/monuments, scale, building height and materials.

Please note that your application will not be accepted or there may be a delay in processing by the Planning Department if any of the required information or materials are missing or improperly presented. To avoid unnecessary delays in processing, please remember to submit the appropriate submittal requirements, i.e., signed application, fees, and all supporting documentation. If you have any questions regarding this application or required materials, please contact the Planning Department at 402-727-2636 between 8:00 am and 4:30 pm, Monday through Friday.
ZONING APPLICATION

APPLICATION TYPE

☐ Zoning Change (including conventional and planned unit development requests)
☐ Conditional Use Permit

APPLICANT (all correspondence will be directed to the applicant)

Name: Myra Katherine Hall
Address: 1949 E Military
City: Fremont
State: NE
Zip: 68015
Email: myra.katherine@yahoo.com
Phone: 402-720-1250

PROPERTY OWNER (if not the same as applicant above)

Name: Rich Paden
Address: 1949 E Military
City: Fremont
State: NE
Zip: 68015
Email: richard.paden@hotmail.com
Phone: 402-719-1535

ENGINEER, SURVEYOR, OR ARCHITECT (if not the same as applicant above)

Name:
Address:
City:
State:
Zip:
Email:
Phone:
Fax:

AGENT (if not the same as applicant above)

Name:
Address:
City:
State:
Zip:
Email:
Phone:
Fax:

(application continued on next page)
ZONING APPLICATION

PROPERTY INFORMATION

Address of Property 1949 E Military
General Location (if no address is available)

Brief Legal Description of Property Commercial has been used and approved as a daycare in the past

Description of Request Pearl Academy occupies 1950 E 24th street. They would like to open Pearl Baby at 1949 E Military. So children can share the playground purchased with a USDA loan from the city.

An application may be filed only by the owner(s) of the property, or duly authorized officer or agent of the owner(s). By executing this application, he/she does hereby acknowledge the above statements to be true and accurate to the best of their knowledge, and understand that knowing and willful falsification of information will result in rejection of the application and may be subject to criminal prosecution.

I have received, read and understand the terms and conditions of this request, and agree to compliance with all applicable codes and ordinances of the City.

Signature Print Name Date

Office Use Only

Submittal Date Project No.
Payment Amount Receipt No.
Other Comments

Page 3 of 3
RESOLUTION NO. 2019-135

A RESOLUTION OF THE CITY OF FREMONT, NEBRASKA, AUTHORIZING THE EXPANSION OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1643 NYE AVENUE FOR THE PURPOSES OF DEVELOPING A CARRIAGE HOUSE TO EXPAND A MUSEUM (PUBLIC ASSEMBLY); PROVIDING FOR REPEAL OF RESOLUTIONS IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Fremont, Nebraska, seeks to promote the health, safety, morals, and the general welfare of the community; and

WHEREAS, a request for approval of Conditional Use Permit for a child care facility consisting of up to 12 infants, 24 toddlers, 7 staff and a director was filed with the offices of the Department of Planning, City of Fremont (City); and

WHEREAS, the City has determined that the subject property is currently zoned SC Suburban Commercial

WHEREAS, Child Care facilities in the SC Suburban Commercial zoning district requires a Conditional Use Permit; and

WHEREAS, a public hearing on the proposed Conditional Use Permit was held by the Planning Commission on July 15, 2019, and subsequently by the City Council on July 30, 2019; and

WHEREAS, the City has determined that the proposal meets sections 11-316.05 and 11-504.02.D of the Fremont Municipal Code; and

WHEREAS, the City has determined that such proceedings were in compliance with Neb. Rev. Stat. §19-904 pertaining to zoning regulations and restrictions;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA, AS FOLLOWS:

SECTION I. PERMIT. Issuance of a Conditional Use Permit for the purpose a child care facility consisting of up to 12 infants, 24 toddlers, 7 staff and a director to Myra Katherine Hale at 1949 East Military is hereby approved subject to the condition that the facility receives and maintains state licensing and that all other federal, state and local regulations are met.

PASSED AND APPROVED THIS THE 30TH DAY OF JULY 2019

Scott Getzschman, Mayor

ATTEST:

Tyler Ficken, City Clerk
Recommendation: 1) Conduct public hearing, 2) Move to approve Resolution 2019-138 by recommending approval of Class I liquor license application of Senor Tequila, 1680 E. 23rd St., Fremont, NE 68025.

Background: After holding a public hearing, Council will need to make a recommendation to the Nebraska Liquor Control Commission regarding the application.

The Resolution presented to Council requires a choice to be made. Council can recommend approval, no recommendation, no recommendation with stipulations or denial. The Resolution has been drafted for approval. If a motion is made to make no recommendation, no recommendation with stipulations or denial, then an amendment to the resolution will be necessary.
RECEIPT 07-05-2019
NEBRASKA LIQUOR CONTROL COMMISSION

From: TRACY BURMEISTER
Email: TRACY.BURMEISTER@nebraska.gov
Phone: (402) 471 - 2896
Fax: (402) 471 - 2814

Email2: City Clerk of Fremont- tyler.ficken@fremontne.gov
Applicant: Los Cunados LLC dba Senor Tequila
License #: Class I-123218

Please sign and date stamp this receipt and return back to the NLCC office

Date of Receipt of Application

Signature
RECOMMENDATION OF THE NEBRASKA LIQUOR CONTROL COMMISSION

Date delivered from NLCC office: July 5, 2019 Tracy

I, _______________________________ Clerk of _______________________________
(City, Village or County)

Nebraska, hereby report to the Nebraska Liquor Control Commission in accordance with Revised Statutes of Nebraska, Chapter 53, Section 134 (7) the recommendation of said city, village or county, as the case may be relative to the application for a license under the provisions of the Nebraska Liquor Control Act as applied for by:

Los Cunados LLC dba Senor Tequila

1680 E 23rd Street, Fremont, Nebraska (Dodge County)

NEW APPLICATION for Class I-123218

45 days – 08/19/2019

1. Notice of local hearing was published in a legal newspaper in or of general circulation in city, village or county, one time not less than 7 and not more than 14 days before time of hearing.

Check one: Yes __________ No __________

The Statutes require that such hearing shall be held not more than 45 days after the date of receipt of this notice from the Commission.

2. Local hearing was held not more that 45 days after receipt of notice from the Nebraska Liquor Control Commission.

Check one: Yes __________ No __________

3. Date of hearing of Governing Body: ________________________________

4. Type or write the Motion as voted upon by the Governing Body. If additional Motions are made by the Governing Body, then use an additional page and follow same format.

5. Motion was made by: ________________________________ Seconded by: ________________________________

6. Roll Call Vote: ________________________________

7. Check one: Motion Passed: ________________________________ Motion Failed: ________________________________

8. If the motion is for recommendation of denial of the applicant, then list the reasons of the governing body upon which the motion was made.

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(Attached additional page(s) if necessary)

SIGN HERE ________________________________ DATE ________________________________

(Clerk's Signature)
APPLICATION FOR LIQUOR LICENSE
CHECKLIST - RETAIL

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

RECEIVED
JUL 03 2019

NEBRASKA LIQUOR
CONTROL COMMISSION

<table>
<thead>
<tr>
<th>Hot List: YES</th>
<th>NO</th>
<th>New/Replacing #</th>
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<tbody>
<tr>
<td></td>
<td></td>
<td>123218</td>
</tr>
<tr>
<td>Class Type</td>
<td>I</td>
<td>Initial TB</td>
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</table>

Applicant name ____________ Luis Abundes

Trade name ____________ SEnor TEQUILA

Previous trade name ____________ N/A

Contact email address ____________ Mkydonlliv@hotmail.com

Provide all the items requested. Failure to provide any item will cause this application to be returned or placed on hold. All documents must be legible. Any false statement or omission may result in the denial, suspension, cancellation or revocation of your license. If your operation depends on receiving a liquor license, the Nebraska Liquor Control Commission cautions you that if you purchase, remodel, start construction, spend or commit money that you do so at your own risk. Prior to submitting your application review the application carefully to ensure that all sections are complete, and that any omissions or errors have not been made. You may want to check with the city/village or county clerk, where you are making application, to see if any additional requirements must be met before submitting application to the Nebraska Liquor Control Commission.

2 Spousals

Office use only:
PAYMENT TYPE CK

AMOUNT: 400

Received: JM
1. **ON FILE**

Fingerprints are required for each person as defined in new application guide, found on our website under "Licensing Tab" in "Guidelines/Brochures". See Form 147 for further information, this form MUST be included with your application.

2. √ Enclose application fee of $400 (nonrefundable), check made payable to the Nebraska Liquor Control Commission or you may pay online at PAYPORT.

3. □ Enclose the appropriate application forms;
   - Individual License (requires insert form 1)
   - Partnership License (requires insert form 2)
   - Corporate License (requires insert form 3a & 3c)
   - Limited Liability Company (LLC) (requires form 3b & 3c)

4. □ If building is being leased send a copy of signed lease. Be sure the lease reads in the name of the individual(s), corporation or Limited Liability Company (LLC) making application. Lease term must run through the license year being applied for.

5. □ If building is owned or being purchased send a copy of the deed or purchase agreement in the name of the applicant.

6. □ If buying the business of a current liquor license holder:
   a. Provide a copy of the purchase agreement from the seller (must read applicants name)
   b. Provide a copy of alcohol inventory being purchased (must include brand names and container size)
   c. Enclose a list of the assets being purchased (furniture, fixtures and equipment)

7. □ If requesting to operate on current liquor license; enclose Temporary Operating Permit (TOP) (Form 125).

8. □ Enclose a list of any inventory or property owned by other parties that are on the premises.

9. □ For citizenship enclose U.S. birth certificate; U.S. passport or naturalization paper
   a. For residency enclose proof of registered voter in Nebraska
   b. If permanent resident include Employment Authorization Card or Permanent Resident Card
   c. See guideline for further assistance

10. □ Corporation or Limited Liability Company (LLC) must enclose a copy of articles of incorporation; as filed with the Secretary of State’s Office.

11. □ Submit a copy of your business plan.

I acknowledge that this application is not a guarantee that a liquor license will be issued to me, and that the average processing period is 60 days. Furthermore, I understand that all the information is truthful and I accept all responsibility for any false documents.

________________________
Signature

07/01/19
Date
APPLICATION FOR LIQUOR LICENSE
RETAIL

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/

CLASS OF LICENSE FOR WHICH APPLICATION IS MADE AND FEES
CHECK DESIRED CLASS

RETAIL LICENSE(S)  Application Fee $400 (nonrefundable)

A  BEER, ON SALE ONLY
B  BEER, OFF SALE ONLY
C  BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE
D  BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY
I  BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY
J  LIMITED ALCOHOLIC LIQUOR, OFF SALE – MUST INCLUDE SUPPLEMENTAL FORM 120
AB  BEER, ON AND OFF SALE
AD  BEER ON SALE ONLY, BEER, WINE, DISTILLED SPIRITS OFF SALE
IB  BEER, WINE, DISTILLED SPIRITS ON SALE, BEER OFF SALE ONLY

— Class K Catering license (requires catering application form 106) $100.00

Additional fees will be assessed at city/village or county level when license is issued

Class C license term runs from November 1 – October 31
All other licenses run from May 1 – April 30
Catering license (K) expires same as underlying retail license

CHECK TYPE OF LICENSE FOR WHICH YOU ARE APPLYING

—— Individual License (requires insert 1 FORM 104)
—— Partnership License (requires insert 2 FORM 105)
—— Corporate License (requires insert 3a FORM 101 & 3c FORM 103)
—— Limited Liability Company (LLC) (requires form 3b FORM 102 & 3c FORM 103)

NAME OF ATTORNEY OR FIRM ASSISTING WITH APPLICATION (if applicable)
Commission will call this person with any questions we may have on this application

Name: [Name]
Phone number: [Phone number]

Firm Name: [Firm Name]
**PREMISES INFORMATION**

Trade Name (doing business as) **Señor Tequila**

Street Address #1 **1680 "E" 23rd ST**

Street Address #2

City **Fremont** County **Dodge** Zip Code **68025**

Premises Telephone number **402 372 0103**

Business e-mail address **MDONUIZ@HOTMAIL.COM**

Is this location inside the city/village corporate limits: YES ☑ NO ___

Mailing address (where you want to receive mail from the Commission)

Name **Señor Tequila**

Street Address #1 **2010 "E" LANE**

Street Address #2

City **West Point** State **NE** Zip Code **68783**

**DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED**

READ CAREFULLY

In the space provided or on an attachment draw the area to be licensed. This should include storage areas, basement, outdoor area, sales areas and areas where consumption or sales of alcohol will take place. If only a portion of the building is to be covered by the license, you must still include dimensions (length x width) of the licensed area as well as the dimensions of the entire building. No blue prints please. **Be sure to indicate the direction north and number of floors of the building.**

---

**For on premises consumption liquor licenses minimum standards must be met by providing at least two restrooms**

Building: length **70** x width **40** in feet

Is there a basement? Yes ___ No ☑

If yes, length ____ x width ____ in feet

Is there an outdoor area? Yes ___ No ___

If yes, length ____ x width ____ in feet

---

**PROVIDE DIAGRAM OF AREA TO BE LICENSED BELOW OR ATTACH SEPARATE SHEET**

---

FORM 100

REV FEB 2017

PAGE 4
1. **READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY §53-125(5)**

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. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual’s name. **Include traffic violations.** Commission must be notified of any arrests and/or convictions that may occur after the date of signing this application.

<table>
<thead>
<tr>
<th>Name of Applicant</th>
<th>Date of Conviction (mm/yyyy)</th>
<th>Where Convicted (city &amp; state)</th>
<th>Description of Charge</th>
<th>Disposition</th>
</tr>
</thead>
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If yes, please explain below or attach a separate page.

2. Are you buying the business of a current retail liquor license?

_____ YES   ✔️ NO

**If yes,** give name of business and liquor license number

- Submit a copy of the sales agreement
- Include a list of alcohol being purchased, list the name brand, container size and how many
- Submit a list of the furniture, fixtures and equipment

3. Was this premise licensed as liquor licensed business within the last two (2) years?

_____ YES   ✔️ NO

**If yes,** give name and license number

4. Are you filing a temporary operating permit (TOP) to operate during the application process?

_____ YES   ✔️ NO

**If yes:**
- Attach temporary operating permit (TOP) (Form 125)
- TOP will only be accepted at a location that currently holds a valid liquor license.
5. Are you borrowing any money from any source, include family or friends, to establish and/or operate the business?  

YES    NO

If yes, list the lender(s)

6. Will any person or entity, other than applicant, be entitled to a share of the profits of this business?  

YES    NO

If yes, explain. (all involved persons must be disclosed on application)

No silent partners

7. Will any of the furniture, fixtures and equipment to be used in this business be owned by others?  

YES    NO

If yes, list such item(s) and the owner.

8. Is premises to be licensed within 150 feet of a church, school, hospital, home for the aged or indigent persons or for veterans, their wives, and children, or within 300 feet of a college or university campus?  

YES    NO

If yes, provide name and address of such institution and where it is located in relation to the premises (Neb. Rev. Stat. 53-177)(1)
Provide letter of support or opposition, see FORM 134 – church or FORM 135 - campus

9. Is anyone listed on this application a law enforcement officer?  

YES    NO

If yes, list the person, the law enforcement agency involved and the person’s exact duties.

10. List the primary bank and/or financial institution (branch if applicable) to be utilized by the business.  

a) List the individual(s) who will be authorized to write checks and/or withdrawals on accounts at this institution.  

FIRST NORTHEAST BANK

11. List all past and present liquor licenses held in Nebraska or any other state by any person named in this application. Include license holder name, location of license and license number. Also list reason for termination of any license(s) previously held.

Fiesta Beava West Point
Fiesta Beava Broken Bow
Fiesta Beava Wayne
Fiesta Beava Falls City
12. List the alcohol related training and/or experience (when and where) of the person(s) making application. Those persons required are listed as followed:

- Individual: Applicant and spouse; spouse is exempt if they filed Form 116 – Affidavit of Non-Participation.
- Partnership: All partners and spouses, spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Limited Liability Company: All member of LLC, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.
- Corporation: President, Stockholders holding 25% or more of shares, Manager and all spouses; spouses are exempt if they filed Form 116 – Affidavit of Non-Participation.

**NLCC certified training program completed:**

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Date (mm/yyyy)</th>
<th>Name of program (attach copy of course completion certificate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>MATTHEW J JANSSEN</td>
<td>04/17/19</td>
<td>RBST</td>
</tr>
</tbody>
</table>

**List of NLCC certified training programs**

**Experience:**

<table>
<thead>
<tr>
<th>Applicant Name/Job Title</th>
<th>Date of Employment</th>
<th>Name &amp; Location of Business</th>
</tr>
</thead>
<tbody>
<tr>
<td>MATTHEW JANSSEN MANAGER</td>
<td>2013</td>
<td>Fiesta Blanca West Point, WAYNE</td>
</tr>
</tbody>
</table>

13. If the property for which this license is sought is owned, submit a copy of the deed, or proof of ownership. If leased, submit a copy of the lease covering the entire license year. **Documents must show title or lease held in name of applicant as owner or lessee in the individual(s) or corporate name for which the application is being filed.**

- [ ] Lease: expiration date __07/31/2021__
- [ ] Deed
- [ ] Purchase Agreement

14. When do you intend to open for business? __August 2019__

15. What will be the main nature of business? __Mexican Restaurant__

16. What are the anticipated hours of operation? __11 AM to 10 PM__

17. List the principal residence(s) for the past 10 years for all persons required to sign, including spouses.

<table>
<thead>
<tr>
<th>APPLICANT CITY &amp; STATE</th>
<th>YEAR FROM TO</th>
<th>SPOUSE CITY &amp; STATE</th>
<th>YEAR FROM TO</th>
</tr>
</thead>
</table>

If necessary attach a separate sheet.
The undersigned applicant(s) hereby consent(s) to an investigation of his/her background and release present and future records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance of the application investigation of any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. 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.

Individual applicants agree to supervise in person the management and operation of the business and that they will operate the business authorized by the license for themselves and not as an agent for any other person or entity. Corporate applicants agree the approved manager will superintend in person the management and operation of the business. Partnership applicants agree one partner shall superintend the management and operation of the business. All applicants agree to operate the licensed business within all applicable laws, rules, regulations, and ordinances and to cooperate fully with any authorized agent of the Nebraska Liquor Control Commission.

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.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). See guideline for required signatures

Jose Luis Abundesmark
Signature of Applicant
Print Name

Angelina Abundes
Signature of Spouse
Print Name

Jose Luis Abundesmark
Signature of Applicant
Print Name

Angelina Abundes
Signature of Spouse
Print Name

ACKNOWLEDGEMENT

State of Nebraska
County of Lincoln

April 1, 2019

by Jose Luis Abundes / Angelina Abundes
name of person(s) acknowledged (individual(s) signing)

Debra M Wegner
Notary Public signature

GENERAL NOTARY - State of Nebraska
My Comm. Exp. November 16, 2022

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.
SPECIAL LIMITED DURABLE POWER OF ATTORNEY
FOR BUSINESS OPERATIONS IN THE STATE OF NEBRASKA

Know All Men By These Presents, that I, Luis Abundes, of 1095 N Clifford Avenue, Apt. A, Rialto, California 92376, do hereby constitute and appoint my son, Jose Luis Abundes Mata, of 422 Molly Circle, West Point, Nebraska 68788, my attorney in fact for me and in my name and stead, and on my behalf to supervise, manage and conduct all of my business entities located in the State of Nebraska under one or more business organizations registered in the office of the Secretary of State as a Limited Liability Company under the names of Abundes Y Onate, L.L.C. and Los Cunados, L.L.C.

My said attorney in fact shall have authority to handle all business affairs of whatsoever nature and wheresoever situated and to execute any and all documents, papers and instruments which may be required in connection therewith.

My said attorney in fact shall have full power and authority to handle all property and insurance transactions, to execute leases and contracts connected therewith, to do business with banks and to endorse my name on securities, checks, drafts and other instruments, to prepare and execute all tax returns and documents related thereto and to pay such taxes, to collect the proceeds and pay the expenses of all such business entities on such terms as my said attorney in fact shall deem appropriate.

This Power of Attorney shall not be affected by my later disability, it being my intention that the authority conferred by this Power of Attorney shall be exercisable notwithstanding my disability or incapacity.

Dated this 24th day of August, 2013.

Luis Abundes

STATE OF CALIFORNIA )
County of San Bernardino ss.

On this 24th day of August, 2013 before me a Notary Public duly qualified and acting in and for said State personally appeared Luis Abundes and he in my presence acknowledged the above and foregoing Special Limited Durable Power of Attorney to be his voluntary act and deed for the uses and purposes therein expressed.

In Witness Whereof I have hereunto set my hand and seal this 24th day of August, 2013.

Notary Public
APPLICATION FOR LIQUOR LICENSE
LIMITED LIABILITY COMPANY (LLC)
INSERT - FORM 3b

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

All members including spouse(s), are required to adhere to the following requirements:
1) All members spouse(s) must be listed
2) Managing/Contact member and all members holding over 25% interest and their spouse(s) (if applicable) must submit fingerprints. See Form 147 for further information, this form MUST be included with your application.
3) Managing/Contact member and all members holding over 25% shares of stock and their spouse (if applicable) must sign the signature page of the Application for License form 100 (even if a spousal affidavit has been submitted)

Attach copy of Articles of Organization (must show electronic stamp or barcode receipt by Secretary of States office)

Name of Registered Agent: Jose Luis Abundes

Name of Limited Liability Company that will hold license as listed on the Articles of Organization
Los CANados LLC

LLC Address: 1680 "E" 23rd ST

City: Fremont State: NE Zip Code: 68025

LLC Phone Number: (402) 620-1748 LLC Fax Number 402 372-0183

Name of Managing/Contact Member
Name and information of contact member must be listed on following page

Last Name: Abundes First Name: Jose MI: Luis

Home Address: 2010 "E" LANE City: West Point

State: NE Zip Code: 68025 Home Phone Number:

Jose Luis Abundes
Signature of Managing/Contact Member

ACKNOWLEDGEMENT

The foregoing instrument was acknowledged before me this

STATE OF NEBRASKA

County of \_

By Jose Luis Abundes

name of person acknowledge

DEBRA M WEGNER
My Comm. exp. November 18, 2022

Affix Seal

FORM 102
REV JUNE 2015
Page 1 of 4
List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: Abundes  First Name: Luis  MI:  
Social Security Number:  Date of Birth:  
Spouse Full Name (indicate N/A if single): Angelina Abundes  
Spouse Social Security Number:  Date of Birth:  
Percentage of member ownership 100%  

Last Name:  First Name:  MI:  
Social Security Number:  Date of Birth:  
Spouse Full Name (indicate N/A if single):  
Spouse Social Security Number:  Date of Birth:  
Percentage of member ownership  

Last Name:  First Name:  MI:  
Social Security Number:  Date of Birth:  
Spouse Full Name (indicate N/A if single):  
Spouse Social Security Number:  Date of Birth:  
Percentage of member ownership  

Last Name:  First Name:  MI:  
Social Security Number:  Date of Birth:  
Spouse Full Name (indicate N/A if single):  
Spouse Social Security Number:  Date of Birth:  
Percentage of member ownership  

FORM 102  
REV JUNE 2015  
Page 2 of 4
List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: ___________________________ First Name: ___________________ MI: __________
Social Security Number: ______________________ Date of Birth: ________________
Spouse Full Name (indicate N/A if single): __________________________
Spouse Social Security Number: ______________________ Date of Birth: ________________
Percentage of member ownership ___________________________

Last Name: ___________________________ First Name: ___________________ MI: __________
Social Security Number: ______________________ Date of Birth: ________________
Spouse Full Name (indicate N/A if single): __________________________
Spouse Social Security Number: ______________________ Date of Birth: ________________
Percentage of member ownership ___________________________

Last Name: ___________________________ First Name: ___________________ MI: __________
Social Security Number: ______________________ Date of Birth: ________________
Spouse Full Name (indicate N/A if single): __________________________
Spouse Social Security Number: ______________________ Date of Birth: ________________
Percentage of member ownership ___________________________

Last Name: ___________________________ First Name: ___________________ MI: __________
Social Security Number: ______________________ Date of Birth: ________________
Spouse Full Name (indicate N/A if single): __________________________
Spouse Social Security Number: ______________________ Date of Birth: ________________
Percentage of member ownership ___________________________

FORM 102
REV JUNE 2015
Page 3 of 4
Is the applying Limited Liability Company controlled by another corporation/company?

☐ YES  ☑ NO

If yes, provide the following:
1) Name of corporation __________________________
2) Supply an organizational chart of the controlling corporation named above
3) Controlling corporation MUST be registered with the Nebraska Secretary of State, copy of articles must be submitted with application §53-126

Indicate the company’s tax year with the IRS (Example January through December)

Starting Date: JAN 1st Ending Date: DEC 31st

Is this a Non Profit Corporation?

☐ YES  ☑ NO

If yes, provide the Federal ID #. __________________________

In compliance with the ADA, this corporation insert form 3a is available in other formats for persons with disabilities. A ten day advance period is requested in writing to produce the alternate format.
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.

Angela Abundes
Signature of NON-PARTICIPATING SPOUSE

Jesu Luis Abundes, P.O.A.
Signature of APPLICANT

State of Nebraska, County of Cuming
The foregoing instrument was acknowledged before me
this July 1, 2019 (date)
by Angela Abundes
Name of person acknowledged
(Individual signing document)

Debra Wegner
Notary Public Signature

State of Nebraska, County of Cuming
The foregoing instrument was acknowledged before me
this July 1, 2019 (date)
by Jesu Luis Abundes
Name of person acknowledged
(Individual signing document)

Debra Wegner
Notary Public Signature
STATE OF NEBRASKA

United States of America, } ss.
State of Nebraska } } Secretary of State
State Capitol
Lincoln, Nebraska

I, John A. Gale, Secretary of State of the State of Nebraska, do hereby certify that

LOS CUNADOS, L.L.C.

a limited liability company duly formed under the laws of this state on August 14, 2013, has paid all applicable fees, taxes and penalties to the Secretary of State; the most recent biennial report required has been filed; the company has not delivered to the Secretary of State a statement of dissolution or termination or been administratively dissolved by the Secretary of State and said limited liability company is in existence as of this date.

This certificate is not to be construed as an endorsement, recommendation, or notice of approval of the entity’s financial condition or business activities and practices.

In Testimony Whereof, I have hereunto set my hand and affixed the Great Seal of the State of Nebraska on this date of

August 27, 2013

[Signature]
Secretary of State
JOSE LUIS ABUNDES MATA  
422 MOLLY CIRCLE  
WEST POINT, NE  68788  

AUGUST 27, 2013  

RECEIPT  

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Doralee Shade  
Filing Officer
CERTIFICATE OF ORGANIZATION

OF

LOS CUNADOS, L.L.C.

A NEBRASKA LIMITED LIABILITY COMPANY

Name. The name of this limited liability company is Los Cunados, L.L.C.

Duration. The period of duration of the company is perpetual.

Professional Services. There are no professional services being rendered by this limited liability company.

Initial Designated Office. The initial designated office of the company is located at 422 Molly Circle, West Point, Nebraska 68788.

INITIAL AGENT FOR SERVICE OF PROCESS. The initial agent for service of process of the company is Jose Luis Abundes Mata located at 422 Molly Circle, West Point, Nebraska.

Effective this 12th day of August, 2013.

MEMBER:

Jose Luis Abundes Mata
MOODIE & WORTMAN, LAWYERS
ATTN: ROBERT D. MOODIE
118 EAST GROVE STREET
PO BOX 15
WEST POINT, NE  687880015

August 14, 2013

ACKNOWLEDGEMENT OF FILING

The document(s) listed below were filed with the Nebraska Secretary of State’s Office, Corporation Division. A label has been affixed to each filing signifying the filing stamp for the Nebraska Secretary of State’s Office, Corporation Division. This filing label indicates the date and time of the filing and also references a document number that can be used to reference this filing in the future.

Please remember it is your responsibility to notify the Secretary of State’s office of any change(s) in the information you filed.

ACKNOWLEDGEMENT OF FILING FEES RECEIVED

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Ashley Reiter
Filing Officer
OPERATING AGREEMENT

OF

LOS CUNADOS, L.L.C.

1. Management

1.1 Members. Management of the Company shall be vested in each Member in proportion to such Member's contribution to the capital of the Company, as adjusted from time to time to properly reflect any additional contribution or withdrawal by another Member.

1.2 Contracting Authority. The Company shall not enter into any contracts, agreements, documents, instruments, notes, deeds, mortgages, deeds of trust, or other documents of conveyance or indebtedness, nor incur any indebtedness, except with the approval of Members holding at least a majority in interest of the Company. No Member shall take any action on behalf of the Company or otherwise bind the Company except with the approval of Members holding at least a majority in interest of the Company.

1.3 Duties of Members. No Member shall be expected to devote full-time attention to the affairs of the Company, but shall devote the amounts of time and attention reasonable and appropriate in the Member's good faith judgment under the circumstances then prevailing.

2. Contributions to Capital

2.1 Initial Contributions. Each Member agrees to make the initial contribution to the capital of the Company described on "Exhibit A" attached to this Agreement on the date hereof. No Member may make any additional, voluntary contributions to the capital of the Company except with the prior written consent of a majority in interest of the Members of the Company.

2.2 Additional Contributions. No Member shall be required to make any additional contributions to the capital of the Company, except to the extent expressly set forth in this Agreement or in the Certificate of Organization. Any requirement to contribute additional funds to the capital of the Company shall be imposed upon the Members pro rata based upon their respective percentage interests, except to the extent that all Members agree to the contrary.

3. Maintenance of Capital Accounts

3.1 Maintenance Provisions. A Capital Account shall be maintained on the books and records of the Company with respect to each Member.

(a) To each Member's Capital Account there shall be credited:
(i) The cash and the fair market value (as reasonably agreed by the Members in good faith) of any property other than cash contributed by the Member to the capital of the Company;

(ii) The Member’s allocable share of profits, and any items of income or gain which are specially allocated to the Member; and

(iii) The amount of any Company liabilities assumed by the Member or which are secured by any property of the Company distributed to the Member.

The principal amount of a promissory note which is not readily traded on an established securities market and which is contributed to the Company by the maker of the note shall not be credited to the Capital Account of any Member until the Company makes a taxable disposition of the note or until (and only to the extent) principal payments are made on the note.

(b) To each Member’s Capital Account there shall be debited:

(i) The amount of cash and the fair market value of any property (as reasonably agreed by the Members in good faith) of the Company distributed to the Member;

(ii) The Member’s allocable share of losses any items of expense or loss which are specially allocated to the Member; and

(iii) The amount of any liabilities of the Member assumed by the Company or which are secured by any property contributed by the Member to the Company.

3.2 Transfer of Capital Accounts. If all or a portion of an interest in the Company is transferred in accordance with the terms of the Certificate of Organization and this Operating Agreement, the transferee shall succeed to that portion of the Capital Account of the transferor which is allocable to the transferred interest.

3.3 Capital Contribution. For purposes of this Agreement, "capital contribution" means, with respect to any Member, the amount of money and the fair market value of any property (as reasonably agreed by the Members in good faith) contributed to the Company with respect to the interest held by that Member.

4. Allocations of Profits and Losses

4.1 Allocations. The Company’s profits or losses for any fiscal year shall be allocated among the Members in accordance with their respective cumulative capital contributions, adjusted to reflect any withdrawals of capital by any Members. The percentage
of the capital, profits and losses of the Company allocable to a Member, determined in the manner set forth in this Section 4.1, shall be referred to herein as such Member's "Percentage Interest" in the Company.

4.2 Other Allocation Rules.

(a) To determine the profits, losses, or any other items allocable to any period, profits, losses, and any such other items shall be determined on a daily, monthly, or other basis, as determined by the Members, using any permissible method under Internal Revenue Code Section 706 and the Regulations thereunder.

(b) The Members are aware of the income tax consequences of the allocations made by this Section 4 and hereby agree to be bound by the provisions of this Section 4 in reporting their shares of Company income and loss for income tax purposes.

5. Non Liquidating Distributions

5.1 Discretionary Distributions. To the extent that the Company's assets exceed its liabilities (other than liabilities to Members on account of their capital contributions), the Company, with the approval of a majority in interest of the Members may make nonliquidating distributions of cash or other property to Members from time to time on a pro rata basis in accordance with the Members' respective Percentage Interests.

6. Dissolution and Winding Up

6.1 Liquidating Events. The Company shall dissolve and commence winding up and liquidating upon the first to occur of any of the following (each a "Liquidating Event"):

(a) The written agreement of all Members to dissolve, wind up, and liquidate the Company; or

(b) The death, retirement, withdrawal, resignation, expulsion, bankruptcy, or dissolution of any Member in the Company, unless the business of the Company is continued by written consent of at least a majority in interest of the remaining members.

The Members hereby agree that, notwithstanding any provision of the Nebraska Uniform Limited Liability Company Act, §§ 21-147, the Company shall not dissolve prior to the occurrence of a Liquidating Event. If a court of competent jurisdiction determines that the Company has dissolved prior to the occurrence of a Liquidating Event, the Members hereby agree to continue the business of the Company without a winding up or liquidation until the occurrence of a Liquidating Event.
6.2 Winding Up. Upon the occurrence of a Liquidating Event, the Company shall continue solely for the purposes of winding up its affairs in an orderly manner, liquidating its assets, and satisfying the claims of its creditors and Members. No Member shall take any action that is inconsistent with, or not necessary to or appropriate for, the winding up the Company’s business and affairs. To the extent not inconsistent with the foregoing, all covenants and obligations in this Agreement shall continue in full force and effect until such time as the assets of the Company have been distributed pursuant to this Section and the Company has terminated. The Members shall be responsible for overseeing the winding up and liquidation of the Company, shall take full account of the Company’s liabilities and assets, shall cause the assets to be liquidated as promptly as is consistent with obtaining the fair market value thereof, and shall cause the proceeds from the liquidation, to the extent they are sufficient, to be applied and distributed in the manner required by the Act.

7. Transferability of Interests

7.1 Restrictions on Transfer. Except to the extent otherwise provided below, no Member may transfer or assign by contract or operation of law all or any portion of the Member’s interest in the Company without the written consent of a majority in interest of the non-transferring Members.

7.2 Transfer by Gift or Bequest. Any Member may transfer by gift or bequest all or any portion of his or her interest in the Company to a spouse or child of the transferring Member, or to a trust established for the benefit of such spouse or child, or to an existing Member of the Company upon written notice to the Company, of such gift or bequest.

7.3 Death of Member. In the event that a Member dies, and provided the business of the Company is continued pursuant to Section 11 of the Certificate of Organization, the Company may at its option repurchase the deceased Member’s interest in the Company for an amount equal to the fair market value of the interest on the Member’s date of death. The fair market value of the Member’s interest shall be as agreed in good faith by the remaining Members and the personal representative(s) of the deceased Member’s estate; provided that, if no such agreement has been reached within ninety (90) days of the date of death, then the fair market value shall be determined by an independent and duly qualified appraiser mutually agreeable to the remaining Members and the estate of the deceased Member, which shall bear equally the cost of such appraisal. The fair market value of the deceased Member’s interest shall be payable by the Company to the deceased Member’s estate within one hundred twenty days of the establishment of such fair market value on the payment terms set forth in Section 7.4 of this Agreement.

7.4 Buy/Sell Rights. Except as provided in Sections 7.1, 7.2 and 7.3 of this Operating Agreement, any Member desiring to sell, transfer, or assign all or any part of the Member’s interest to a
non-member party shall communicate such intention in writing to the Company and all other Members stating the purchase price proposed for the transfer. Within thirty (30) days after receiving this notice, the Company may purchase, at its option, all or any part of the interest described in the notice for the purchase price stated in the notice. If the Company elects not to purchase all of such interest within such thirty (30) day period, then the other Members at that time may purchase, at their option, all or any part of the interest within forty-five (45) days of receiving such notice on the same terms and conditions that were available to the Company. If more than one Member shall desire to acquire this interest and no agreement is reached regarding the portion of the interest each may acquire, the Members shall acquire the interest in proportion to their respective Percentage Interests. If, after the lapse of forty-five (45) days from the date of the notice, neither the Company nor the other Members have acquired the entire interest proposed to be transferred, then the selling Member may consummate the proposed transfer of the remaining interest at a price and on payment terms no more favorable to the non-member buyer than those available to the Company and the Members of this Section; provided, however, that if this sale is not consummated within one hundred twenty (120) days after lapse of the other Members’ option to purchase, no sale shall be permitted without again offering the interest to the Company and the Members in the foregoing manner.

7.5 Expenses. Except as otherwise expressly provided herein, all expenses of the Company incident to the admission of the transferee to the Company as a Member shall be charged to and paid by the transferring Member.

7.6 Miscellaneous. Nothing contained in this Section is intended to alter the requirement in Section 9 of the Certificate of Organization, that at least a majority in interest of the Members, other than the transferring Member, must consent to admit a transferee as an additional Member, or the requirement in Section 11 of the Certificate of Organization that a majority in interest of the remaining Members must consent to the continuation of the business of the Company in the event of the death, retirement, expulsion, bankruptcy or dissolution of any Member.

8. Fiscal Year.

The fiscal year of the Company shall be from January 1 to December 31.

9. Accounting

The Company shall at all times maintain full and accurate books of account, in which shall be entered all the transactions of the Company. The books of account shall be kept at the principal office of the Company, and shall be open to reasonable inspection and examination by the Members and their duly authorized representatives during normal business hours. The Company shall deliver to each Member within ninety (90) days after the expiration
of each Company fiscal year: a) financial statements of the
Company for that fiscal year compiled on an income tax basis of
accounting by an independent certified public accountant, b) the
information about the Company for that fiscal year required to be
provided to the Members for income tax purposes, c) a statement of
each Member’s allocated share of profits or losses for the fiscal
year, and d) the balance in each Member’s Capital Account as of the
end of that fiscal year.

10. Salaries of Officers

The compensation, if any, to be paid to a Member in exchange
for that Member’s services to the Company shall be fixed by a
majority in interest of the Members in their discretion from time
to time.

11. Indemnification

11.1 General Indemnity Provision. With the approval of a
majority in interest of the Members, to be indemnified, the Company
may indemnify any person who is a party (or is threatened to be
made a party) to any action, suit or proceeding (whether civil,
criminal, administrative or investigative), if such person is a
party by reason of the fact that he or she was a Member, employee
or agent of the Company, or is or was serving at the request of the
Company as a member, manager, director, officer, employee or agent
of another limited liability company, corporation, partnership,
joint venture, trust or other enterprise. This person may be
indemnified against expenses, including attorney’s fees, judgments,
fines, and amounts paid in settlement, actually and reasonably
incurred by him or her in connection with such action, suit or
proceeding.

11.2 Insurance. With the approval of a majority in interest
of the Members, the Company may purchase and maintain insurance on
behalf of any person who is or was a Member, employee or agent of
the Company or is or was serving at the request of the Company as
a manager, member, director, officer, employee or agent of another
limited liability company, corporation, partnership, joint venture,
trust, or other enterprise, against any liability asserted against
the person and incurred in any such capacity or arising out of his
or her status as such.

12. Miscellaneous

12.1 Successors. This Operating Agreement and all its terms
and provisions shall be binding upon the Members and any new
Members and their respective legal representatives, heirs,
successors and permitted assigns.

12.2 Notices. All notices or other communications under this
Operating Agreement shall be in writing (unless the Operating
Agreement otherwise expressly provides) and shall be considered
properly given if delivered by hand or mailed by first class United
States Mail, postage prepaid, addressed in care of the respective Members at their last-known addresses. Notice may also be delivered by means of a confirmed telex copy, provided the original of the notice is also promptly deposited in the United States Mail, first class, postage prepaid, addressed to the members at their last-known address. Notice of change of address shall be given to the Company by hand or first class United States Mail, after the date of receipt of which notice, the change of address shall be effective. Unless actual receipt of a notice is required by an express provision of this Operating Agreement, any notice shall be deemed to be effective as of the earliest of (a) the date of delivery or confirmed telex copy, or (b) the third business day following the date of deposit with the United States Post Office or in a regularly maintained receptacle for the deposit of United States Mail. Any refusal to accept delivery of any communication shall be considered a successful delivery of that communication.

12.3 Applicable Law. This Operating Agreement and the rights and obligations of the Members under it shall be construed and interpreted under the laws of the State of Nebraska.

12.4 Amendments. Upon the unanimous affirmative vote of all of the Members of the Company, amendments to this Operating Agreement may be adopted, and each Member shall promptly execute the amendments or other documents as the Company deems appropriate to reflect the amendments under the law of the State of Nebraska.

12.5 Waiver of Partition. Each of the Members of the Company irrevocably waives any right to maintain any action for partition with respect to the property of the Company.

12.6 Company Property. The legal title to any real or personal property or interest in real or personal now or hereafter acquired by the Company shall be owned, held or operated in the name of the Company, and no Member, individually, shall have any ownership interest in such property.

12.7 Acceptance of Prior Acts by New Members. Each person becoming a Member, by becoming a Member, ratifies all action duly taken by the Company, under the terms of this Operating Agreement, prior to the date the person becomes a Member.

12.8 Section Headings. The division of this Operating Agreement into sections, subsections and exhibits is for convenience of reference only and shall not affect the interpretation or construction of this Operating Agreement.

12.9 Severability. In the event that one or more of the provisions contained in this Operating Agreement or any portions thereof are unenforceable or are declared invalid for any reason, this unenforceability or invalidity shall not affect the enforceability or validity of the remaining terms or portions of this Operating Agreement. Each unenforceable or invalid portion of this Operating Agreement shall be severable from the remainder of
the Operating Agreement and the remainder of this Operating Agreement shall be interpreted as if the unenforceable or invalid provision or portion had not been included as a part of it.

12.10 Agreement for Further Execution. At any time or times, upon the request of any Member, the other Members agree to sign and swear to any certificate required by the Act, to sign and swear to any amendment to or cancellation of a certificate whenever the amendment or cancellation is required by law or by this Operating Agreement, and to cause the filing of any of the same of record wherever such filing is required by law.

12.11 Counterparts. This Operating Agreement may be executed in counterparts, each of which shall constitute an original and all of which, taken together, shall constitute a single agreement.

12.12 Time. Time is an essential element to the performance of this Operating Agreement by each Member.

12.13 Contracts with Related Parties, Competition. Nothing in this Operating Agreement or in law shall prevent or be construed to prevent any of the Members, or any person related to any Member, from dealing with the Company as to any matter whatever, provided the terms of this dealing are fair and reasonable to the Company as determined by a majority in interest of the other Members.

12.14 No Brokers. Each Member hereby represents and warrants to the others that no broker, finder, or other person performing similar services is entitled to any commission, fee or other compensation on account of the Member’s entry into this Operating Agreement, and each Member hereby agrees to indemnify the other Members harmless from and against any such commissions, fees or other compensation as may be claimed on account of dealings between the claimant and the indemnifying Member.

12.15 Copies Reliable and Admissible. This Operating Agreement shall be considered to have been executed by a person if there exists a photocopy, facsimile copy, or a photocopy of a facsimile copy of an original or of a counterpart of the Operating Agreement which has been signed by that person. Any photocopy, facsimile copy, or photocopy of facsimile copy of this Operating Agreement or a counterpart shall be admissible into evidence in any proceeding as though it were an original.

IN WITNESS WHEREOF, this Operating Agreement is executed this 21st day of August, 2013.

Luis Abundes, Member

By Jose Luis Abundes Mata P.A.
Jose Luis Abundes Mata
Attorney in Fact for Luis Abundes
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: Los Cunados LLC

Premise information
Liquor License Number: ________________________ Class Type ______________ (if new application leave blank)
Premise Trade Name/DBA: Señor Tequila
Premise Street Address: 1680 'E' 23rd St
City: Fremont County: Douglas Zip Code: 68025
Premise Phone Number: (402) 372-0103
Premise Email address: mp доллара allat hotmail.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.

Jose Luis Abudos

SIGNATURE REQUIRED BY CORPORATE OFFICER / MANAGING MEMBER
(Faxed signatures are acceptable)
Manager's information must be completed below  PLEASE PRINT CLEARLY

Last Name: Jansen  First Name: Matthew  MI: J

Home Address: 502 E Gerfield

City: West Point  County: Cuming  Zip Code: 68788

Home Phone Number:

Driver's License Number & State:

Social Security Number:

Date Of Birth:  Place Of Birth:

Email address:

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: Jansen  First Name: Jared  MI: M

Social Security Number:

Driver's License Number & State:

Date Of Birth:  Place Of Birth:

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

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**MANAGER'S LAST TWO EMPLOYERS**

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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  - [X] NO

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

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</tbody>
</table>

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

- [X] YES  - [ ] NO

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

- West Point Travel Plaza, J B Mart, J B Mart #2, Fiesta Bar & V.
- West Point
- Fiesta Bar
- Wayne
- Fiesta Bar
- Falls City

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?

- [X] 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: __________________

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Date (mm/yyyy)</th>
<th>Name of program (attach copy of course completion certificate)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Matthew Jansen</td>
<td>06/2019</td>
<td>RIST</td>
</tr>
</tbody>
</table>

*For list of NLCC Certified Training Programs see training

Experience:

<table>
<thead>
<tr>
<th>Applicant Name / Job Title</th>
<th>Date of Employment:</th>
<th>Name &amp; Location of Business:</th>
</tr>
</thead>
<tbody>
<tr>
<td>West Point Mart</td>
<td>2006 - Present</td>
<td>West Point Mart, West Point</td>
</tr>
<tr>
<td>Matthew Jansen / Manager</td>
<td>2006 - Present</td>
<td>West Point Mart, West Point</td>
</tr>
<tr>
<td>II / II</td>
<td>2015 - Present</td>
<td>JB Mart / Wayne, NE</td>
</tr>
<tr>
<td>II / II</td>
<td>2016 - Present</td>
<td>JB Mart #2 / Tilden, NE</td>
</tr>
<tr>
<td>II / II</td>
<td>2016 - Present</td>
<td>Fresh Brown / Wayne, NE</td>
</tr>
<tr>
<td>II / II</td>
<td>2018 - Present</td>
<td>Fresh Brown / Falls City, NE</td>
</tr>
</tbody>
</table>

5. Have you enclosed form 147 regarding fingerprints?

[ ] YES  [ ] NO

[ FILE ]
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. (See §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.

Signature of Manager Applicant

Signature of Spouse

ACKNOWLEDGEMENT

State of Nebraska
County of __________ The foregoing instrument was acknowledged before me this

[Date]

by Matthew Taran Jansen

NAME OF PERSON BEING ACKNOWLEDGED

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.
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.

Signature of NON-PARTICIPATING SPOUSE

Signature of APPLICANT

Print Name

Print Name

State of Nebraska, County of

State of Nebraska, County of

The foregoing instrument was acknowledged before me

The foregoing instrument was acknowledged before me

by

by

Name of person acknowledged

Name of person acknowledged

(Individual signing document)

(Individual signing document)

Notary Public Signature

Notary Public Signature

GENERAL NOTARY - State of Nebraska
DEBRA M. WEGNER
My Comm. Exp. November 16, 2022

GENERAL NOTARY - State of Nebraska
DEBRA M. WEGNER
My Comm. Exp. November 16, 2022

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.
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: Señor Tequila

Name of Person Bring Fingerprinted: Matthew James Jansen

Date of Birth: Last 4 SSN: Date fingerprints were taken: 04/01/2018

Location where fingerprints were taken: on file from 2018

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 □

SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

FORM 147
REV MAY 2018
**Registrant Search Information**

**Registrant Detail**

Name: Matthew Jansen  
Party:  
Polling Place:  

**Districts**

<table>
<thead>
<tr>
<th>DISTRICT NAME</th>
<th>DISTRICT TYPE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lower Elkhorn NRD At Large</td>
<td>Natural Resources District</td>
</tr>
<tr>
<td>ESU 2 District 2</td>
<td>ESU District</td>
</tr>
<tr>
<td>State Board of Education Dist3</td>
<td>State Board of Education</td>
</tr>
<tr>
<td>Nebraska PPD SubD 11</td>
<td>Public Power District</td>
</tr>
<tr>
<td>Northeast Com College At Large</td>
<td>Community College District</td>
</tr>
<tr>
<td>PSC District 4</td>
<td>Public Service Comm District</td>
</tr>
<tr>
<td>Supreme Court Judge Dist 3</td>
<td>Judge of Supreme Court Dist.</td>
</tr>
<tr>
<td>West Point Public Schools</td>
<td>School District</td>
</tr>
<tr>
<td>Legislative District 16</td>
<td>Legislative District</td>
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<tr>
<td>Lower Elkhorn NRD SubD 6</td>
<td>Natural Resources District</td>
</tr>
<tr>
<td>Board of Regents District 3</td>
<td>Board of Regents</td>
</tr>
<tr>
<td>WP Ward 2</td>
<td>City Council (Ward)</td>
</tr>
<tr>
<td>Cuming County Supv Dist 5</td>
<td>County Board (Commiss./Superv)</td>
</tr>
<tr>
<td>Appeals Court Judge Dist 3</td>
<td>Judge of Appeals Court Dist.</td>
</tr>
<tr>
<td>County Judge Dist 7</td>
<td>Judge of County Court Dist.</td>
</tr>
<tr>
<td>West Point</td>
<td>Fire District</td>
</tr>
<tr>
<td>West Point Mayor</td>
<td>Mayor</td>
</tr>
<tr>
<td>Northeast Com College Dist 4</td>
<td>Community College District</td>
</tr>
<tr>
<td>U.S. Congressional District 1</td>
<td>U.S. Congressional District</td>
</tr>
<tr>
<td>District Judge, Dist 7</td>
<td>Judge of District Court Dist.</td>
</tr>
</tbody>
</table>

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© Vote View 3.3.1460.0
Nebraska Responsible Beverage Service Training

Permit Expires: 06-17-2022 Amount Paid: $0
Permit # RB-0113980
State Alcohol Certification
holds a
Matthew J Jansen

Certificate of Achievement

For those who serve or sell alcohol in Nebraska
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

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- FAILURE TO FILE FINGERPRINT CARDS AND PAY THE REQUIRED FEE TO THE NEBRASKA STATE PATROL WILL DELAY THE ISSUANCE OF YOUR LIQUOR LICENSE

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  Or a check made payable to NSP can be mailed directly to the following address:
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- Fingerprints taken at NSP LIVESCAN locations will be forwarded to NSP – CID
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Trade Name: Sénor Tequila

Name of Person Bring Fingerprinted: Luis Abundes

Date of Birth
Last 4 SSN: 
Date fingerprints were taken:

Location where fingerprints were taken: On file from 2018

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 ☐

Signature Required of Person Being Fingerprinted

FORM 147
REV MAY 2018
COMMERCIAL LEASE

THIS LEASE is made and entered into this 31 day of May, 2019 between Rosco5, LLC, (hereafter “Landlord”), and Los Cunados, LLC dba Señor Tequila (hereafter “Tenant”).

PREMISE: Landlord hereby leases to Tenant the property located at 1680 East 23rd Avenue N, in the City of Fremont, Nebraska on the following terms and conditions:

1. TERM: This lease shall be for a term of twenty-six (26) months beginning on June 1, 2019 and ending on July 31, 2021, unless extended or terminated as here in provided.

2. RENT: Tenant agrees to pay Landlord as rent for the use of the premises, to Landlord’s address at P. O. Box 695, Fremont, NE 68026-0695, or at such other place as landlord may from time to time designate in writing, for the term of the Lease the sum of Three Thousand Eight Hundred and no/100 Dollars ($3,800.00) per month beginning August 1, 2019. All rental payments shall be due on the first day of every month during the term of the Lease. Late fee of $15.00 per day will be charged after the 5th day.

3. OPTION TO EXTEND: Provided Tenant is not then in default hereunder, Landlord grants to Tenant the exclusive right to extend this Lease for the further term of three (3) years commencing at the expiration of the original term, at a rental rate for the term of this Lease in the sum of Four Thousand and no/100 Dollars ($4,000.00) per month, but otherwise under the same terms and conditions as herein provided for, which right shall be exercised by giving written notice thereof to Landlord not less than four (4) months prior to the expiration of the original term hereof. If Tenant should elect to extend this Lease for such additional term then, in like manner, it shall have the further option again to extend this Lease for a second additional term of three (3) years commencing at the expiration of the first extended term at a rental rate for the term of this Lease in the sum of Four Thousand Two Hundred and no/100 Dollars ($4,200.00) per month, but otherwise under the same terms and conditions as herein provided for, which right shall be exercised by giving written notice thereof to Landlord not less than four (4) months prior to the expiration of the first extended term.

4. USE AND CARE OF PREMISES:

A. Tenant shall continuously use and occupy the premises for a mexican restaurant and for no other purpose.

B. Tenant shall promptly comply with all laws, ordinances and regulations promulgated by duly constituted governmental authority affecting the cleanliness, safety, use and occupation of the premises and pay all costs involved in such compliance.

C. Tenant shall perform no acts nor carry on any practices that may injure the building or be a nuisance or menace to other tenants.

D. Tenant shall maintain the lawn and landscaping and keep the sidewalks and parking area adjacent thereto, clean and free from ice, snow, and dirt.
7. **ACCESS:** Landlord, or its authorized representatives, shall have the right to inspect the premises at all reasonable times; and, during the last six (6) months of the Lease term, Landlord may post in or about the premises “For Rent” signs and enter upon and exhibit the premises to prospective tenants or purchasers.

8. **UTILITIES:** Tenant agrees to pay all charges for utilities serving the premises including water, gas, electricity, telephone and sewer use fees.

9. **TAXES:**
   A. **Taxes on Tenant’s Property:** Tenant shall pay or cause to be paid promptly when due all taxes levied or assessed against personal property placed by Tenant in or about the premises.
   
   B. **Real Property Taxes:** Landlord shall pay all real estate taxes assessed against said property.

10. **INSURANCE:**
    A. Tenant agrees to procure and maintain continuously during the term of this Lease, and any extension thereof, public liability insurance with a company acceptable to Landlord, at Tenant’s cost, insuring Landlord and Tenant against all claims, demands, or actions for injuries to, or death of, any one person in the amount of not less the **ONE MILLION DOLLARS** ($1,000,000.00); for injury to or death of more than one person in any one accident in an amount of not less than **ONE MILLION DOLLARS** ($1,000,000) and for damage to property in an amount of not less than **SEVENTY FIVE THOUSAND DOLLARS** ($75,000.00); made by or on behalf of any person or persons, firm or corporation, arising from, or related to or connected with the conduct or operation of Tenant’s business on the premises and in, over, and under the adjacent sidewalks, streets, entrances, and exit ways.
    
    B. **Fire and Extended Coverage on Building and Premises:** Landlord shall pay the cost of fire and extended coverage insurance upon the building and premises.
    
    C. **Insurance upon Personal Property of Tenant:** The Tenant shall bear the costs and risk of loss with respect to all personal property owned by the Tenant and as to any fixtures installed by the Tenant, which will be retained by the Landlord Tenant, by this Commercial Lease.

11. **WAIVER OF CLAIMS AND INDEMNITY:** All personal property on the premises shall be at the risk of the Tenant, and Landlord shall not be liable for any damages to said personal property, to the Tenant or to any other person caused by water, steam, sewerage, gas or odors or by any negligence or act of other tenants, occupants or any other person or caused in any manner whatsoever except loss caused by Landlord’s negligence or breach of this Lease.
carried by the Tenant, and the Tenant shall not be liable to the Landlord, or any of the Landlord’s insurance carriers or anyone claiming under or through the Landlord for any loss covered by insurance carried by the Landlord. Each party shall cause proper endorsements to be placed upon their respective insurance policies to give effect to these provisions.

15. **DEFAULT AND REMEDIES:** If Tenant shall fail to pay when due any installment of rent, or fail to perform or observe any of its covenants, agreements or obligations hereunder, Landlord may retake possession of the premises, repossess the same, and move therefrom all the goods and chattels or Tenant and dispossess Tenant or anyone claiming by or under it. Provided, however, that the monthly installment of rent shall not be deemed to be in default until ten (10) days after written notice of default has been given to Tenant and that no default shall be declared for the failure to perform or observe any of the other covenants, agreements or obligations of Tenant until Tenant is given written notification of such breach and shall fail to perform the agreement called for or remove the default within thirty (30) days after such notice by Landlord. Such notice shall be deemed to be given upon personal delivery or upon mailing to Tenant.

   In the event of such default, Tenant agrees to deliver the premises without process of law, and this Lease, at the option of Landlord, shall terminate, but the obligation of Tenant to pay the rent, taxes, insurance, etc., shall not terminate and Tenant shall be liable for any loss or damage to Landlord for Tenant’s failure to comply with the terms of this Lease, and Tenant hereby gives Landlord a lien upon any and all property of Tenant kept in or in use upon said premises, to be enforced in like manner as a chattel mortgage or security interest, whether exempt from execution or not, for rent due or to become due by virtue of this Lease. Upon such default by Tenant, Landlord shall be entitled to accelerate the monthly payment of rental so that they become due and owing in full immediately.

16. **SURRENDER – HOLDING OVER:** Tenant, upon termination of this Lease, either by lapse of time or otherwise, agrees peaceably to surrender to Landlord the premises, broom clean and in good condition and repair except for ordinary wear and tear or damage by fire or other casualty commonly covered by extended coverage insurance. Tenant agrees at Landlord’s request to remove Tenant’s trade fixtures upon such termination and to repair all damage to the premises caused by such removal.

   If Tenant remains in possession after the termination of this Lease without a new Lease reduced to writing and duly executed, Tenant shall be deemed to be a trespasser. If Tenant shall have paid, and Landlord shall have accepted, rent in respect to such holding over, Tenant shall be deemed to be occupying the premises only as a tenant from month to month subject to all the covenants, agreements or obligations of this Lease.

17. **NOTICE:** All notices required to be made by the terms of this Lease on the Landlord shall be made by delivering the same to the Landlord at P. O. Box 695, Fremont, Nebraska 68026-0695, and all notices required to be made on the Tenant shall be made on the Tenant at 1680 East 23rd Avenue N, Fremont, Nebraska 68025.
IN WITNESS WHEREOF, the parties hereto have caused the due execution hereof as of the day and year first above written.

LANDLORD: Rosco5, LLC

By: Scott R. Getzschman

Title: President

STATE OF NEBRASKA    
   ) SS
COUNTY OF DODGE       

The foregoing instrument was acknowledged before me this 23rd day of May, 2019, by Scott R. Getzschman, Member of Rosco5, LLC, a Nebraska Limited Liability Company.

Vicki L. Tlamka
Notary Public

TENANT: Los Cunados, LLC

By: Luis Aburdes

Title: Owner

STATE OF NEBRASKA    
   ) SS
COUNTY OF DODGE       

The foregoing instrument was acknowledged before me this 31st day of May, 2019, by Luis Aburdes, President of Los Cunados, LLC, a Nebraska Limited Liability Company.

Vicki L. Tlamka
Notary Public
Senor tequila Fremont ne
Senor tequila will be serving authentic Mexican food also is going to serve margaritas and beer will be open 11am to 10pm 7 days a week senor tequila will be the best place for families and great atmosphere

Thank you

Get Outlook for Android

From: Burmeister, Tracy <tracy.burmeister@nebraska.gov>
Sent: Friday, July 5, 2019 9:54:44 AM
To: mrdonluiz@hotmail.com
Subject: NEW APPLICATION

I will need a business plan before I can process this application. Thank you!

Tracy Burmeister
Nebraska Liquor Control Commission
Licensing Division
Phone: 402-471-2896
Fax: 402-471-2814
tracy.burmeister@nebraska.gov
301 Centennial Mall South, 1st Floor
Lincoln, NE 68509-5046
www.lcc.nebraska.gov
LIQUOR APPLICATION REPORT

PLANNING REPORT

DATE: 7/12/2019 DUE DATE: 7/24/2019

IS (X) IS NOT ( ) WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY

IF NOT, DO NOT PROCEED – NOTIFY THE MUNICIPAL CLERK’S OFFICE

AND RETURN THIS FORM

GENERAL INFORMATION:

APPLICANT: Los Cunados LLC dba Senor Tequila

LOCATION: 1680 E. 23rd Street

REQUESTED LICENSE OR ACTION: Class I beer, wine and spirits on sale only

EXISTING ZONING: GC, General Commercial

EXISTING LAND USE: Vacant restaurant and parking lot

ADJACENT LAND USE AND ZONING:

NORTH: GC, General Commercial with vacant land to the north, AR, Auto Urban Residential further north developed with multi-family and two-family units, LI, Light Industrial zoning with commercial and light industrial uses to the northeast.

SOUTH: GC zoning with commercial uses

EAST: GC zoning with commercial uses

WEST: GC zoning with commercial uses

GENERAL NEIGHBORHOOD / AREA LAND USES: The subject property is located in a commercial district and is surrounded by commercial uses. The property was previously used as a restaurant.

ANALYSIS OF NEIGHBORHOOD EFFECTS: The proposed use is consistent with the uses in surrounding area.

SIGNED: ___________________________

Jennifer L. Dám, AICP; Director of Planning
Fremont Police Department
Liquor License Application Investigative Report

7/16/2019

Name of Business: Senor Tequila
Business Address: 1680 E. 23rd Street Fremont, NE 68025
Business Phone #: 402-372-0103
Business Owner (s): Jose Luis Abundes

Business Owner's Address (s): 2010 E. Lane West Point, NE 68788
Owner's Daytime Phone Number: 901-620-1248

1. Type of Investigation:  X  Purchase of Business
   ___ Upgrade of Existing License (From ___ to ___)
   ___ Expansion of Present Business
   ___ Renewal - Long Form
   ___ New and additional License
   ___ Transfer of Location
   ___ Manager / Employees

2. Type of License:  Class - I

3. Type of Business:
   ___ Hotel / Motel
   ___ Liquor / On / Off Sale only
   X  ___ Restaurant / Food Service
   ___ Entertainment
   ___ Other ______________________

4. Type of Ownership:  X  Corporation (LLC)
   ___ Partnership
   ___ Individual

5. Financial Information:  Previous Years Gross Sales
   (Estimation)
   $150,000 Estimated Annual Payroll
   $500,000 Estimated Gross Income
   80% Food  20% Liquor

6. Premise Information:  X  Commercial  ___ Industrial  ___ Residential
   Estimated Seating Capacity 100  250 Estimated # of Customers per day
   Premise days of operation:  7 DAYS/WEEK
   Premise hours of operation:  11am-10pm
7. Type of Food Service:  _X_ Microwave  _X_ Grill  _X_ Kitchen

8. Employees:  
# 6 Full Time  # 6 Part Time

Are any of the employee's under 21 years of age?  
No

Have any of the employees ever been arrested and/or convicted of any criminal offense?  
No

9. Manager Information:  
Name: Matthew J. Jansen  
Address: 502 E. Garfield Street West Point, NE 68788  
Phone #: 402-372-4965  
Driver's License #: H12930433  
State NE  
Length of time as manager: 6 years

Is anyone other than the manager responsible for the daily operation of the business?  
Jose Luis Abundes

10. Number of Licenses within competitive distance:  2

11. Does the establishment have gaming?  No

12. Does the establishment sell tobacco products?  No

13. Has this establishment's owners or any employee of this establishment ever been before the Nebraska Liquor Control Commission in a disciplinary hearing?  No

14. Please give the approximate number of police service calls to this establishment during the last year.  N/A

15. Is anyone other than those individuals previously listed, drawing a percentage of the profits of this establishment?  No

16. Please enclose copy of lease agreement.
Date received by Fremont Police Department: July 11, 2019

Date of Completed Investigation: July 16, 2019

Signature of Investigating Officer: [Signature]

Date of Hearing by Governing Body: ________________

Governing Body Recommendation:

_____________________________________________________________________

_____________________________________________________________________

Signature of Applicant: Luis Abundes Date: 07/16/19

Printed Name of Applicant: Luis Abundes

Notary: Kathryn A. Boehler

GENERAL NOTARY - State of Nebraska
KATHRYN A. BOEHLER
My Comm. Exp. July 25, 2021

Falsification of any part of this application may result in criminal and civil penalties.
RESOLUTION NO. 2019-138


WHEREAS, an application was filed by Los Cunados LLC dba Senor Tequila, for property located at 1680 E. 23rd St., Fremont, NE 68025 for a class I liquor license; and,

WHEREAS, a public hearing notice was published in the Fremont Tribune as required by state law on July 18, 2019; and,

WHEREAS, a public hearing was held on July 30, 2019 for the purpose of discussing such liquor license application,

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF FREMONT, NEBRASKA, that:

   The City of Fremont hereby recommends approval of the above identified liquor license application.

PASSED AND APPROVED THIS 30th DAY OF JULY 2019.

_____________________________                     Scott Getzschman, Mayor

ATTEST:

__________________________

Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Jody Sanders, CPA, Director of Finance
DATE: July 30, 2019
SUBJECT: Claims

Recommendation: Move to approve July 10 through July 30, 2019 claims, as well as subsequent claims due and payable before the next meeting of the City Council, and authorize checks to be drawn on the proper accounts.

Background: Council will review claims via email July 26, 2019. In addition, Staff is requesting approval by the Council to pay claims that will become due and payable (by virtue of contractual agreements or regulatory requirements) before the next City Council meeting.

The amount due is not known as of this staff report, but the related vendors are listed below. These approved claims will still be presented as claims at the next City Council meeting and included in the total requested by Council for approval.

- Direct deposit of employee payroll on August 8, 2019, and related withholdings remitted to pension plans, federal and state tax withholdings, and garnishments.
- Nebraska Department of Revenue – sales & lodging tax collected by the City at various facilities.
- Health and dental claims paid by the City’s third-party administrator Blue Cross and Blue Shield, as well as Health care reinsurance premiums payable.
- Life and Disability (ST & LT) premiums payable to UNUM monthly
- Workers compensation claims paid by the City’s third-party administrator Tri-Star.
- Transmission and energy purchases payable to Southwest Power Pool, every Tuesday.
- Construction, transmission and energy purchases payable to Omaha Public Power District.
- Natural gas purchases from Northern Natural Gas/US Energy, BP, Cargill, Central Plains Energy Project (CPEP) and Public Energy Authority of Kentucky (PEAK).
- Coal purchases from Cloud Peak Energy Resources, Peabody coal, and freight charges to Union Pacific.
- UPS weekly invoice for shipping costs, due within ten days or late fees are incurred.

There are a limited number of agencies that debit the City’s bank account for credit card processing fees, kiosk fees, bank analysis fees and occasionally NSF fees from our Ambulance Billing contractor. These are based on a fee schedule.

Fiscal Impact:

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PAYMENT TYPES
Checks ................................................. Y
EFTs ...................................................... Y
ePayables .............................................. Y

VOUCHER SELECTION CRITERIA
  Voucher/discount due date ........................... 07/11/2019
  All banks .............................................. A

REPORT SEQUENCE OPTIONS:
  Vendor .................................................. One vendor per page? (Y,N) ......................... N
  Bank/Vendor .......................................... X One vendor per page? (Y,N) ......................... N
  Fund/Dept/Div ........................................ Validate cash on hand? (Y,N) ......................... N
  Fund/Dept/Div/Element/Obj ......................... Validate cash on hand? (Y,N) ......................... N
  Proj/Fund/Dept/Div/Elm/Obj .........................

This report is by: Bank/Vendor
  Process by bank code? (Y,N) ........................ Y
  Print reports in vendor name sequence? (Y,N) ........................ Y
  Calendar year for 1099 withholding .................. 2019
  Disbursement year/per .............................. 2019/10
  Payment date .......................................... 07/11/2019
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- **General Fund** EFT, EPAY OR Hand-Issued Amount: 202,119.93
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Final Total  282,982.61  Count  297
PAYMENT TYPES
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EFTs ............................................... Y
ePayables ........................................ Y

VOUCHER SELECTION CRITERIA
Voucher/discount due date .................... 07/11/2019
All banks ...................................... A

REPORT SEQUENCE OPTIONS:
Vendor ............................................ One vendor per page? (Y,N) .......... N
Bank/Vendor ................................... X One vendor per page? (Y,N) .......... N
Fund/Dept/Div ................................ Validate cash on hand? (Y,N) .......... N
Fund/Dept/Div/Element/Obj ................. Validate cash on hand? (Y,N) .......... N
Proj/Fund/Dept/Div/Elm/Obj ................

This report is by: Bank/Vendor
Process by bank code? (Y,N) ................. Y
Print reports in vendor name sequence? (Y,N) . Y
Calendar year for 1099 withholding .......... 2019
Disbursement year/per ........................ 2019/10
Payment date ................................. 07/11/2019
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CITY OF FREMONT  
ELECTRONIC WITHDRAWAL LIST  
FOR CITY COUNCIL MEETING: 7/30/19  

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EAL DESCRIPTION: EAL: 07152019 SHEETSJ

PAYMENT TYPES
- Checks ............................................. Y
- EFTs .................................................. Y
- ePayables ........................................... Y

EAL DESCRIPTION: EAL: 07152019 SHEETSJ

PAYMENT TYPES
- Checks ............................................. Y
- EFTs .................................................. Y
- ePayables ........................................... Y

VOUCHER SELECTION CRITERIA
- Voucher/discount due date ....................... 07/11/2019
- All banks ........................................... A

REPORT SEQUENCE OPTIONS:
- Vendor ............................................... One vendor per page? (Y,N) ................. N
- Bank/Vendor ........................................ X One vendor per page? (Y,N) ................. N
- Fund/Dept/Div .................................... Validate cash on hand? (Y,N) .............. N
- Fund/Dept/Div/Element/Obj .................... Validate cash on hand? (Y,N) .............. N
- Proj/Fund/Dept/Div/Elm/Obj ....................

This report is by: Bank/Vendor
- Process by bank code? (Y,N) ................. Y
- Print reports in vendor name sequence? (Y,N) Y
- Calendar year for 1099 withholding ........... 2019
- Disbursement year/per ......................... 2019/10
- Payment date ................................. 07/15/2019
## EXPENDITURE APPROVAL LIST

**Program:** GM339L  
**As Of:** 07/11/2019  
**Payment Date:** 07/15/2019

### City of Fremont

**General Fund**  
**Bank:** 00

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**Bank Total:** 51.64  
**General Fund Bank Total:** 33.76
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01 Employee Benefits

HAND ISSUED TOTAL *** 74,527.25

EFT/EPAY TOTAL *** 33.76

TOTAL EXPENDITURES **** 51.64 74,561.01

GRAND TOTAL ****************** 74,612.65
PAYMENT TYPES
- Checks: Y
- EFTs: Y
- ePayables: Y

VOUCHER SELECTION CRITERIA
- Voucher/discount due date: 07/25/2019
- All banks: A

REPORT SEQUENCE OPTIONS:
- Vendor: X
- Bank/Vendor: X
- Fund/Dept/Div: X
- Fund/Dept/Div/Element/Obj: X
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This report is by: Bank/Vendor
- Process by bank code? (Y,N): Y
- Print reports in vendor name sequence? (Y,N): Y
- Calendar year for 1099 withholding: 2019
- Disbursement year/per: 2019/10
- Payment date: 07/25/2019
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| VENDOR TOTAL * | 900.00 |
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**Final Total**: 281,338.52  
**Count**: 284
## EXPENDITURE APPROVAL LIST

**PREPARED 07/25/2019 11:01:21**

**PROGRAM: GM339L**

**REPORT PARAMETER SELECTIONS**

**EAL DESCRIPTION:** EAL: 07252019 SHEETSJ

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EFTs ................................................ Y
ePayables ........................................... Y

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- Disbursement year/per .......................... 2019/10
- Payment date ........................................... 07/31/2019
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**General Fund**

**PROGRAM: GM339L**
**AS OF: 07/31/2019**
**PAYMENT DATE: 07/31/2019**

**BANK: 00**

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**Program: GM339L**

**City of Fremont General Fund**

**As of: 07/31/2019**

**Payment Date: 07/31/2019**

**Bank: 00**
## EXPENDITURE APPROVAL LIST

**PROGRAM: GM339L**

**AS OF: 07/31/2019**

**PAYMENT DATE: 07/31/2019**

**City of Fremont**

**General Fund**

**BANK: 00**

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**Total**

| VENDOR TOTAL | 948.40 |
| VENDOR TOTAL | 9,117.00 |

**Bank Total**

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04  Keno Fund  
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VENDOR TOTAL * 1,155.00

08  CDBG Clearing

BANK TOTAL * 1,155.00
## Expenditure Approval List

**Program:** GM339L  
**As Of:** 07/31/2019  
**Payment Date:** 07/31/2019

### City of Fremont

**Bank:** 09

### Vendor List

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**Bank Total:** 1,879.89
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EFTs ..................................................... Y
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VOUCHER SELECTION CRITERIA
Voucher/discount due date ....................... 07/11/2019
All banks .................................................. A

REPORT SEQUENCE OPTIONS:
Vendor .................................................. X  One vendor per page? (Y,N) ...................... N
Bank/Vendor ............................................. One vendor per page? (Y,N) ...................... N
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Process by bank code? (Y,N) ......... Y
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Disbursement year/per ....................... 2019/10
Payment date ................................. 07/11/2019
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Final Total 303,340.15 Count 180
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ePayables . . . . . . . . . . . . . . . . . . . . Y

VOUCHER SELECTION CRITERIA
Voucher/discount due date . . . . . . . . . . . 07/15/2019
All banks . . . . . . . . . . . . . . . . . . . . A

REPORT SEQUENCE OPTIONS:
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Fund/Dept/Div . . . . . . . . . . . . . . . . . . Validate cash on hand? (Y,N) . . . . . . . . . . . . . . N
Fund/Dept/Div/Element/Obj . . . . . . . . . . . Validate cash on hand? (Y,N) . . . . . . . . . . . . . . N
Proj/Fund/Dept/Div/Elm/Obj . . . . . . . . . .

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Print reports in vendor name sequence? (Y,N) . . Y
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Disbursement year/per . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 2019/10
Payment date . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . 07/15/2019
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- Checks: Y
- EFTs: Y
- ePayables: Y

VOUCHER SELECTION CRITERIA
- Voucher/discount due date: 07/22/2019
- All banks: A

REPORT SEQUENCE OPTIONS:
- Vendor: X
- One vendor per page? (Y,N): N
- Bank/Vendor: 
  - One vendor per page? (Y,N): N
- Fund/Dept/Div: 
  - Validate cash on hand? (Y,N): N
- Fund/Dept/Div/Element/Obj: 
  - Validate cash on hand? (Y,N): N
- Proj/Fund/Dept/Div/Elm/Obj:

This report is by: Vendor
- Process by bank code? (Y,N): Y
- Print reports in vendor name sequence? (Y,N): Y
- Calendar year for 1099 withholding: 2019
- Disbursement year/per: 2019/10
- Payment date: 07/22/2019
## EXPENDITURE APPROVAL LIST

**Program:** GM339L  
**As of:** 07/22/2019  
**Payment Date:** 07/22/2019

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**Total Expenditures:** 224.72  
**Grand Total:** 512,879.44
PREPARED 07/25/2019 10:42:46
PROGRAM: GM339L
EXPENDITURE APPROVAL LIST
REPORT PARAMETER SELECTIONS

EAL DESCRIPTION: EAL: 07252019 ANDERSEND

PAYMENT TYPES
Checks .......................................... Y
EFTs ............................................... Y
ePayables ......................................... Y

VOUCHER SELECTION CRITERIA
Voucher/discount due date ................. 07/25/2019
All banks .......................................... A

REPORT SEQUENCE OPTIONS:
Vendor ............................................. X
Bank/Vendor ........................................
Fund/Dept/Div .....................................
Fund/Dept/Div/Element/Obj ..................
Proj/Fund/Dept/Div/Elm/Obj .................

This report is by: Vendor

Process by bank code? (Y,N) ............ Y
Print reports in vendor name sequence? (Y,N) . Y
Calendar year for 1099 withholding ....... 2019
Disbursement year/per ....................... 2019/10
Payment date ..................................... 07/25/2019
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Final Total  277,413.95  Count  176
PAYMENT TYPES
- Checks: Y
- EFTs: Y
- ePayables: Y

VOUCHER SELECTION CRITERIA
- Voucher/discount due date: 07/31/2019
- All banks: A

REPORT SEQUENCE OPTIONS:
- Vendor: X
- Bank/Vendor: N
- Fund/Dept/Div: N
- Fund/Dept/Div/Element/Obj: N
- Proj/Fund/Dept/Div/Elm/Obj: 

This report is by: Vendor
- Process by bank code? (Y,N): Y
- Print reports in vendor name sequence? (Y,N): Y
- Calendar year for 1099 withholding: 2019
- Disbursement year/per: 2019/10
- Payment date: 07/31/2019
## Expenditure Approval List

**Program:** GM339L  
**As Of:** 07/31/2019  
**Payment Date:** 07/31/2019

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- **AQUA-CHEM INC**: $8,655.26
- **ARIZA, VICTORIA**: $80.16
- **ARPS GRAVEL & CONCRETE INC**: $635.82
- **ASPEN EQUIPMENT CO**: $1,602.01
- **A3K CONSTRUCTION**: $2,409.10
- **BABCOCK & WILCOX CO (DIAMOND POWER)**: $7,961.14
- **BABCOCK & WILCOX COMPANY**: $289.69
- **BARTLETT, RICHARD A**: $114.15
- **BAUER BUILT INC**: $393.10
- **BARTLETT, RICHARD A**: $311.19
- **BAUER BUILT INC**: $38.42
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21648

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614027

0001020 00 O’REILLY AUTOMOTIVE INC

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  - **Total**: $576.49

- **PARISE, KEVIN S**
  - **Total**: $122.60

- **PB&J WELDING SUPPLY LLC**
  - **Total**: $84.10

- **PCM SALES INC**
  - **Total**: $741.98

- **PETERS, KRISTOPHER R**
  - **Total**: $20.24

- **PINCALLE BANK - VISA**
  - **Total**: $316.95

- **PLATTE VALLEY EQUIPMENT LLC**
  - **Total**: $595.88

- **PLIBRICO COMPANY LLC**
  - **Total**: $1,713.62

- **POLEY, KENDRA R**
  - **Total**: $94.69

- **POLYDYNE INC**
  - **Total**: $8,948.94

- **PREMIER STAFFING INC**
  - **Total**: $40.00

- **PRIME COMMUNICATIONS INC**
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**Grand Total**: $19,463.75
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**DEPARTMENT OF UTILITIES**

**AS OF:** 07/31/2019  
**PAYMENT DATE:** 07/31/2019

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**VENDOR TOTAL *****

**EFT/EPAY TOTAL *****

**TOTAL EXPENDITURES ******

**GRAND TOTAL ******************
COMMUNITY DEVELOPMENT AGENCY MEETING MINUTES
July 9, 2019, 7:00 P.M.
City Council Chambers 400 East Military, Fremont NE

1. Meeting called to order. Chairman Getzschman called the meeting of the Community Development Agency to order and stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas.

2. Roll call. Roll call showed Members Ellis, Kuhns, Yerger, Jensen, Jacobus, McClain and Legband present. Bechtel absent. 7 Members present.


4. Resolution 2019-006 approving the Redevelopment agreement for the Fountain Springs 55+ Apartment Redevelopment Project and authorizing the issuance of tax increment financing indebtedness. No action was taken.

5. Adjournment. Moved by Member Jacobus seconded by Member McClain to adjourn the meeting. Ayes: McClain, Ellis, Yerger, Jensen, Jacobus, Kuhns. Nay: Legband. Motion carried. Meeting adjourned at 7:50 p.m.

CITY COUNCIL MEETING MINUTES
July 9, 2019
City Council Chambers 400 East Military, Fremont NE
REGULAR MEETING – 7:00 P.M.
STUDY SESSION – 6:45 P.M.
AGENDA

REGULAR MEETING:
1. Meeting called to order. After Study Session and the Pledge of Allegiance, the Mayor called the meeting of the City Council to order and stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas.


3. Mayor comments

(There will be no discussion from the Council or the public regarding comments made by the Mayor. Should anyone have questions regarding the comments, please contact the Mayor after the meeting)

PUBLIC HEARINGS:
4. Resolution 2019-117 for amendment to the 23rd and Bell redevelopment plan for Fountain Springs Apartment Properties generally located at the northwest corner of 29th Street and Yager, and south of 32nd Street. Councilmember McClain moved, seconded by Councilmember Legband to continue the item until the August 13, 2019 City Council meeting. Ayes: Getzschman, McClain, Ellis, Kuhns, Legband. Nays: Jensen, Yerger, Jacobus. Motion carried.

5. Resolution 2019-118 to allow SBA Towers II LLC and T-Mobile Central LLC to add new equipment to existing tower located at 600 S. Main Street. Mayor Getzschman opened the public hearing. Mayor Getzschman closed the public hearing after receiving comments from the public. Councilmember Jensen moved, seconded by Councilmember McClain to approve Resolution 2019-118. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.


CONSENT AGENDA:
Moved by Council Member Legband seconded by Council Member Jensen to approve items 8, 9, 12, 14, 15, 21, 22, 23 & 24 of the consent agenda. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.


12. Resolution 2019-122 of the City Council of the City of Fremont, Nebraska approving the Amendment to Business Associate Agreement with Blue Cross Blue Shield of Nebraska.


15. Resolution 2019-124 of the City Council of the City of Fremont, Nebraska approving the addition of a Roth option to the 457(b) retirement plan administered by Principal and authorizing execution of the Governmental 457(b) Roth Deferral Amendment.

21. Motion to approve excavation/asphalt/concrete license application for Frost FiberTech Inc.

22. Resolution 2019-127 adopting and approving the execution of an Agency Agreement with the Nebraska Department of Transportation, Aeronautics Division for Project No. 3-31-0029-012-2019 to be submitted by the Department the Federal Aviation Administration to Obtain Federal Assistance for the Development of the Airport.

23. Resolution 2019-133 to enter in to agreement with Douglas County Communications for radio network support and monitoring.

24. Resolution 2019-128 accepting the grant award and authorizing staff to execute necessary documents for the Nebraska Department of Environment and Energy Waste Reduction and Recycling Incentive Grant.
ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION:

7. Motion to approve June 26, 2019 through July 9, 2019 claims and authorize checks to be drawn on the proper accounts. Councilmember Jensen moved, seconded by Councilmember Jacobus to approve June 26, 2019 through July 9, 2019 claims and authorize checks to be drawn on the proper accounts. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

10. Resolution 2019-132 approving request of Fremont Rotary Club to use the Fremont Municipal Airport for a Fly-in Breakfast on August 25, 2019 from 7:00 a.m. to 2:00 p.m. Councilmember Kuhns moved, seconded by Councilmember McClain to approve Resolution 2019-132. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.


13. Motion to grant permission to Fremont Squadron and Nebraska Wing of Civil Air Patrol to use City Well Field for training, July 26-28, 2019. Councilmember Kuhns moved, seconded by Councilmember Jacobus to grant permission to Fremont Squadron and Nebraska Wing of Civil Air Patrol to use City Well Field for training, July 26-28, 2019. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.


18. Move to approve the recommendation of the Mayor to make appointments to the Airport Advisory Board. Councilmember Jensen moved, seconded by Councilmember Kuhns to approve recommendation of the Mayor’s appointments to the Airport Advisory Board. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

19. Move to approve the recommendation of the Mayor to make appointment to the Utility and Infrastructure Board. Councilmember Kuhns moved, seconded by Councilmember Legband to approve the Mayor’s appointment to the Utility and Infrastructure Board. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

20. Move to approve the recommendation of the Mayor to make appointment to the Local Option Review Team. Councilmember McClain moved, seconded by Councilmember Jacobus to approve the Mayor’s appointments to the Local Option Review Team. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

25. Resolution 2019-129 of the City Council of the City of Fremont, Nebraska authorizing Staff to execute a 2-year agreement with Polydyne for chemicals used for bio-solids processing in the amount of $1.83 per pound. Councilmember Yerger moved, seconded by Councilmember Jacobus to approve Resolution 2019-129. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

26. Resolution 2019-130 of the City Council of the City of Fremont, Nebraska, authorizing City of Fremont,
Department of Utilities Staff to sign a purchase agreement with Honeywell for proposal number 932535A19 Rev. 1 for a control system hardware refresh. Councilmember Legband moved, seconded by Councilmember Jacobus to receive into the record updated memo and resolution. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried. Councilmember Jacobus moved, seconded by Councilmember Legband to amend Resolution 2019-130 to the version received. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried. Councilmember Jacobus moved, seconded by Councilmember Legband to approve Resolution 2019-130 as amended. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

27. Resolution 2019-131 of the City Council of the City of Fremont, Nebraska, authorizing City of Fremont, Department of Utilities Staff to sign a purchase agreement with Shuttlewagon for a SWX525 Railcar Mover. Councilmember Jacobus moved, seconded by Councilmember Jensen to approve Resolution 2019-131. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried.

UNFINISHED BUSINESS: requires individual associated action

28. Ordinance 5496 approving request by Anew Development, LLC. for Voluntary Annexation of Lot 2, Fountain Springs 4th Subdivision located at the northwest corner of 29th Street and Yager – Fountain Spring Adult Apartment Properties (final reading). Councilmember Kuhns moved, seconded by Councilmember Legband to continue the item to the August 13, 2019 City Council meeting. Ayes: McClain, Ellis, Kuhns, Yerger, Jensen, Jacobus, Legband. Motion carried

NEW BUSINESS: requires individual associated action


31. Adjournment. Moved by Council Member Jacobus seconded by Council Member Legband to adjourn the meeting. Ayes: McClain, Ellis, Yerger, Jensen, Jacobus, Kuhns, Legband. Motion carried. Meeting adjourned at 9:35 p.m.

I, Tyler Ficken, the undersigned City Clerk, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such agenda items were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by the members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that this meeting was preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, were displayed in the Municipal Building and distributed to the Mayor and Council on May 24, 2019 and is open to the public; that all news media requesting notification concerning meeting and the subjects to be discussed at said meeting and that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held.

SPECIAL CITY COUNCIL MEETING MINUTES
July 23, 2019
City Council Chambers 400 East Military, Fremont NE
SPECIAL MEETING – 6:30 P.M.

AGENDA

1. Meeting called to order. The Mayor called the special meeting of the City Council to order and stated that a copy of the open meeting law is posted continually for public inspection located near the entrance door by the agendas.

2. Roll call. Roll call showed Council Members McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus and Legband present. 8 Councilmembers present.

3. Resolution 2019-134 to approve the medical insurance renewals with Blue Cross Blue Shield of Nebraska. Councilmember Kuhns moved, seconded by Councilmember Jensen to approve Resolution 2019-134. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

4. Preliminary budget discussion. Council Member Legband moved, seconded by Council Member Jacobus to receive expenditure budget worksheet into the record. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. The City Council received a presentation of the budget from Jody Sanders and discussed their budget with no formal action taken.

5. Adjournment. Moved by Member Jensen seconded by Member Legband to adjourn the meeting. Ayes: McClain, Ellis, Yerger, Jensen, Jacobus, Kuhns, Bechtel, Legband. Motion carried. Meeting adjourned at 7:51 p.m.

I, Tyler Ficken, the undersigned City Clerk, hereby certify that the foregoing is a true and correct copy of the proceedings had and done by the Mayor and Council; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such agenda items were sufficiently descriptive to give the public reasonable notice of the matters to be considered at the meeting; that such subjects were contained in said agenda at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by the members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that this meeting was preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, were displayed in the Municipal Building and distributed to the Mayor and Council on May 24, 2019 and is open to the public; that all news media requesting notification concerning meeting and the subjects to be discussed at said meeting and that a current copy of the Nebraska Open Meetings Act was available and accessible to members of the public, posted during such meeting in the room in which such meeting was held.


Tyler Ficken, City Clerk

Scott Getzschman, Mayor
TO: Honorable Mayor and City Council

FROM: David Goedeken, P.E., Director of Public Works/City Engineer

DATE: July 30, 2019

SUBJECT: Sanitary Sewer District No. SD-704-18

Recommendation:
Authorize to Approve Resolution 2019-141 for Final Acceptance of the Project for the Sanitary Sewer District No. SD-704-18 Project; and authorize Mayor to sign Final Pay Application No. 2 and Final Change Order.

Background:

The City of Fremont entered into original Contract with BLT Plumbing Heating and Air Conditioning, Inc. dated February 26, 2019. The Sanitary Sewer District No. SD-704-18 project consists of improvements and construction of the 8" sanitary sewer main. The project is located in the alley from 18th and 19th Street between Broad Street and Park Avenue.

The final cost of the project is $65,953.69. The original contract amount for the project was $65,060.62. The Final Change Order increased by $893.07. Requesting for the Mayor to sign the Final Pay Application No. 2 in the amount of $5,718.97 and Final Change Order to complete final acceptance of the project. The final acceptance of the project includes any outstanding pay applications that have been submitted.

The Sanitary Sewer District No. SD-704-18 was established on July 10, 2018 by Ordinance No. 5452.

Fiscal Impact:

The fiscal impact for the additional cost for a total in the amount of $893.07. The project costs will be assessed to the abutting properties through Sanitary Sewer District No. SD-704-18.
# FINAL CHANGE ORDER

**Project Name:** SANITARY SEWER DISTRICT NO. 704-18

- **Project No.:** Fremont Project No. SD-704-18
- **PO No.:** 37826
- **Account No.:** 041-2098-431-20.29

**Company Name:** BLT Plumbing Heating & Air Conditioning Inc.

- **Address:** 1010 S Broad Street, Fremont NE 68025
- **Telephone:** 402-721-9580

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<td>77</td>
<td>91</td>
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<td>Cleanup and Erosion Control</td>
<td>LS</td>
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<td>1</td>
<td>0</td>
<td>$1,655.65</td>
</tr>
</tbody>
</table>

**Original Contract Price** $65,060.62
**Net Change From Final Change Order** $893.07
**Adjusted Contract Amount** $65,953.69

Approved By:

Scott Getzschman, Mayor

Date
## FINAL PAY REQUEST NO. 2

**Date:** 7/9/2019  
**Invoice #:** Pay App 2  
**Project Name:** SANITARY SEWER DISTRICT NO. 704-18  
**Project No.:** Fremont Project No. SD-704-18  
**PD No.:** 37826  
**Account No.:** 041-2098-431-20.29  
**Company Name:** BLT Plumbing Heating & Air Conditioning Inc.  
**Address:** 1010 S Broad Street, Fremont NE 68025  
**Telephone:** 402-721-9580

### Plan | Pay Period | As Const | Unit Price | Total
--- | --- | --- | --- | ---
1 | Mobilization | LS | 1 | $275.00 | $275.00
2 | Barricading & Traffic Control | LS | 1 | $133.00 | $133.00
3 | Remove Pavement | SY | 347 | $11.25 | $3,903.75
4 | Remove Sidewalk | SF | 77 | $1.25 | $96.25
5 | Remove Existing 6” VCP Sewer | LF | 242 | $6.00 | $1,452.00
6 | Class B Gravel Bedding | LF | 242 | $2.80 | $677.60
7 | Build Standard Manhole | EA | 2 | $7,543.20 | $15,086.40
8 | Build 8” SDR 26 PVC Sewer | LF | 242 | $59.83 | $14,478.86
9 | Build Service WYE* | EA | 8 | $511.31 | $4,090.48
10 | Reconnect Existing Service | EA | 6 | $316.66 | $1,899.96
11 | Saw Cut | LF | 307 | $2.15 | $660.05
12 | Crushed Rock Surfacing 12” | TN | 160 | $18.00 | $2,880.00
13 | Build 8” P.C. Concrete Pavement | SY | 40 | $56.70 | $2,268.00
14 | Build 7” P.C. Concrete Pavement | SY | 307 | $49.61 | $16,073.64
15 | Build 6” P.C. Concrete Sidewalk | SF | 77 | $3.55 | $323.05
16 | Cleanup and Erosion Control | LS | 1 | $1,655.65 | $1,655.65

**Total Project Cost To Date:** $65,953.69  
**Total Previous Payments:** $(60,234.72)  
**Retainage (10%):** $-  
**Total Amount Due:** $5,718.97

---

Approved By:  
Scott Getzschman, Mayor  
Date
RESOLUTION NO. 2019-141

A Resolution of the City Council of the City of Fremont, Nebraska to approve BLT Plumbing Heating & Air Conditioning, Inc. Final Acceptance of Construction of the Sanitary Sewer District No. SD-704-18 Project by authorizing the Mayor to sign Final Pay Application No. 2 and Final Change Order.

WHEREAS, The City of Fremont entered into a construction contract with BLT Plumbing Heating & Air Conditioning, Inc. (Contractor) for the Sanitary Sewer District No. SD-704-18 Project; and

WHEREAS, The Sanitary Sewer District No. SD-704-18 was established on July 10, 2018 by Ordinance No. 5452; and

WHEREAS, The original contract cost of the project was $65,060.62, and the final contract cost of actual construction was $65,953.69 with a final change order of $893.07; and

WHEREAS, The Contractor has completed the work on said project to the satisfaction of the Public Works Director/City Engineer;

NOW THEREFORE BE IT RESOLVED:
That the Mayor and City Council hereby approve Final Acceptance of Completion for the Sanitary Sewer District No. SD-704-18 Project, authorize final payment and approve Final Change Order.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

______________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Tyler Ficken, City Clerk

DATE: July 30, 2019

SUBJECT: Fremont Area Chamber of Commerce Annual Fremont Beer Fest – Use of parking lot and Special Designated License (SDL)

Recommendation: Approve Resolution 2019-136

Background: This request for use of the parking lot is from the Fremont Area Chamber of Commerce asking Council to grant permission to use the upper level of the Ilgenfritz Parking facility on Thursday, September 26, 2019 from 5:00 P.M. to 8:00 P.M., for the 2nd annual Fremont Beer Fest. Additionally, they have submitted a request for Special Designated License Local Recommendation. Events will be monitored for compliance with all rules and regulations.

Staff recommends granting the use of the parking lot and authorizing the City Clerk to sign the Special Designated License.
July 16, 2019

City of Fremont  
400 E Military Ave  
Fremont, NE 68025

Dear Members of the Fremont City Council:

I am writing to request permission for the Fremont Area Chamber of Commerce to use the upper level of the downtown parking garage as the location for an upcoming event we will be hosting to provide exposure to Fremont businesses.

On Thursday, September 26, from 5p.m. - 8 p.m., our group will be holding the 2nd Annual Fremont Beer Fest. We are offering our Chamber members the opportunity to set up a booth and provide craft beers that will be given out in 3 ounce samples to the general public. Attendees to the event will pay $15 to receive a tasting mug and visit the various chamber members booths. This event will be a new spin on the old tradeshows style function. Our Chamber businesses will have a captive audience for 3-5 minutes which will allow them to tell the attendee more about their organization.

We’re a dedicated and professional group, and would be extremely respectful of your property, should we be able to utilize your location. We will have security on-site and no one under 21 will be admitted onto the property (id’s will be checked at the entrance). We will have a number of volunteers on hand to help ensure things run smoothly and the parking garage is kept in prime condition.

We feel the downtown parking garage will make the perfect setting for our event. There is no better place to showcase the business community than in the heart of downtown. I want to thank you for your time, and I sincerely hope you will consider letting us use the garage for this amazing event.

Sincerely,

Tara Lea  
Executive Director  
Fremont Area Chamber of Commerce
Special Designated License
Local Recommendation (Form 200)
Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Fremont Area Chamber of Commerce
Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)
128 E 6th Street Fremont, NE 68025
Retail Liquor License Address or Non-Profit Business Address
47-0166590
Retail License Number or Non-Profit Federal ID #

Consecutive Dates only
Event Date(s):
9/25/20

Event Start Time(s):
5:00pm

Event End Time(s):
9:00pm

Alternate Date: 10/3/19

Alternate Location Building & Address:
n/a

Event Building Name:
Upper Level Downtown Parking Garage

Event Street Address/City:
5th and Park

Indoor area to be licensed in length & width: ___ X ___
Outdoor area to be licensed in length & width: 300 X 100 (Diagram Form #109 must be attached)

Type of Event: Business Festival
Estimate # of attendees: 300

Type of alcohol to be served: Beer X Wine Distilled Spirits

Event Contact Name: Tara Lea
Event Contact Phone Number: 402-721-2641
Event Contact Email: tara@fremontne.org

*Signature Authorized Representative: ____________________________ Printed Name: Tara Lea

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:
The local governing body for the City/Village of Fremont OR County of_____________approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature: ____________________________ Date: ___________
OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED:

- ON-SITE SECURITY, ID CHECKS, WRISTBANDS
- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:

UPPER LEVEL OF "DOWNTOWN PARKING GARAGE"

TAILGATE/YARD GAME AREA

MEMBER BOOTHS

4'11" WALLS

4' HIGH WALLS

Form 109
Rev Nov 2016
APPLICATION FOR SPECIAL DESIGNATED LICENSE
Non-Profit Applicants ONLY

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95946
LINCOLN, NE 68509-9546
PHONE: (402) 471-2571
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov
Email Applications: michelle.porter@ndbraska.gov

This page is required to be completed by Non-Profit applicants only.

Application for Special Designated License
Under Nebraska Liquor Control Act
Affidavit of Non-Profit Status


AS SIGNATORY I CONSENT TO THE RELEASE OF ANY DOCUMENTS SUPPORTING THIS DECLARATION AND ANY DOCUMENTS SUPPORTING THIS DECLARATION WILL BE PROVIDED TO THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY AGENT OF THE LIQUOR CONTROL COMMISSION IMMEDIATELY UPON DEMAND. I ALSO CONSENT TO THE INVESTIGATION OF THIS CORPORATE ENTITY TO DETERMINE IT'S NONPROFIT STATUS.

I AGREE TO WAIVE ANY RIGHTS OR CAUSES OF ACTION AGAINST THE NEBRASKA LIQUOR CONTROL COMMISSION, THE NEBRASKA STATE PATROL OR ANY PARTY RELEASING INFORMATION TO THE AFOREMENTIONED PARTIES.

Fremont Area Chamber
NAME OF CORPORATION
47-0166590
FEDERAL ID NUMBER

SIGNATURE OF TITLE OF CORPORATE OFFICERS

THE ABOVE INDIVIDUAL STATES THAT THE STATEMENT ABOVE IS TRUE AND CORRECT; IF ANY FALSE STATEMENT IS MADE ON THIS APPLICATION, THE APPLICANT SHALL BE DEEMED GUILTY OF PERJURY AND SUBJECT TO PENALTIES PROVIDED BY LAW. (SEC. §53-131.01) NEBRASKA LIQUOR CONTROL ACT

SUBSCRIBED IN MY PRESENCE AND SWORN TO BEFORE ME THIS 16TH DAY OF JULY 2019

GENEAL NOTARY - State of Nebraska
MATTHEW MUELLER
My Comm. Exp. April 27, 2020
NOTARY PUBLIC SIGNATURE & SEAL

FORM 201
REV NOV 2016
This Parking Space Agreement (Agreement) is made and entered into on the 30th day of July 2019, by and between the City of Fremont (Owner) and Fremont Area Chamber of Commerce (Lessee) (collectively Parties).

1. **RE bâtals**

1.1. Licensee wishes to lease public parking spaces from Owner for the following purpose(s):

1.1.1. Annual Fremont Beer Fest, and

1.2. Owner is willing to lease the following public parking space(s):

1.2.1. City upper level of the parking lot on the southeast corner of 5th and Park Ave,) on September 26, 2019 from 5:00 p.m. to 8:00 p.m., and

1.3. Therefore, in consideration of the foregoing recitals and of the mutual covenants, terms, conditions and remuneration herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

2. **DEFINITIONS**

2.1. For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Section of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

2.2. **Parking space:** means a space authorized for public parking on a public street or in a public parking lot.

2.3. **Owner’s Facilities:** means all public streets or public parking lots owned by the City.

3. **SCOPE**

3.1. **Grant of Lease.** Subject to the provisions of this Agreement, Owner hereby grants to Lessee a lease authorizing the use of Owner’s facilities to Lessee for the purpose(s) stated above.

3.2. **No Interference With Core Utility Service Requirements.** Nothing contained in this Agreement shall limit Owner’s right to use its facilities to fulfill its own public service and safety requirements consistent with its obligations under relevant law.
3.3. **Access to Right-of-Way.** Owner shall grant Lessee nondiscriminatory access to its rights-of-way. This obligation extends to rights-of-way Owner owns and/or has the right to authorize the use by the Lessee. For rights-of-way to which Owner does not have the right to authorize the use by the Lessee, Lessee shall obtain such consent as is necessary from the owner of the right-of-way.

4. **TERM**

4.1. This Agreement shall continue in force and effect for a period of September 26, 2019 from 5:00 p.m. to 8:00 p.m. The agreement may be terminated by either party for cause at anytime upon 10-day written notice to the notice to the other party. The Lessee shall have a 10-day grace period to cure the cause of the default. If the cause is not cured to the satisfaction of the Owner within the grace period, the agreement shall terminate 10-days thereafter.

5. **FEES**

5.1. **Daily Rental Fee.** Lessee shall pay a fee of $1.00 per day leased.

5.2. **Billing.** Owner shall issue an invoice to Lessee for parking space fees, specifying the number of days on which Owner seeks payment.

6. **ASSIGNMENT OF RIGHTS**

6.1. Lessee may not assign or transfer this Agreement unless approved in writing by the Owner.

7. **INDEMNIFICATION**

7.1. **Damage.** Lessee agrees to take reasonable care to avoid damaging Owner’s Facilities and property of others.

7.1.1. Lessee agrees to reimburse Owner for all reasonable costs incurred by Owner for the physical repair of damage to Owner’s Facilities caused by Lessee’s negligence.

7.2. **Personal Injury and Property Claims.** Lessee agrees to indemnify and hold harmless for any and all claims made against the Owner, including attorney fees, as a result of Lessee’s use of the parking space.

8. **INSURANCE**

8.1. **Insurance.** Lessee shall carry insurance to protect the Parties hereto from and against any claims, demands, actions, judgements, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amount of such insurance against liability due to damage to property shall be no less than $1,000,000.00 as to any one accident and $2,000,000.00 in aggregate; and against liability due to injury to or death of persons no less than $1,000,000.00 as to any one person and $1,000,000.00 to any
one accident, and shall list the Lessor as additionally insured. Lessee shall also carry Workmen's Compensation insurance as required by applicable Nebraska Statutes. Lessee shall provide certificates of insurance to the Owner verifying the coverages required under this agreement and that it will not cancel or change any such policy except after thirty days notice to the Owner. The certificate(s) of insurance shall be provided to the Owner no later than three (3) business days prior to the event.

9. **APPLICABLE LAW**

9.1. The provisions of this Agreement are subject to the laws of the State of Nebraska.

10. **HEADINGS**

10.1. The headings in this Agreement are inserted for convenience of reference only and shall in no way be considered in the interpretation of this Agreement.

Lessee:_____________________________

By:_____________________________

Name:___________________________

Title:_____________________________

Date:___________________________

Owner - City of Fremont

By:_____________________________

Name:___________________________

Title:_____________________________

Date:___________________________
RESOLUTION NO. 2019-136

A Resolution of the City Council of the City of Fremont Nebraska, approving the request of the Fremont Area Chamber of Commerce to use the upper level of the Ilgenfritz Parking lot, and approve the application for a Special Designated Permit.

WHEREAS, the Fremont Area Chamber of Commerce has requested the use of the upper level of the Ilgenfritz Parking lot for a Business Festival on September 26, 2019 from 5:00 p.m. to 8:00 p.m.; and

WHEREAS, this resolution is contingent upon Fremont Area Chamber of Commerce providing a certificate of liability insurance naming the City of Fremont as additional insured.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council authorize the Fremont Area Chamber of Commerce to use of the upper level of the Ilgenfritz Parking lot for an Annual Fremont Beer Fest on September 26, 2019 from 5:00 p.m. to 8:00 p.m., authorizes the Mayor to sign Parking Space Lease Agreement, and that the Fremont City Council approves the application for a Special Designated permit as outlined herein and authorizes the City Clerk to sign the attached Special Designated License Local Recommendation Form (Exhibit A).

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<th>Requestor:</th>
<th>Date:</th>
<th>Purpose:</th>
<th>Property</th>
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<td>Fremont Area Chamber of Commerce</td>
<td>September 26, 2019</td>
<td>Annual Fremont Beer Fest</td>
<td>Ilgenfritz Parking Lot</td>
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PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

SCOTT GETZSCHMAN, MAYOR

ATTEST:

TYLER FICKEN, CITY CLERK
Recommendation: Motion to approve payment agreement with Classic Enterprises

Background: Classic Enterprises, LLC (Jason and Laura Griffis) sustained catastrophic damage to their rental properties at Emerson Estates from the March flood. The worst damage was at 720 Boulevard where the home shifted enough to break their water line causing tens of thousands of gallons of water to leak. The bill attributed to this leak is nearly $4,000.

Griffis asked the City to consider forgiving the entire bill because it was caused by the flood; however, the City proposes to capture at least the pumping costs associated with the water usage. This would reduce the bill by one-half. Griffis agreed to this amount, but requested he be allowed to pay the bill over a 24-month period.

The proposed payment agreement under consideration is to extend payment terms to Griffis for a 24-month period of time at an interest rate of four percent.

The Utility and Infrastructure Board recommended approval by City Council of this payment agreement.

Fiscal Impact: The water fund would not collect $1,975.31 in revenue.
PAYMENT AGREEMENT

WHEREAS, the City of Fremont sustained a catastrophic flooding event on March 15, 2019; and

WHEREAS, Classic Enterprises, LLC, (“Classic”) sustained flood damage to its rental property located at 720 Boulevard, Fremont, Nebraska 68025, causing a significant water leak; and

WHEREAS, the water bill attributed to the significant water leak was $3,950.62, of which the City proposes to forgive one-half or $1,975.31; and

WHEREAS, Classic is requesting the City grant payment arrangements of 24-months to pay the remaining portion of the water bill of $1,975.31.

NOW THEREFORE BE IT RESOLVED, this Payment Agreement is made this 30th day of July 2019, between the City of Fremont, 400 East Military Avenue, Fremont, Nebraska (“City”), a municipal political subdivision of the State of Nebraska, and Classic Enterprises, LLC., c/o Jason and Laura Griffis, 4556 Pacific Ave., Fremont, NE 68025.

Payment Agreement

1. In addition to the regular monthly water bill for the property at 720 Boulevard, Classic shall pay $84.69 per month for the first twenty-three (23) months and shall pay $84.56 on the twenty-fourth (24) month, per the amortization schedule shown in Attachment A.

2. Payments are due by the end of the month for each of the twenty-four months.

3. If for any reason Classic fails to pay the amounts owing as set forth in the amortization schedule shown in Attachment A, this Agreement will be considered in default. Once in default, the entire unpaid balance will become due and Griffith’s Griffith’s water service is subject to disconnection if Classic shall fail to cure the delinquency within 10 days following receipt of the delinquency notice in written or
electronic form. Should water service be disconnected, it shall be reconnected only upon payment of all past due charges and reconnection fees.

4. Contact information of the parties:

   City Clerk  
   City of Fremont  
   400 E Military Ave  
   Fremont NE 68025  
   402-727-2630  
   Tyler.ficken@fremontne.gov

   Classic Enterprises, LLC.  
   c/o Jason and Laura Griffis  
   4556 Pacific Ave  
   Fremont NE 68025  
   402-719-5517  
   classiclandscapes@gmail.com

Classic agrees and understands, that the City may contact it about this Payment Agreement at any address, phone number, or email address listed above and if Classic does not remit the scheduled payment when due following , the City may cancel this Payment Agreement, the entire unpaid balance will become due immediately, and the City may take legal actions against Classic.

_______________________
Classic Enterprises, LLC by  
Jason Griffis, President

Date: ________________
Attachment A

Amortization Schedule

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<th>Interest</th>
<th>Principle</th>
<th>Payment</th>
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<td>18 $591.01</td>
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<td>21 $338.27</td>
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<td>$57.13</td>
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<td>$2,032.43</td>
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</tbody>
</table>
**STAFF REPORT**

TO: Honorable Mayor and City Council  
FROM: Tyler Ficken, City Clerk  
DATE: July 30, 2019  
SUBJECT: Cement/Asphalt/Excavate Work License Application

Recommendation: Move to approve the Cement/Excavation worker license applications as presented subject to fulfillment of all licensing requirements

**Background:** Cement/Asphalt/Excavation workers are required to apply for their first license with the City Council as there is not an examination given. There is no need to reapply with the City Council as long as the applicant keeps their license in force every year. Licensed cement/asphalt/excavate workers have a 60-day grace period to renew their license after April 1st of every year.

<table>
<thead>
<tr>
<th>Business</th>
<th>Applicant</th>
<th>Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>4Star Concrete LLC</td>
<td>Debra Sanchez</td>
<td>Cement/Asphalt/Excavation</td>
</tr>
<tr>
<td>D&amp;L Concrete LLC</td>
<td>Leslie Nelson</td>
<td>Cement</td>
</tr>
<tr>
<td></td>
<td>Lango</td>
<td></td>
</tr>
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</table>
LICENSE APPLICATION

<table>
<thead>
<tr>
<th>Position</th>
<th>Fee</th>
<th>Bond</th>
<th>Term</th>
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</thead>
<tbody>
<tr>
<td>FMC 10-322 Cement Work/Asphalt/Excavate</td>
<td>20.00</td>
<td>5,000.00</td>
<td>April 1st to April 1st of each year</td>
</tr>
<tr>
<td>FMC 10-315 House Mover</td>
<td>25.00</td>
<td>5,000.00</td>
<td>April 1st to April 1st of each year</td>
</tr>
</tbody>
</table>

TO THE FREMONT MAYOR AND COUNCIL:

The undersigned does hereby make application for license as 4Star Concrete LLC

License should be issued to 4Star Concrete LLC

License shall be used by applicant as the sole owner of business, which will be conducted under the name of Efrain Sanchez at 4Star Concrete LLC

(If applicant is not sole owner, set out the other owners: Debra Sanchez)

Applicant telephone number at place of business or where can be reached 402-884-7401

To enable the Mayor and Council to determine whether an applicant possesses the necessary qualifications to obtain said license, applicant, under oath does hereby state:

I have had 16 years of practical experience in this type of work at the following places (Cover the last five years)

Omaha, NE; Bennington, NE; Blair, NE; Ft Calhoun, NE; Ashland, NE; Fremont, NE; Yutan, NE; Valley, NE

I have the following technical education:  

I give you the following references: Marque Homes; Landmark Performance; Architecture

Applicant agrees to comply with all licensing requirements should Council approve this application. Applicant agrees to comply with and is willing to be governed, in all respects, by the ordinances and laws now in effect or to be hereafter adopted by the City of Fremont.

IMPORTANT! After obtaining your license, please go to the 3rd floor of Municipal Building to obtain the rules and regulations concerning concrete work.

Dated 7/14/19  

Signature
TO THE FREMONT MAYOR AND COUNCIL:

The undersigned does hereby make application for license as **Concrete Work**

License should be issued to **Daniel Lango D&L Concrete LLC**

License shall be used by applicant as the sole owner of business, which will be conducted under the name of **D&L Concrete LLC** at **1101 N Pierce St Fremont NE 68025**

(If applicant is not sole owner, set out the other owners: **Leslie Ellen Lango**)

Applicant telephone number at place of business or where can be reached **402-317-7000**

To enable the Mayor and Council to determine whether an applicant possesses the necessary qualifications to obtain said license, applicant, under oath does hereby state:

I have had **10** years of practical experience in this type of work at the following places (Cover the last five years)

**C R Mean Concrete**

I have the following technical education: **hands on Training**

I give you the following references: **C R Mean, Pave the Way, Arron Karr**

Applicant agrees to comply with all licensing requirements should Council approve this application. Applicant agrees to comply with and is willing to be governed, in all respects, by the ordinances and laws now in effect or to be hereafter adopted by the City of Fremont.

**IMPORTANT!** After obtaining your license, please go to the 3rd floor of Municipal Building to obtain the rules and regulations concerning concrete work.

Dated **7-24-19**

Signature
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Tyler Ficken, City Clerk

DATE: July 30, 2019

SUBJECT: Keep Fremont Beautiful All Metals Market Drop – Use of Ilgenfritz parking lot

Recommendation: Approve Resolution 2019-137

Background: This request for use of the parking lot is from Keep Fremont Beautiful, and is asking Council to grant permission to use the Ilgenfritz Parking Lot at 4th and Park Avenue on Wednesday August 28, 2019 from 5:30 P.M. to 7:00 P.M., for the All Metals Market Drop.

Staff recommends granting the use of the parking lot.
Hello Tyler,

I’m writing to request the use of Ilgenfritz Parking Lot at 4th and Park Avenue for the All Metals Market Drop site on Wednesday August 28, 2019. The Keep Fremont Beautiful event will be held from 5:30-7:00pm.

Thank you for your time.

Sincerely,
Leila

--
Leila Hybl
Executive Director
Keep Fremont Beautiful
529 N Main Ste #4
Fremont, NE 68025
(402) 941-6122
www.keepfremontbeautiful.org
PARKING SPACE AGREEMENT

This Parking Space Agreement (Agreement) is made and entered into on the 30th day of July 2019, by and between the City of Fremont (Owner) and Keep Fremont Beautiful (Lessee) (collectively Parties).

1. RECITALS

1.1. Licensee wishes to lease public parking spaces from Owner for the following purpose(s):

1.1.1. All Metals Market Drop site, and

1.2. Owner is willing to lease the following public parking space(s):

1.2.1. City owned Ilgenfritz parking lot at 4th and Park Avenue, on August 28, 2019 from 5:30 p.m. to 7:00 p.m., and

1.3. Therefore, in consideration of the foregoing recitals and of the mutual covenants, terms, conditions and remuneration herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

2. DEFINITIONS

2.1. For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Section of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and “may” is permissive. Words not defined shall be given their common and ordinary meaning.

2.2. Parking space: means a space authorized for public parking on a public street or in a public parking lot.

2.3. Owner’s Facilities: means all public streets or public parking lots owned by the City.

3. SCOPE

3.1. Grant of Lease. Subject to the provisions of this Agreement, Owner hereby grants to Lessee a lease authorizing the use of Owner’s facilities to Lessee for the purpose(s) stated above.

3.2. No Interference With Core Utility Service Requirements. Nothing contained in this Agreement shall limit Owner’s right to use its facilities to fulfill its own public service and safety requirements consistent with its obligations under relevant law.
3.3. **Access to Right-of-Way.** Owner shall grant Lessee nondiscriminatory access to its rights-of-way. This obligation extends to rights-of-way Owner owns and/or has the right to authorize the use by the Lessee. For rights-of-way to which Owner does not have the right to authorize the use by the Lessee, Lessee shall obtain such consent as is necessary from the owner of the right-of-way.

4. **TERM**

4.1. This Agreement shall continue in force and effect for a period of August 28, 2019 from 5:30 p.m. to 7:00 p.m.. The agreement may be terminated by either party for cause at anytime upon 10-day written notice to the notice to the other party. The Lessee shall have a 10-day grace period to cure the cause of the default. If the cause is not cured to the satisfaction of the Owner within the grace period, the agreement shall terminate 10-days thereafter.

5. **FEES**

5.1. **Daily Rental Fee.** Lessee shall pay a fee of $1.00 per day leased.

5.2. **Billing.** Owner shall issue an invoice to Lessee for parking space fees, specifying the number of days on which Owner seeks payment.

6. **ASSIGNMENT OF RIGHTS**

6.1. Lessee may not assign or transfer this Agreement unless approved in writing by the Owner.

7. **INDEMNIFICATION**

7.1. **Damage.** Lessee agrees to take reasonable care to avoid damaging Owner’s Facilities and property of others.

   7.1.1. Lessee agrees to reimburse Owner for all reasonable costs incurred by Owner for the physical repair of damage to Owner’s Facilities caused by Lessee’s negligence.

7.2. **Personal Injury and Property Claims.** Lessee agrees to indemnify and hold harmless for any and all claims made against the Owner, including attorney fees, as a result of Lessee’s use of the parking space.

8. **INSURANCE**

8.1. **Insurance.** Lessee shall carry insurance to protect the Parties hereto from and against any claims, demands, actions, judgements, costs, expenses and liabilities of every kind and nature which may arise or result, directly or indirectly, from or by reason of such loss, injury or damage. The amount of such insurance against liability due to damage to property shall be no less than $1,000,000.00 as to any one accident and $2,000,000.00 in aggregate; and against liability due to injury to or death of persons no less than $1,000,000.00 as to any one person and $1,000,000.00 to any
one accident, and shall list the Lessor as additionally insured. Lessee shall also carry Workmen’s Compensation insurance as required by applicable Nebraska Statutes. Lessee shall provide certificates of insurance to the Owner verifying the coverages required under this agreement and that it will not cancel or change any such policy except after thirty days notice to the Owner. The certificate(s) of insurance shall be provided to the Owner no later than three (3) business days prior to the event.

9. **APPLICABLE LAW**

9.1. The provisions of this Agreement are subject to the laws of the State of Nebraska.

10. **HEADINGS**

10.1. The headings in this Agreement are inserted for convenience of reference only and shall in no way be considered in the interpretation of this Agreement.

**Lessee:**

By: ____________________________

Name: __________________________

Title: ____________________________

Date: ____________________________

**Owner - City of Fremont**

By: ____________________________

Name: __________________________

Title: ____________________________

Date: ____________________________
RESOLUTION NO. 2019-137

A Resolution of the City Council of the City of Fremont Nebraska, approving the request of Keep Fremont Beautiful to use the Ilgenfritz Parking Lot at 4th and Park Avenue for the All Metals Market Drop site

WHEREAS, Keep Fremont Beautiful has requested the Ilgenfritz Parking Lot at 4th and Park Avenue for the All Metals Market Drop site on August 28, 2019 from 5:30 p.m. to 7:00 p.m.; and

WHEREAS, this resolution is contingent upon Keep Fremont Beautiful providing a certificate of liability insurance naming the City of Fremont as additional insured.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council authorize Keep Fremont Beautiful to use of the Ilgenfritz Parking Lot at 4th and Park Avenue for the All Metals Market Drop site on August 28, 2019 from 5:30 p.m. to 7:00 p.m.; and authorizes the Mayor to sign Parking Space Lease Agreement.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

SCOTT GETZSCHMAN, MAYOR

ATTEST:

TYLER FICKEN, CITY CLERK
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Tyler Ficken, City Clerk

DATE: July 30, 2019

SUBJECT: Appointments to Northeast Nebraska Economic Development District (NENEDD) Council of Officials

Recommendation: Move to approve the recommendation of the Mayor to appoint Glen Ellis as an elected representative and Lottie Mitchell as a non-elected representative to the NENEDD Council of Officials.

Council Member Ellis currently serves on the NENEDD Board of Directors
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Kim Koski, Director of Parks & Recreation

DATE: July 30, 2019

SUBJECT: Request for use of Clemmons Park by Fremont High School to host Junior Varsity Cross Country Meet.

RECOMMENDATION: Motion to approve.

Background: Scott Anderson, Fremont High School Activities Director, has requested the use of Clemmons Park on Friday, October 18, 2019 to host a Junior Varsity Cross Country Meet. This is an annual request. FHS personnel will set up the course in the morning, run the meets at 3:00 and 3:45pm and clean up the course following the event. We haven’t had any issues in the past with this event.

Fiscal Impact: None.
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Tyler Ficken, City Clerk

DATE: July 30, 2019

SUBJECT: Special Designated Permit

___________________________________________________________
Recommendation: Move to authorize City Clerk to sign SDL Local Recommendation

Background: Events will be monitored for compliance with all rules and regulations.
Special Designated License
Local Recommendation (Form 200)
Applications must be entered on the portal after local approval - no exceptions
Late applications are non-refundable and will be rejected

MAMAT AND PAPAD ENTERPRISES
Retail Liquor License Name or Non-Profit Organization (*Must include Form #201 as Page 2)
1155 SOUTH BROAD

Retail Liquor License Address or Non-Profit Business Address
CK 122193

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only
Event Date(s): Aug. 14th 2019

Event Start Time(s): 8:00 AM

Event End Time(s): 10:00 PM

Alternate Date: 

Alternate Location Building & Address:

Event Building Name: Olson Community Engagement Center
Event Street Address/City: 445 E. 1st. Fremont, NE

*Outdoor area to be licensed in length & width: 100 x 50

Type of Event: Kick off For United Way Estimate # of attendees: 100

Type of alcohol to be served: Beer V Wine V Distilled Spirits V

(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Tia Mentzer Event Contact Phone Number: 402-719-4248
Event Contact Email: WOODENWINDMILL@GMAIL.COM

*Signature Authorized Representative: Tia Mentzer Printed Name Tia Mentzer

I declare that I am the authorized representative of the above named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail licensee – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:
The local governing body for the City/Village of OR County of approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature Date
OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED

Security Bands will have a person checking and monitoring area.

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDED LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILED LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Jeff Elliott – Police Chief
DATE: July 30, 2019
SUBJECT: Bids for Saunders County Grading – Shooting Range

Recommendation: Approve resolution 2019-142 to award bid to Sawyer Construction Co. in the amount of $203,090.00

Background: Grading to be done on Fremont owned property and Saunders County ROW located in Saunders County. Grading will be done to construct new shared shooting range for FPD and other local departments. Range will be for departmental use only, no public access.

Staff recommends the City Council approve and award the contract for Saunders County Grading to Sawyer Construction Co.

Fiscal Impact: There are funds budgeted in 2018-19, and additional funds will be budgeted for 2019-2020.
## BID TAB FOR SAUNDERS COUNTY GRADING

**BID OPENING - JULY 23, 2019**  

<table>
<thead>
<tr>
<th>ITEM</th>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>UNIT</th>
<th>Unit Cost</th>
<th>Total Cost</th>
<th>Unit Cost</th>
<th>Total Cost</th>
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<th>Total Cost</th>
<th>Unit Cost</th>
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<th>Total Cost</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>CLEARING AND GRUBBING</td>
<td>1.0</td>
<td>LS</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
<td>$18,000.00</td>
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<tr>
<td>2</td>
<td>STRIP / STOCKPILE / REPLACE TOPSOIL</td>
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<td>CY</td>
<td>$2.75</td>
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<td>$80,000.00</td>
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<td>EARTHWORK EXCAVATION (INCLUDING BASINS)</td>
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<td>CY</td>
<td>$3.52</td>
<td>$112,640.00</td>
<td>$3.91</td>
<td>$125,120.00</td>
<td>$3.20</td>
<td>$102,400.00</td>
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<tr>
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<td>CONSTRUCT EARTHS BERM (23,000 CY)</td>
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<td>CONSTRUCT 18&quot; CMP (2 LOCATIONS)</td>
<td>210.0</td>
<td>LF</td>
<td>$45.00</td>
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<td>7</td>
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<td>$2,000.00</td>
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<td>AC</td>
<td>$1,800.00</td>
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<td>$30,000.00</td>
<td>$1,200.00</td>
<td>$6,000.00</td>
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</tbody>
</table>

**TOTAL BID**  

220 W Cloverly, Fremont, Ne 68025 | 12 Ginger Cove Rd, Valley, Ne 68064 | 310 N Derby Lane, Ni Buy City, SD 68049 | 2200 W Martell Road, Martell, Ne 68404  
$203,090.00 | $261,470.00 | $339,640.00 | $435,820.00  

* Corrected Bid Total
RESOLUTION NO. 2019-142

A Resolution of the City Council of the City of Fremont, Nebraska, accepting and awarding contract of Saunders County Grading to Sawyer Construction Co. in the amount of $203,090.00

WHEREAS, bids were received Tuesday, July 23 at 2:00 p.m., opened, tabulated and,

WHEREAS, Sawyer Construction Co. submitted the lowest responsible bid of $203,090.00

NOW, THEREFORE BE IT RESOLVED That the Mayor and City Council approve the award for Saunders County Grading to Sawyer Construction Co. in the amount of $203,090.00.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

_____________________________  
Scott Getzschman, Mayor

ATTEST:

_____________________________  
Tyler Ficken, City Clerk
STAFF REPORT

TO: Utilities and Infrastructure Board (UIB)

FROM: David Goedeken, P.E., Director of Public Works/City Engineer

DATE: July 30, 2019

SUBJECT: Reconstruction of Luther Rd and Morningside Rd Intersection; Project No. P-156-13

**Recommendation:** RECOMMEND to Approve Resolution 2019-143 for Final Acceptance of the Project for the Reconstruction of Luther Rd and Morningside Rd Intersection; and authorize Mayor to sign Pay Application No. 2 and Final Change Order.

**Background:**

Pavers, Inc. has completed construction of the Reconstruction of Luther Rd and Morningside Rd Intersection Project. The project consisted primarily 923 square yards of removal and replacement concrete pavement including sidewalk and replacement of the storm sewer. The project is bounded on the T-intersection of the Luther Road and Morningside Road.

The final cost of the project is $127,290.40. The original contract amount for the project was $127,747.40. The Final Change Order decreased by $457.00. Requesting for the Mayor to sign the Final Pay Application No. 2 in the amount of $8,542.61 and Final Change Order of $457.00 less to complete the final acceptance of the project. The final acceptance includes any outstanding pay applications that have been submitted.

**Fiscal Impact:**

The fiscal impact for the project is $127,290.40 with the funds coming out of the Street Fund. The original contract amount was $127,747.40.
**FINAL CHANGE ORDER**

**Project Name:** RECONSTRUCTION OF LUTHER ROAD AND MORNINGSIDE ROAD INTERSECTION

- **Project No.:** Fremont Project No. P-156-13
- **PO No.:** 037510
- **Account No.:** 12-2032-431.45.20

**Company Name:** Pavers, Inc.
- **Address:** 12303 HWY 6, Waverly, NE 68462
- **Telephone:** 402-786-5900

<table>
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<tr>
<th>Item No.</th>
<th>Description of Work</th>
<th>Unit</th>
<th>Plan Quantity</th>
<th>Final Quantity</th>
<th>Change to Contract</th>
<th>Unit Price</th>
<th>Total</th>
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</thead>
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<td>Mobilization</td>
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<td>1</td>
<td>0</td>
<td>$5,200.00</td>
<td>-</td>
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<tr>
<td>2</td>
<td>Barricading &amp; Traffic Control</td>
<td>LS</td>
<td>1</td>
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<td>$2,800.00</td>
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<tr>
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<td>313</td>
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**Original Contract Price** $127,747.40

**Net Change From Final Change Order** $(-457.00)

**Adjusted Contract Amount** $127,290.40

**Approved By:**

______________________________  _______________________________
Scott Getzschman, Mayor          Date
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Approved By:

Scott Getzschman, Mayor

Date
RESOLUTION NO. 2019-143

A Resolution of the City Council of the City of Fremont, Nebraska to approve the Final Acceptance of the Reconstruction of Luther Road and Morningside Road Intersection and authorize the Mayor to sign Pay Application No. 2 and a Final Change Order.

WHEREAS, The City of Fremont entered into a construction contract with Pavers, Inc. (Contractor) for the reconstruction of the Luther Road and Morningside Road Intersection; and

WHEREAS, The original contract cost of the project was $127,747.40, and the final contract cost of actual construction was $127,290.40 with a final change order reduction of $457.00; and

WHEREAS, The Final Pay Application No. 2 is $8,542.61.

WHEREAS, The Contractor has completed the work on said project to the satisfaction of the Public Works Director/City Engineer;

NOW THEREFORE BE IT RESOLVED, That the Mayor and City Council hereby approve Final Acceptance of Completion for the Reconstruction of the Luther Road and Morningside Road Intersection and authorize the Mayor to sign Pay Application No. 2 for $8,542.61 and a Final Change Order reduction of 457.00.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

_____________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: City of Fremont Mayor and City Council

FROM: Utilities and Infrastructure Board
Jeff Shanahan, Power Plant Superintendent

DATE: July 30, 2019

SUBJECT: Lon D. Wright Power Plant Lease Caterpillar Compact Track Loader

Recommendation: Approve Resolution 2019-144

BACKGROUND:

This is a one-year lease agreement for a Caterpillar Compact Track Loader (Skid Steer) to be utilized at the Lon D. Wright Power Plant (LDW). This loader will primarily be utilized to move lime ash and waste grit from the Air Quality Control System to the ash monofill.

NMC offered the City of Fremont Lon D. Wright (LDW) Power Plant a one-year lease agreement at the government rate of $5,500 dollars plus tax.

After consultation with LDW staff, the Utilities and Infrastructure Board recommends to the City of Fremont Mayor and City Council to authorize the City of Fremont, Department of Utilities Staff to sign a lease agreement and issue a purchase order to NMC for a Caterpillar Compact Track Loader for $5,500.

FISCAL IMPACT:

$5,500 plus tax for Caterpillar Compact Track Loader, this item was budgeted
RESOLUTION NO. 2019-144

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing City of Fremont, Department of Utilities Staff to sign a lease agreement with NMC for a Caterpillar Compact Track Loader for the amount of $5,500 plus tax.

BE IT RESOLVED, that the Mayor and City Council accept the recommendation of the Utilities and Infrastructure Board to authorize the City of Fremont, Department of Utilities Staff to sign a lease agreement with NMC for the amount of $5,500 plus tax for a Caterpillar Compact Track Loader.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019.

_____________________________
Scott Getzschman, Mayor

ATTEST:

____________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Keith Kontor Water/Wastewater Superintendent
Department of Utilities

DATE: July 30, 2019

SUBJECT: Repair Wellfield Fence

Recommendation: Approve Resolution 2019-145

BACKGROUND:

City staff sent out a RFP for repair and replacement of approximately 6400’ of chain link fence and electric gate openers which were damaged during the Flood in March. Four bids were received and after review, staff recommends awarding the contract to the lowest most responsible bid from American Fence Company for $67,555.13.

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FISCAL IMPACT: $67,555.13 – flood damage FEMA reimbursement
RESOLUTION NO. 2019-145

A Resolution of the City Council of the City of Fremont, Nebraska authorizing City Staff to execute a contract with American Fence Company for the repair and replacement of 6400’ fence at the Fremont Wellfield for $67,555.13

WHEREAS, the City of Fremont sought bids for the repair and replacement of 6400’ of fence at the Fremont Wellfield; and

WHEREAS, the Utility and Infrastructure Board recommends approving the contract with American Fence Company for $67,555.13;

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council accept the recommendation of the Utility and Infrastructure Board and authorize City staff to execute a contract with American Fence Company for the repair and replacement of fence at the Fremont Wellfield for $67,555.13.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

______________________________  
Scott Getzschman, Mayor

ATTEST:

___________________________  
Tyler Ficken, City Clerk
TO: Honorable Mayor and City Council
FROM: David Goedeken, P.E., Director of Public Works/City Engineer
DATE: July 30, 2019
SUBJECT: Drainage Criteria Manual Template Proposal


Background:

The City of Fremont has entered into an interlocal agreement with the Nebraska H2O Special Initiatives Committee for the development of a Drainage Criteria Manual template. The Committee has requested services from Felsburg Holt and Ullevig (FHU) for the development of the manual template. The Drainage Criteria Manual template would outline City Stormwater policy, establish appropriate documentation of criteria, and provide guidance to planners, engineers, and stormwater managers submitting plans for drainage and water quality protection.

The Drainage Criteria Manual template will use standard practices by first-class cities yet customized to the City of Fremont criteria and needs. It will include specific standards, policies and methods required for drainage design.

FHU is submitting this proposal for the professional engineering services and development of the manual template. This proposed agreement is between FHU and the City of Fremont. Within the Nebraska H2O Committee, there are six (6) participating communities. The estimated project cost is $65,718.00. The City of Fremont would be responsible for a maximum fee of $10,953.00.

Fiscal Impact:

The fiscal impact for the project fee is not over $10,953.00.
July 1, 2019

RE: Nebraska H2O
    Drainage Criteria Manual Template – Letter Proposal

David Goedeken, PE
City of Fremont Public Works
400 E. Military Avenue
Fremont, NE 68025

Dear David,

The Nebraska H2O Special Initiatives Committee has indicated that they would like to have a drainage criteria manual template developed that would be available for Nebraska H2O member communities. The manual template outline has been drafted, routed and approved to proceed by H2O members willing to participate in funding this project. The City of Norfolk has previously funded development of the first three chapters drafted for the document and will continue to support the project as coordinator of the project deliverable. FHU is submitting this proposal for professional engineering services based on our experience with the anticipated drainage criteria, construction stormwater management practices and stormwater treatment requirements listed in the Nebraska H2O Drainage Criteria Manual template outline.

Drainage Criteria Manual Template Outline
The document template will be produced according to the outline listed below. A complete outline with subsections is included in Attachment 2.

Chapter
1. Introduction
2. Hydrology
3. Pavement Drainage and Storm Sewer
4. Open Channels
5. Design of Culverts
6. Energy Dissipation
7. Storage Facilities
8. Erosion and Sediment Control
9. Stormwater Treatment

Project Description
Most communities in Nebraska manage development requirements and review procedures in order to control downstream flooding to property and infrastructure. Development within each community is regulated by adopted subdivision regulations and design requirements created for the community. In most cases, local drainage design guidelines have not been developed or were developed long ago without any updates. For communities that do not have a local drainage design guide, regionally relevant guides are often used. Examples include the City of Lincoln, City of Omaha or Nebraska Department of Transportation drainage criteria manuals. Reliance on these manuals can be effective for requiring drainage criteria standards but may prevent a community from tailoring criteria, calculation methods, and submittal approval procedures to their need.
Communities that have adopted post-construction stormwater quality standards that deviate from Lincoln, Omaha and NDOT criteria also lack a document that hosts this important MS4 compliance information. A Drainage Criteria Manual would enable these communities to document how stormwater treatment requirements fit into the subdivision review and approval process. Finally, communities that intend to satisfy the post-construction stormwater requirements fully or in part by adopting regional stormwater management and stormwater treatment mitigation standards, may address these program requirements within a Drainage Criteria Manual.

This project is proposed to develop a Stormwater Drainage Criteria Manual (Manual) template for use by first-class cities in Nebraska. Community members of Nebraska H2O are requested to consider and possibly join in support toward developing this new template. The scope of work outlines tasks needed to develop a Manual template for use by participating communities. Development of a template under a joint project will allow common standards and policies to be utilized for most of the document, after which individual communities may choose to customize specific sections to their individual criteria. The Manual would outline City stormwater policy, establish appropriate documentation of criteria, and provide guidance to planners, engineers, and stormwater managers submitting plans for drainage and water quality protection.

**Project Scope of Services**

The project will consist of the following tasks:

**TASK 1. Project Management**

- **Project Schedule** - The FHU Project Manager will serve as point of contact, maintain project schedule and budget, and provide regular progress reports with invoices.

- **Project Meetings and Workshops** - a kickoff meeting and monthly progress meetings will be supported by up to two workshops facilitated by FHU. No public information meetings are planned as part of this scope. However, at the written request of the City, FHU would attend an additional City Council or public meeting at a mutually agreeable additional fee.

**TASK 2. Information Collection and Review**

- **References** - FHU will compile relevant drainage and stormwater treatment policy considerations that may affect the content of the Manual. Information that is relevant for consideration should be relevant to Nebraska first-class communities, but regional and national policy considerations may be useful in some sections of the Manual. A brief memorandum will be provided to participating communities that describes the policy and criteria references collected with a brief description of how it may be used to inform the Manual. This information will be discussed at the first workshop and additional policy and criteria references may be added as a result.

- **Recommendations** - The final deliverable content will reflect the core needs of all participating communities. A brief memorandum will be provided to explain how the document’s information will be organized to support this general-purpose use. The memorandum will explain how the document will be organized so that local content can be edited or attached to the final template. Feedback from the participating communities about the recommendations in this memorandum is critical to the successful use of the final deliverable.

**TASK 3. Manual Development**

- **Draft Manual Template** - FHU will draft content following the approved template outline and begin to develop examples to be used in each Chapter. The Table of Contents, Lists of Figures and Lists of Exhibits will be produced along with Appendix content as necessary. The
draft document will be presented in the same format planned for the final deliverable. Consultation with participating communities will be coordinated through scheduled review meetings and second workshop.

Final Manual Template - FHU will compile revision comments from participating communities and review outcomes from the second workshop. Consultant will revise draft manual template and complete formatting to prepare the final deliverable.

**Project Deliverables**
Upon completion of the workshops and acceptance of scheduled edits to draft chapters, the Manual Template will be assembled by compiling the single document in the final format. The following deliverables will be provided to participating communities:
- 2019 Stormwater Drainage Criteria Manual Template as a .PDF version
- 2019 Stormwater Drainage Criteria Manual Template as a Microsoft Word version
- No hard copies will be provided to participating communities

**Project Assumptions Affecting the Proposed Schedule and Fee**
An outline for the Drainage Criteria Manual Template has been developed (see Attachment 2). A draft of the first three chapters, customized for the City of Norfolk, is also available for review.

The Drainage Criteria Manual Template will follow the general outline framework in Attachment 2. As the draft is developed, minor changes may be made to the outline as appropriate. This may include things such as adding, removing and/or moving subsections as well as adjusting Appendices planned for the template.

The Drainage Criteria Manual Template Appendices will be used where appropriate for placing standard resources or references of local nature which do not lend themselves to being included in the document.

The content of the Drainage Criteria Manual Template will include specific standards, policies, and methods required for drainage design and for City to manage and guide drainage design within the community. Content is not intended to be an exhaustive procedural manual; the reader will be referred to accepted guidance as deemed necessary.

**Project Schedule**
Upon receipt of signed agreements and/or verbal notice to proceed from all participating communities, FHU will begin working on this assignment for Nebraska H2O Special Initiatives Committee. We are determined to provide the first draft of the document to the committee by October 16 and will maintain the goal to produce the final deliverable prior to the end of 2019. If FHU obtains notice to proceed, the Kickoff Meeting will be scheduled following the first week in July.

**Project Fee Estimate**
We propose to conduct these services on a Lump Sum basis, of which the City is responsible for a maximum fee of $10,953.00 unless additional Nebraska H2O member communities share the project cost after this agreement is signed. The estimated project total cost is $65,718 which has been divided equally between six (6) participating communities. Invoices will be submitted following the first Workshop (1/3), Delivery of the Draft Manual Template (1/3) and Deliver of the Final Manual Template (1/3). This amount would be established as a “not to exceed” limit beyond which no charges could be made without the City’s prior written approval. Upon completion of the project, and at the City’s option FHU would be happy to provide a scope and fees for services to address content specifically required for your City.

We appreciate the opportunity to provide this service to Nebraska H2O on behalf of the City of Fremont. If this proposal is acceptable, please have the appropriate official sign both copies of this letter and the
standard provisions and return one signed copy back to us. If you have any questions or would like further discussion, please feel free to give us a call at 402.445.4405.

Sincerely,

FELSBURG HOLT & ULLEVIG

Dave Lampe, PE, CFM
Principal

J.B. Dixon
Project Manager

Accepted By

_________________________

Title

_________________________

Date

_________________________
## Nebraska H2O Drainage Criteria Manual Template

### Workhour and Fee Estimate

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<td>Mileage (3 Roundtrips @ 220 Miles Lincoln to Host City)</td>
<td>660</td>
<td>$0.545</td>
<td>$360</td>
<td></td>
</tr>
<tr>
<td><strong>TOTAL DIRECT PROJECT EXPENSES</strong></td>
<td></td>
<td></td>
<td>$398</td>
<td></td>
</tr>
</tbody>
</table>

### TOTAL PROJECT COST

$65,718

A. SERVICES BY THE CONSULTANT
The CONSULTANT agrees to perform all services, hereunder, using reasonable skill and judgment in accordance with applicable professional standards. CONSULTANT agrees to keep the CLIENT informed on its progress through periodic reports, and to maintain accurate records relating to its services for this project.

The CONSULTANT agrees to provide, directly or by association with such other Consultants or Contractors as it may deem necessary to further the interest of the CLIENT, the basic services as described in the Scope of Work provided in the signed Letter Proposal or Letter Agreement.

B. RESPONSIBILITIES OF THE CLIENT
The CLIENT shall provide and make available to the CONSULTANT, for his use, all maps, property descriptions, surveys, previous reports, historical data, and other information within its knowledge and possession relative to the services to be furnished hereunder. Data so furnished to the CONSULTANT shall remain the property of the CLIENT and will be returned upon completion of its services.

The CLIENT shall make provisions for the CONSULTANT to enter upon public and private properties as required for the CONSULTANT to perform its services hereunder.

C. EXTRA WORK
The CLIENT may desire to have the CONSULTANT perform work or render services other than those provided in Scope of Work. This will be Extra Work. Work shall not proceed until so authorized by the CLIENT. Payment for all work under this Agreement shall be on an hourly basis plus expenses in accordance with the attached rate schedule. Charges for outside services, expenses, and subconsultant work will be billed at 1.10 times the invoice amount.

D. TIME OF BEGINNING AND COMPLETION
Execution of the Letter Proposal is authorization by the CLIENT for the CONSULTANT to proceed with the work (Time of Beginning). The original Time of Completion is as noted in the Letter Agreement.

E. PAYMENT
Unless otherwise provided herein, CONSULTANT shall submit monthly invoices for Basic, Additional or Special Services and for Reimbursable Expenses each month for work that has been performed. If hourly, invoices will be based on labor and expenses incurred. If lump sum, invoices will be based on the percentage of work completed.

Payments not made within 60 days of the billing date shall bear interest at the rate of 1% per month which is an annual interest rate of 12%. If any portion of, or an entire account remains unpaid 90 days after billing, the CLIENT shall pay all costs of collection, including reasonable attorney’s fees.

F. DELAYS
If the CONSULTANT is delayed at any time in the progress of work by any act or neglect of the CLIENT or its agents, employees or contractors, or by changes in the work, or by extended reviews by the CLIENT, fire, unavoidable casualties, or by any causes beyond the CONSULTANT’s control, the time schedule shall be extended for a reasonable length of time, and the CONSULTANT’S compensation may be subject to renegotiation for increased expenses due to escalation of prices, extended services, rework, and/or other expenses incidental to such delays.

G. OWNERSHIP OF DOCUMENTS
All drawings, specifications, reports, records, and other work products developed by the CONSULTANT associated with this project are instruments of service for this project only and shall become the property of the CLIENT whether the project is completed or not. The CONSULTANT shall furnish originals or copies of such work product to the CLIENT in accordance with the services required hereunder. Reuse of any of the work product of the CONSULTANT by the CLIENT on an extension of this project or on any other project without the written permission of the CONSULTANT shall be at the CLIENT’S risk and the CLIENT agrees to defend, indemnify, and hold harmless the CONSULTANT from all claims, damages, and expenses including attorney’s fees arising out of suchation by the CONSULTANT or by others acting through the CLIENT. Any reuse or adaptation of the CONSULTANT’S work product shall entitle the CONSULTANT to equitable compensation.

H. INSURANCE
During the course of the services, the CONSULTANT shall maintain Workmen’s Compensation Insurance in accordance with the Workmen’s Compensation laws of the State of Nebraska; Professional Liability Insurance with a minimum coverage of $1,000,000 per occurrence, $2,000,000 aggregate. Automobile Liability with a combined single limit coverage of $1,000,000; and Commercial General Liability of $1,000,000 per occurrence, $2,000,000 aggregate. Upon request, the CONSULTANT shall provide certificates of insurance to the CLIENT indicating compliance with this paragraph.

I. TERMINATION
Either the CLIENT or the CONSULTANT may terminate this Agreement at any time with or without cause upon giving the other party fourteen (14) calendar days prior written notice. The CLIENT shall within sixty (60) calendar days of termination pay the CONSULTANT for all services rendered and all costs incurred up to the date of termination, in accordance with the compensation provisions of this contract.

J. DISPUTES
Any claim, dispute, or other matter in question between the CLIENT and the CONSULTANT, arising out of or relating to either’s obligations to the other under this Agreement, shall, if possible, be resolved by negotiation between the CLIENT’S representative and the CONSULTANT Principal-in-Charge for the Project. CLIENT and CONSULTANT each commit to seeking resolution of such matters in an amicable, professional, and expeditious manner. If a matter cannot be resolved by these parties, no later than thirty (30) calendar days after either party submits an issue in writing for resolution,
representatives from executive management of the CLIENT and CONSULTANT shall attempt to resolve the matter through additional good faith negotiations. If resolution cannot be reached within an additional thirty (30) calendar days, the CLIENT and CONSULTANT agree that all such unresolved disputes shall be submitted to nonbinding mediation.

Pending final resolution of the dispute, the CONSULTANT shall proceed diligently with the performance of the Basic Services as described in Article A, as directed by the CLIENT, and the CLIENT shall continue to pay the undisputed payments due to the CONSULTANT for such services in accordance with the payment provisions of this Agreement.

K. GOVERNING LAW
Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the law of the State of Nebraska.

L. SUCCESSORS AND Assigns
The CLIENT and the CONSULTANT each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party with respect to all covenants of this Agreement. Neither party shall assign or transfer its interest in this Agreement without the written consent of the other.

M. EXTENT OF AGREEMENT
This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations and representations. Nothing herein shall be deemed to create any contractual relationship between the CONSULTANT and any other consulting business, or contractor, or material supplier on the project, nor obligate it to furnish any notices required under other such contracts, nor shall anything herein be deemed to give anyone not a party to this Agreement any right of action against a party which does not otherwise exist without regard to this Agreement.

N. NOTICES
All notices and instructions given by either party to the other shall be in writing, and shall be deemed to be properly served if delivered to the address of record shown below, or if deposited in the United States Mail properly stamped with the required postage and addressed to such party at the address in the Letter Proposal or Letter Agreement. The date of service of a notice sent by mail shall be deemed to be the day following the date on which said notice is so deposited. Either party hereto shall have the right to change its address by giving the other party written notice thereof.

O. ACCURACY OF SERVICES AND LIMITATION OF LIABILITY
The CONSULTANT shall use reasonable professional skill and judgment in providing the services, hereunder, but does not warrant that such services are without errors and/or omissions. If, during the authorized use and prudent interpretation of documents or advice furnished by the CONSULTANT, an error or omission is discovered within a reasonable time, the CONSULTANT shall be responsible for correction of any work which must be removed or altered to meet the project requirements, provided the CONSULTANT is given a reasonable opportunity to make remedial recommendations and to correct or arrange for the correction of the work itself. The CONSULTANT will not be liable for the cost of procurement of work or services performed in correcting such errors and/or omissions where such work or services result in a value to the Project over and above that which the original work or services provided.

In providing opinions of probable construction cost, the CLIENT understands that the CONSULTANT has no control over costs or the price of labor, equipment, or materials, or the Contractor’s method of pricing, and that the opinions of probable construction costs provided herein are to be made based on the CONSULTANT’S qualifications, and experience. The CONSULTANT makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

The CONSULTANT agrees, to the fullest extent permitted by law, to indemnify and hold the CLIENT harmless from any damage, liability or cost (including reasonable attorneys’ fees and costs of defense) to the extent caused by the CONSULTANT’S negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom the CONSULTANT is legally liable.

The CLIENT agrees, to the fullest extent permitted by law, to indemnify and hold the CONSULTANT harmless from any damage, liability or cost (including reasonable attorneys’ fees and costs of defense) to the extent caused by the CLIENT’S negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the CLIENT is legally liable, and arising from the project that is the subject of this Agreement. CLIENT’S amount of indemnity or costs incurred in providing the indemnity shall be limited to the same amount as the CONSULTANT’S liability is listed below.

As negotiated as a part of this Agreement, to the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the CONSULTANT and the CONSULTANT’S officers, directors, partners, employees, agents and subconsultants, to the CLIENT and anyone claiming by, through or under the CLIENT, for any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied, of the CONSULTANT or the CONSULTANT’S officers, directors, employees, agents or subconsultants, or any of them, shall not exceed the total amount of $100,000.

Upon execution of the Letter Agreement or Letter Proposal, the CLIENT thereby agrees to the terms of these Special Provisions.
RESOLUTION NO. 2019-146

A Resolution of the City Council of the City of Fremont, Nebraska authorizing execution of a Professional Engineering Services Agreement with Fellsburg Holt & Ullevig (FHU) for the development of the Drainage Criteria Manual template.

WHEREAS, The proposed project total cost is $65,718.00. The City of Fremont is responsible for a maximum fee of $10,953.00.

NOW THEREFORE BE IT RESOLVED:
That the Mayor and City Council hereby authorize to execute and Professional Engineering Services Agreement with Fellsburg Holt & Ullevig for the development of the Drainage Criteria Manual template.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Tyler Ficken, City Clerk

DATE: July 30, 2019

SUBJECT: Special Designated Permit

Recommendation: Move to authorize City Clerk to sign SDL Local Recommendation

Background: Events will be monitored for compliance with all rules and regulations.
Special Designated License
Local Recommendation (Form 200)
Applications must be entered on the portal after local approval – no exceptions
Late applications are non-refundable and will be rejected

Lomeli Land Design LLC
Retail Liquor License Name or *Non-Profit Organization (*Must include Form #201 as Page 2)

1743 S Military Fremont NE 68025
Retail Liquor License Address or Non-Profit Business Address

122715
Retail License Number or Non-Profit Federal ID #

Consecutive Dates only
Event Date(s): 8-24-19
Event Start Time(s): 3 PM
Event End Time(s): 12 PM
Alternate Date:

Alternate Location Building & Address:

Event Building Name: Taco Smack
Event Street Address/City: 1743 S Military Fremont NE

Indoor area to be licensed in length & width: ___ X ___
Outdoor area to be licensed in length & width: 100' X 80' (Diagram Form #109 must be attached)

Type of Event: 1 Year Unrestricted
Estimate # of attendees: 100-200

Type of alcohol to be served: Beer X Wine X Distilled Spirits
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Hector Cardenas
Event Contact Phone Number: 402-652-0494

Event Email:

*Signature Authorized Representative: [Signature]
Printed Name Hector Cardenas

I declare that I am the authorized representative of the above-named license applicant and that the statements made on this application are true to the best of my knowledge and belief. I also consent to an investigation of my background including all records of every kind including police records. I agree to waive any rights or causes of action against the Nebraska Liquor Control Commission, the Nebraska State Patrol or any other individual releasing said information to the Liquor Control Commission or the Nebraska State Patrol. I further declare that the license applied for will not be used by any other person, group, organization or corporation for profit or not for profit and that the event will be supervised by persons directly responsible to the holder of this Special Designated License.

*Retail license – Must be signed by a member listed on permanent license
*Non-Profit Organization – Must be signed by a Corporate Officer

Local Governing Body completes below:
The local governing body for the City/Village of __________ OR County of __________ approves
the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature __________________________ Date __________________________
OUTDOOR AREA DIAGRAM

HOW AREA WILL BE PATROLLED

- SIGN 88

- IF APPLICABLE, OUTDOOR AREA MUST BE CONNECTED TO INDOOR AREA IF INDOOR AREA IS TO LICENSED
- MEASUREMENT OF OUTER WALLS OF AREA TO BE LICENSED MUST INCLUDE LENGTH & WIDTH IN FEET
- DOUBLE FENCING IS REQUIRED FOR ALL NON-PROFIT ORGANIZATIONS UNLESS FORM #140 IS FILED WITH THIS FORM AND IS APPROVED BY THE COMMISSION
- RETAILER LIQUOR LICENSE HOLDERS ARE NOT REQUIRED TO DOUBLE FENCE, ALTHOUGH MEASURES NEED TO BE TAKEN TO SECURE THE AREA

DIAGRAM OF PROPOSED AREA:

[Diagram of a rectangular area with dimensions marked: 100' Feet x 80' Feet]
STAFF REPORT

TO:  Honorable Mayor and City Council
FROM:  Lottie Mitchell, Grant Coordinator/Executive Assistant
DATE:  July 30, 2019
SUBJECT:  Service/Consultant Agreement for General Administration for 18-PP-005.

______________________________________________________________________

Recommendation: Move to approve the resolution 2019-147 authorizing the Mayor to sign the Northeast Nebraska Economic Development District (NENEDD) Service/Consultant Agreement for General Administration for Community Development Block Grant (CDBG) 18-PP-005.

______________________________________________________________________

Background: On July 22, 2019 the City of Fremont received notification from the Nebraska Department of Economic Development (DED) that $60,000 has been awarded to the City for the CDBG 18-PP-005 program.

CDBG 18-PP-005 will provide $57,000 in project funds to evaluate the Fremont Farmland Railroad Levee for protection against flooding by the Platte River. This application is a joint effort with the City of Fremont and the Village of Inglewood to perform an evaluation of the levee’s condition and determine the feasibility and costs of modification for levee integrity. Other grant funded costs include $3,000 for general administration. Local matching funds of $11,000 will be provided by the City of Fremont and $4,000 provided by the Village of Inglewood.

The City of Fremont utilizes the consultant and grant administration services NENEDD provides for Community Development Block Grants. The agreement is attached.

Fiscal Impact: None. The amount of $3,000 is covered by the grant.
NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT
SERVICE/CONSULTANT AGREEMENT
FOR GENERAL ADMINISTRATION

THIS AGREEMENT made and entered into by and between the City of Fremont Nebraska, hereinafter referred to as the “Community” and the Northeast Nebraska Economic Development District, hereinafter referred to as the Consultant.

WITNESSES THAT:

WHEREAS, the Community and the Consultant are desirous of entering into a contract to formalize their relationship, and

WHEREAS, pursuant to Title I of the Housing and Community Development Act of 1974, as amended through 1981, the State of Nebraska Department of Economic Development (DED) is authorized by the federal Department of Housing and Urban Development (HUD) to provide Community Development Block Grant Program funds (hereinafter referred to as CDBG funds) to units of local government selected to undertake and carry out certain programs and projects under the Nebraska State CDBG Program in compliance with all applicable local, state and federal laws, regulations and policies, and

WHEREAS, the Community has been notified of CDBG funds reservation as a result of CDBG application 18-PP-005 for the purposes set forth herein, and

WHEREAS, the Scope of Work included in this contract is authorized as part of the Community’s approved CDBG program, and

WHEREAS, it would be beneficial to the Community to utilize the Consultant as an independent entity to accomplish the Scope of Work set forth herein and such endeavor would tend to best accomplish the objectives of the local CDBG program.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein and the mutual benefits to be derived there from, the parties hereto agree as follows:

1. Services to be Provided by the Parties

   a. The Consultant shall complete in a satisfactory and proper manner as determined by the Community the work activities described in the Scope of Work (Attachment #1 to the contract).

   b. The Community will provide such assistance and guidance as may be required to support the objectives set forth in the Scope of Work and will provide compensation for services as set forth in Section 3 below.

2. Time of Performance

   The effective date of this contract shall be the date on the written notice of approval from DED. The termination date of the contract shall be the date of the Certificate of Completion letter from DED.

3. Consideration

   The Community shall reimburse the Consultant for all allowable expenses agreed upon by the parties to complete the Scope of Work. In no event shall the total amount reimbursed by the Community exceed the sum of $3,000. Reimbursement under this contract shall be based on monthly billings, supported by

Page 1 of 11
appropriate documentation and billed at the rate of $60/hour. It is expressly understood that claims for reimbursement shall not be submitted in excess of actual, immediate cash requirements necessary to carry out the purposes of this agreement.

Should the project scope be expanded, additional fees shall be negotiated for the additional basic services needed. The additional services shall be provided as authorized by the Community with compensation as a negotiated lump sum fee determined at the time of authorization.

It is also understood that this contract is funded in whole or in part with CDBG funds through the State of Nebraska Community Development Block Grant Program as administered by DED and is subject to those regulations and restrictions normally associated with federally funded programs and any other requirements that the state may prescribe.

4. Record Maintenance, Record Retention & Access to Records

The Consultant agrees to maintain such records and follow such procedures as outlined in the grant contract. 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 as outlined in the grant contract.

The Community, DED 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.

5. Relationship

The relationship of the Consultant to the Community 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 Community and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between the Community and the Consultant.

6. Suspension, Termination and Close Out

If the Consultant fails to comply with the terms and conditions of this contract the Community 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:

a. 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 Community may suspend the contract pending corrective actions or investigate 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 Community and is able to substantiate its full compliance with these 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) 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 work prepared or partially prepared by the Consultant be suspended, abandoned, or otherwise terminated the Community shall pay the Consultant for work performed to the satisfaction of the Community, in accordance with the percentage of the work completed.

b. Termination for Cause: 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 Community deems continuation of the contract to be substantially detrimental to the interests of the Community.

2) The consultant has failed to take satisfactory action as directed by the Community or its authorized representative within the time specified by same.

3) The consultant has failed within the time specified by the Community or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract;

then, the Community 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.

c. Termination for Other Grounds: This contract may also be terminated in whole or in part:

1) By the Community, with the consent of the Consultant, or by the Consultant with the consent of the Community, in which case the two parties shall devise by mutual agreement, the conditions of termination in part, that portion to be terminated.

2) If the funds allocated by the Community 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 Community fails to pay the Consultant promptly or within 60 days after invoices are rendered, the Community 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 Community shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.

4) The Community 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 Community as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

7. Changes, Amendments, Modifications

The Community 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 Community and the Consultant shall be incorporated in written amendments to this contract.

8. **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 Community.

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 Community. Any work or services subcontracted hereunder shall be specified by written contract or agreement and shall be subject to each provision of this contract.

9. **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 Community thereto; provided, however, that claims for money by the Consultant from the Community under this contract may be assigned to a bank, trust company, or other financial institutions without such approval. Written notice of any such assignment or transfer shall be furnished promptly to the Community.

10. **Reports and Information**

The Consultant, at such times and in such forms as the Community may require, shall furnish the Community 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.

11. **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 Community.

12. **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.

13. **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 Community harmless with respect to any damages arising from any tort done in performing any of the work embraced by this contract and from failure to comply with any condition or term of this contract.

14. **Title VI of the Civil Rights Act of 1964**
The law provides that no person shall, on the grounds of race, color or national origin, be excluded from participation in, be denied the benefits or, or be subjected to discrimination under any program or activity receiving federal financial assistance.

15. **Section 109 of the Housing and Community Development Act of 1974**

The law provides that 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.

16. **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 federal financial assistance from the Department of Housing and Urban Development through the State of Nebraska’s Community Development Block Grant Program as administered by DED 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 provision 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 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.

17. **Age Discrimination Act of 1975, As Amended (42 U.S.C. 6101, et.seq.)**
The law provides that 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.


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

19. Executive Order 11246, As Amended

The Community, Consultant and subcontractors, if any, will comply with Executive Order 11246 as amended and will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity or national origin.

20. Conflict of Interest (2CFR200.318)

No officer, employee or agent of the Consultant 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, exception 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 DED.

21. Audits and Inspections

The Community, DED, 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 Community, DED, the State Auditor and HUD.

22. Hold Harmless

The Consultant agrees to indemnify and hold harmless the Community, its appointed and elective 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 Community, 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.

23. Verification of Work Eligibility Status for New Employees.

The Consultant is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. In this context, "new employees" means employees hired on or after the effective date of this contract. A "federal immigration verification system" means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as 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.
This contractual obligation to verify work eligibility status for new employees physically performing services within the State of Nebraska also applies to any and all subcontractors utilized by the Consultant in performing this contract. The Consultant will be responsible to the Department for enforcing this requirement with Consultant's subcontractors.

A failure by the Consultant to adhere to these requirements is violative of the statutory requirements in Neb. Rev. Stat. §4-114 and as such will be deemed a substantial breach of this contract which could result in the Department declaring Consultant to be in default on the contract.

24. Verification of Lawful Presence for Public Benefits Eligibility (as required of applicants benefited by this contract).

The Department of Economic Development is prohibited by state law (Neb. Rev. Stat. §4-108) from providing public benefits to a person not lawfully present in the United States.

Public benefits are statutorily defined broadly (see Neb. Rev Stat, §4-109), with some exemptions from the verification of lawful presence requirement set forth in Neb. Rev Stat, §4-110. For the purposes of this contract, the Department has determined the Consultant is, in the performance of Consultant’s contractual duties, providing public benefits to individuals or households under the statutory definition of public benefits.

Consequently, pursuant to this contract and Neb. Rev. Stat. §§4-108 through 4-114, the Consultant shall have each applicant for public benefits under this contract complete the United States Citizenship Attestation Form, available on the State of Nebraska Department of Administrative Services website at www.das.state.ne.us. The attestation form is also reproduced on a following page of this contract. See attachment #2.

Such form serves as the applicant's attestation that he or she is a U.S. citizen or a qualified alien under the federal Immigration and Nationality Act, 8 U.S.C. 1101 et seq. (as such federal statute existed on January 1, 2009, or as it may be subsequently amended). If the applicant attests they are a qualified alien, Consultant shall verify the applicant's lawful presence in the United States using the Systematic Alien Verification for Entitlements (SAVE) Program.

Consultant shall:

a. Retain the attestation form, and retain any additional verification documentation required because the applicant attested they were a qualified alien.

b. Provide such attestation form and other documentation (or copies thereof) to the Department of Economic Development upon the request of such Department.

c. Maintain aggregate records for the duration of the contract showing: (a) the number of applicants for public benefits under this contract; and, (b) the number of applicants rejected pursuant to the lawful presence requirement (which is the subject matter of the procedural, attestation, and verification requirements set forth in the Nebraska statutes and contractual provisions above).

d. Provide a summary report to the Department of Economic Development, no later than December 31st each calendar year, reflecting data for such calendar year (or portion of such year when there is not a full, calendar year of activity under this contract), so as to allow the Department to fulfill its annual reporting obligation to the Nebraska Legislature concerning these "lawful presence" requirements. The Department's annual report to the Nebraska Legislature is due January 31st each year.
25. 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.
WITNESS WHEREOF, the Community and the Consultant have executed this contract agreement as of the date and year last written below.

COMMUNITY

BY ____________________________

TITLE __________________________

DATE ____________________________

CONSULTANT

BY ____________________________

TITLE Executive Director

DATE 7/23/19
ATTACHMENT 1
GENERAL ADMINISTRATION SCOPE OF WORK

The duties and responsibilities of the Certified Administrator under this scope of work include following:

a) Ensure that the Grantee meets the requirements of all statutes, state rules, and federal regulations relevant to the project.
b) Prepare special condition documents as outlined in the grant contract within the time frame stated in the grant contract in order to receive Release of Funds letter.
c) Conduct an environmental review in accordance with the National Environmental Policy Act of 1969 over the course of the project.
d) Ensure that the Grantee meets all federal and state requirements when procuring for professional services and construction services. This includes making sure that all required CDBG clauses are included within the contracts.
e) Ensure that the Grantee has a solid understanding of the financial management requirements associated with the CDBG grant and that the Grantee has an appropriate financial management system in place.
f) Provide for the accounting of funds and preparation of drawdowns.
g) Prepare a master filing systems in accordance with state and federal regulations.
h) Monitor all Davis Bacon labor standards over the course of the project (if applicable).
i) Monitor all job creation requirements over the course of the project (if applicable).
j) Ensure that all acquisition laws are followed over the course of the project (if applicable).
k) Ensure that all relocation laws are followed over the course of the project (if applicable).
l) Prepare and submit all reporting requirement to DED by deadlines.
m) Prepare and submit all close out reporting requirement to DED by deadlines.
n) Ensure that any and all monitoring issues are addressed and completed for grant closeout.
o) NENEDD ensures that the NDO (through the NENEDD/NED, Inc. Management Contract) is responsible for pursuing loan collection if necessary as out lined in section 4.03 of the MOU. (if applicable).
p) NENEDD ensures that the NDO (through the NENEDD/NED, Inc. Management Contract) is responsible for adhering to all CDBG statutory and regulatory requirements (if applicable).
ATTACHMENT 2

United States Citizenship Attestation Form

For the purpose of complying with Neb. Rev. Stat. §§ 4-108 through 4-114, I attest as follows:

☐ I am a citizen of the United States.

— OR —

☐ I am a qualified alien under the federal Immigration and Nationality Act, my immigration status and alien number are as follows: __________________________, and I agree to provide a copy of my USCIS documentation upon request.

I hereby attest that my response and the information provided on this form and any related application for public benefits are true, complete, and accurate and I understand that this information may be used to verify my lawful presence in the United States.

PRINT NAME

____________________________________
(first, middle, last)

SIGNATURE

____________________________________

DATE

____________________________________

Page 11 of 11

F:/USERS/COMMUNITY PLANNERS/1 COMMUNITIES/FREMONT/18-PP-005 DISASTER LANNING/GENERAL ADMINISTRATION CONTRACT 7-23-19.DOCX
RESOLUTION NO. 2019-147

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing the Mayor to sign the Northeast Nebraska Economic Development District (NENEDD) Service/Consultant Agreement for General Administration for Community Development Block Grant (CDBG) 18-PP-005.

WHEREAS, the City of Fremont has been awarded $60,000 for Community Development Block Grant (CDBG) 18-PP-005; and,

WHEREAS, the City of Fremont utilizes services provided by NENEDD to administer CDBG funds.

NOW, THEREFORE BE IT RESOLVED, by the City Council of the City of Fremont, that the Mayor be authorized to sign the Service/Consultant Agreement for General Administration with NENEDD for CDBG 18-PP-005.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019.

______________________________
Scott Getzschman, Mayor

ATTEST:

______________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Lottie Mitchell, Grant Coordinator

DATE: July 30, 2019

SUBJECT: Engineering Service Contract for Fremont, Farmland and Railroad Levee.

Recommendation: Approve resolution 2019-148

Background: The City of Fremont advertised a Request for Qualifications for a professional engineering firm to evaluate the Fremont, Farmland and Railroad Levee. The majority of the project costs will be covered by Community Development Block Grant (CDBG) 18-PP-005.

It is a requirement of CDBG to base contract awards on qualifications rather than price. A selection committee was formed. Two RFQs were received and reviewed by the committee. The committee has selected JEO Consulting as the most qualified.

The execution of a contract with JEO is contingent upon release of funds. 75% of total project costs are covered by the grant. The remaining 25% match was previously approved.

Fiscal Impact: $11,000 matching funds previously approved.
Resolution No. 2019-148

A Resolution of the City Council of the City of Fremont, Nebraska, to authorize staff to execute a contract with JEO Consulting for evaluation of the Fremont, Farmland and Railroad Levee.

WHEREAS, written request for qualifications for professional engineering firm to evaluate the Fremont, Farmland and Railroad Levee were received and reviewed by the City of Fremont; and,

WHEREAS, JEO Consulting was determined to be the most qualified.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council authorizes staff to execute a contract with JEO Consulting for evaluation of the Fremont, Farmland, and Railroad Levee contingent on release of funds.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019.

SCOTT GETZSCHMAN, MAYOR

ATTEST:

__________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: Tyler Ficken, City Clerk
DATE: July 30, 2019
SUBJECT: Church of Nazarene Car Show – Request for use of City property

Recommendation: Approve Resolution 2019-140

Background: This request for use of the parking lot is from Dan Layman. He is asking Council to grant permission to use the grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show on August 10, 2019 from 9:00 a.m. to 3:00 p.m.

Staff recommends granting the use of the parking lot.
Please put on Tuesday’s agenda.
Thank you.

My name is Dan Layman and I attend the Fremont Nazarene Church at 960 N Johnson Rd. For the past 12 years we have held a car show on the Second Saturday of August. This year, our 13th annual car show, is going to be on Saturday, August 10th, from 9:00 until 3:00. Over the years we have strived to improve our car show to make it appealing to the community. We count this as a family event as in addition to the cars/trucks/motorcycles, there are bounce houses, Barnyard Pedal Tractor Pull, concessions, Sweet Shoppe, and multiple games for the family. We even added face painting last year. And yes, our intention is to continue to grow in the number of car, truck, and motorcycle entries.

I say all that as we have been growing in attendance. So, like in the past couple of years, I am requesting the usage of the grassy area between East Military Avenue and the ditch on the south side of our parking lot. This gives us the opportunity to separate the contestant vehicles and the spectator vehicles. I also know that if it happens to be muddy, we would not use that area.

We appreciate your consideration of this request.

Thanks!

Dan Layman
2006 Charles St
Fremont NE 68025
402-816-4011
LEASE AGREEMENT

This Lease Agreement (Agreement) is made and entered into on the 30th day of July 2019, by and between the City of Fremont (Owner) and Dan Layman (Lessee) (collectively Parties).

1. RECITALS

1.1. Licensee wishes to lease public property from Owner for the following purpose(s):

1.1.1. Car Show site, and

1.2. Owner is willing to lease the following public property(s):

1.2.1. City owned grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show on August 10, 2019 from 9:00 a.m. to 3:00 p.m., and

1.3. Therefore, in consideration of the foregoing recitals and of the mutual covenants, terms, conditions and remuneration herein provided, and the rights and obligations created hereunder, the Parties agree as follows:

2. DEFINITIONS

2.1. For the purposes of this Agreement, the following terms, phrases, words, and their derivations, shall have the meaning given herein, unless more specifically defined within a specific Article or Section of this Agreement. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number. The words "shall" and "will" are mandatory and "may" is permissive. Words not defined shall be given their common and ordinary meaning.

2.2. **Public Property**: means a space owned by the City of Fremont.

2.3. **Owner’s Facilities**: means all public streets or public parking lots owned by the City.

3. SCOPE

3.1. **Grant of Lease**. Subject to the provisions of this Agreement, Owner hereby grants to Lessee a lease authorizing the use of Owner’s facilities to Lessee for the purpose(s) stated above.

3.2. **No Interference With Core Utility Service Requirements**. Nothing contained in this Agreement shall limit Owner’s right to use its facilities to fulfill its own public service and safety requirements consistent with its obligations under relevant law.

3.3. **Access to Right-of-Way**. Owner shall grant Lessee nondiscriminatory access to its rights-of-way. This obligation extends to rights-of-way Owner owns and/or has
the right to authorize the use by the Lessee. For rights-of-way to which Owner
does not have the right to authorize the use by the Lessee, Lessee shall obtain
such consent as is necessary from the owner of the right-of-way.

4. TERM

4.1. This Agreement shall continue in force and effect for a period of August 10, 2019
from 9:00 a.m. to 3:00 p.m. The agreement may be terminated by either party for
cause at anytime upon 10-day written notice to the notice to the other party. The
Lessee shall have a 10-day grace period to cure the cause of the default. If the
cause is not cured to the satisfaction of the Owner within the grace period, the
agreement shall terminate 10-days thereafter.

5. FEES

5.1. Daily Rental Fee. Lessee shall pay a fee of $1.00 per day leased.

5.2. Billing. Owner shall issue an invoice to Lessee for use of public property fees,
specifying the number of days on which Owner seeks payment.

6. ASSIGNMENT OF RIGHTS

6.1. Lessee may not assign or transfer this Agreement unless approved in writing by the
Owner.

7. INDEMNIFICATION

7.1. Damage. Lessee agrees to take reasonable care to avoid damaging Owner’s
Facilities and property of others.

7.1.1. Lessee agrees to reimburse Owner for all reasonable costs incurred by
Owner for the physical repair of damage to Owner’s Facilities caused by
Lessee’s negligence.

7.2. Personal Injury and Property Claims. Lessee agrees to indemnify and hold
harmless for any and all claims made against the Owner, including attorney fees,
as a result of Lessee’s use of the public property.

8. INSURANCE

8.1. Insurance. Lessee shall carry insurance to protect the Parties hereto from and
against any claims, demands, actions, judgements, costs, expenses and liabilities of
every kind and nature which may arise or result, directly or indirectly, from or by
reason of such loss, injury or damage. The amount of such insurance against liability
due to damage to property shall be no less than $1,000,000.00 as to any one accident
and $2,000,000.00 in aggregate; and against liability due to injury to or death of
persons no less than $1,000,000.00 as to any one person and $1,000,000.00 to any
one accident, and shall list the Lessor as additionally insured. Lessee shall also carry
Workmen’s Compensation insurance as required by applicable Nebraska Statutes.
Lessee shall provide certificates of insurance to the Owner verifying the coverages required under this agreement and that it will not cancel or change any such policy except after thirty days notice to the Owner. The certificate(s) of insurance shall be provided to the Owner no later than three (3) business days prior to the event.

9. **APPLICABLE LAW**

9.1. The provisions of this Agreement are subject to the laws of the State of Nebraska.

10. **HEADINGS**

10.1. The headings in this Agreement are inserted for convenience of reference only and shall in no way be considered in the interpretation of this Agreement.

Lessee:_____________________________

By:_____________________________

Name:_____________________________

Title:_____________________________

Date:_____________________________

Owner - City of Fremont

By:_____________________________

Name:_____________________________

Title:_____________________________

Date:_____________________________
RESOLUTION NO. 2019-140

A Resolution of the City Council of the City of Fremont Nebraska, approving the request of Dan Layman to use the grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show.

WHEREAS, Dan Layman has requested the grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show site on August 10, 2019 from 9:00 a.m. to 3:00 p.m.; and

WHEREAS, this resolution is contingent upon Dan Layman providing a certificate of liability insurance naming the City of Fremont as additional insured.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council authorize Dan Layman to use the grassy area between East Military Avenue and the ditch on the south side of the Fremont Nazarene parking lot located at 960 N. Johnson Road for a Car Show site on August 10, 2019 from 9:00 a.m. to 3:00 p.m.; and authorizes the Mayor to sign Lease Agreement.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

SCOTT GETZSCHMAN, MAYOR

ATTEST:

TYLER FICKEN, CITY CLERK
Recommendation: Establish Policy for Connection to Existing Sanitary Sewer System

**Background:** The City/Utility practice on individual connections to an existing sanitary sewer not constructed as part of Connection or Assessment District or where there were 4 or more lots platted as a development, has been that all adjacent landowners pay ½ the frontage in feet times the cost of the sewer (approx. $10-12 per foot).

The Utility and Infrastructure Board determined at the May 28, 2019 meeting that this practice may result in an unreasonable charge to a single user with a large front footage. Similar to the Water Main Policy passed on May 28, 2012, staff recommends establishing a standard rate for single family, multi-family, commercial, and industrial connections. Analysis of recent costs to install 8” sanitary service shows an approximate cost of $32 per front footage (construction costs only). Using ½ of that cost and an average front footage per property would result in the attached policy.

**Fiscal Impact:** Assumed to be neutral, as there would be an initial reduction in the fees collected, but the reductions are expected to incentivize infrastructure use and increase sewer revenue collections associated with those properties that were not previously connected. This policy will serve to promote timely annexation, thereby increasing the City’s tax base and future tax revenues.
RESOLUTION NO. 2019-100

A Resolution of the City Council of the City of Fremont, Nebraska, establishing a Sanitary Sewer Connection Policy as set forth below:

For connection to an existing Sanitary Sewer System not constructed as part of a Connection or Assessment District, or a Sewer System Line not built by/paid for by a developer and then deeded to the City as part of the development’s sub-division agreement is as follows:

<table>
<thead>
<tr>
<th>TYPE</th>
<th>FRONT FOOTAGE</th>
<th>CONNECTION FEE</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family (SF)</td>
<td>75'</td>
<td>$1,200 *</td>
</tr>
<tr>
<td>Multi-Family (MF)</td>
<td>150'</td>
<td>$2,400 *</td>
</tr>
<tr>
<td>Commercial (C)</td>
<td>250'</td>
<td>$4,000 *</td>
</tr>
<tr>
<td>Industrial (I)</td>
<td>500'</td>
<td>$8,000 *</td>
</tr>
<tr>
<td>Subdivision Point of Entry</td>
<td><strong>See below</strong></td>
<td></td>
</tr>
</tbody>
</table>

* or actual front footage x $16, whichever is less
** actual Subdivision sewer system line side footage x $16

(SF) includes Duplexes and Townhomes
(MF) covers Apartments

The Connection Fee for SF, MF, C, or I, as listed above, may be paid by either a Full Payment or by Monthly Installments that are added to the applicant’s monthly sewer bill for a period not to exceed 36 months. Those using the monthly installment option will be subject to Fremont Municipal Code Section 3-258 - Municipal Sewage System; Lien provisions.

All applicants who avail themselves to any of the aforementioned sewer fees when obtaining City sewer services shall be required to voluntarily and contractually commit at the time of application to being annexed by the City no later than 36 months from the date of application.

Any sewer connection fee charges collected for infrastructure that was placed and initially paid for by using alternative taxpayer funded sources, such as the LB840 economic development fund, are to be repaid/refunded back to the proper source fund for reuse to the maximum extent permitted by State statute.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Kim Koski, Director of Parks & Recreation

DATE: July 30, 2019

SUBJECT: Resolution 2019-149 to Authorize the City Council to accept the bid from Cheever Construction and authorize the Mayor to sign contract with Cheever Construction for the renovation project at the City Auditorium.

RECOMMENDATION: Approve Resolution 2019-149.

Background: The City of Fremont advertised a request for proposal for the renovation project for the City Auditorium. Work under this contract includes all material, labor, tools, expendable equipment, utility and transportation services, and all incidental items necessary to perform and complete, in a workman like manner, the work required for the renovation, including all Civil, Architectural, Structural, Mechanical and Electrical Work, for the City of Fremont, Fremont City Auditorium.

The City received (4) bids:
Cheever Construction $2,711,000.00
Lund Ross $2,891,000.00
Prairie Construction $3,025,000.00
Elkhorn West Construction $3,281,000.00

Schemer Associates, Inc. has reviewed the bids and recommends the acceptance of Cheever Construction in the bid amount of $2,711,000.00 which includes alternates 1, 2, 3, 4 and 6. Alternate #5 is a deduct alternate providing a silicone roof coating alternate and in lieu of a full roof replacement. Schemmer’s recommendation is not to accept this deduct alternate and to proceed with the full roof replacement included in the base bid number.

The City Attorney reviewed and answered questions submitted by Schemmer. Schemmer is making changes to contract.

Fiscal Impact: $3,875,000.00 is available for this project. This project came in under budget and the remaining $1,164,000.00 will be used for asbestos abatement, tables, chairs, TV’s and other miscellaneous items for the project.
RESOLUTION NO. 2019-149

A Resolution of the City Council of the City of Fremont, Nebraska, awarding the bid to Cheever Construction for the City Auditorium Renovation Project in the amount of $2,711,000.00 and authorize the Mayor to sign the contract with Cheever Construction.

WHEREAS, The City of Fremont, Nebraska advertised a request for proposal for the renovation project for the City Auditorium.

WHEREAS, Four (4) bids were received. Cheever Construction submitted the low bid in the amount of $2,711,000.00.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont, that Cheever Construction be awarded the bid in the amount of $2,711,000.00 and the Mayor be authorized to sign the contract with Cheever Construction.

PASSED AND APPROVED THIS 30th day of July 2019.

__________________________________________
Scott Getzschman, Mayor

ATTEST:

______________________________
Tyler Ficken, City Clerk
Recommendation: Approve resolution 2019-150

Background: The Joint Water Management Advisory (JWMA) Board held a meeting on July 30, 2019 and recommended that each governing body consider the following action item:

1. Subject to the Joint Water Management Advisory Board receiving an invitation to submit a full application for Hazard Mitigation Grant Program funding through the Nebraska Emergency Management Agency (NEMA), authorize Fremont City staff to work with _________________________ to complete the full application and if the Joint Water Management Advisory Board is awarded the grant, execute a contract with _________________________ to develop a flood mitigation and resiliency plan to reduce the impacts of flooding on public and private infrastructure in Dodge County.

Fiscal Impact: If the grant is received, Fremont’s share of the local match is capped at $33,333.
RESOLUTION NO. 2019-150

A Resolution of the City Council of the City of Fremont, Nebraska, to approve the recommendation from the July 30, 2019 Joint Water Management Advisory Board.

WHEREAS: The Joint Water Management Advisory Board met on July 30, 2019 and recommended each governing body approve the following action item:

1. Subject to the Joint Water Management Advisory Board receiving an invitation to submit a full application for Hazard Mitigation Grant Program funding through the Nebraska Emergency Management Agency (NEMA), authorize Fremont City staff to work with ______________________ to complete the full application and if the Joint Water Management Advisory Board is awarded the grant, execute a contract with ______________________ to develop a flood mitigation and resiliency plan to reduce the impacts of flooding on public and private infrastructure in Dodge County.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council that the recommendation from the July 30, 2019 Joint Water Management Advisory Board (listed above) be approved.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

_____________________________
Tyler Ficken, City Clerk
Recommendation: Approve resolution 2019-151

Background: The City Council at the June 25, 2019 meeting accepted the Joint Water Management Advisory (JWMA) Board recommendation to authorize the City of Fremont, on behalf of the Joint Water Management Advisory Board (JWMAB), to solicit a Request for Proposals from qualified engineers to apply for Hazard Mitigation Grant Program funding through the Nebraska Emergency Management Agency (NEMA). This resolution will authorize up to $33,333 as Fremont’s share (Lower Platte North NRD and Dodge County have committed up to $33,333 each) for the required match, should the JWMAB be successful in getting the grant to develop a flood mitigation and resiliency plan. The JWMAB has applied for two grants:

- HMGP - $1,000,000 grant (75% FEMA, 25% local match)
- WSF - $250,000 grant (60% NRC, 40% local match)

Here is how the $1,000,000 cost is proposed to be funded:
- $750,000 FEMA grant (75%)
- $150,000 NRC grant (60%)
- $100,000 Local match (shared at least four ways between Fremont, Dodge County, Lower Platte North NRD, and Inglewood)

Attached is a draft letter of financial commitment that will be part of the grant application.

Fiscal Impact: No fiscal impact until the JWMAB is awarded Hazard Mitigation Grant Program funding.
July 30, 2019

Nebraska Natural Resources Commission
301 Centennial Mall South
P.O. Box 94676
Lincoln, NE 68509-4676

RE: Water Sustainability Fund Application
Joint Water Management Advisory Board Mitigation and Resiliency Plan

Dear Commissioners,

In Dodge County, multiple political subdivisions along the Platte and Elkhorn Rivers experienced catastrophic flood damages in March 2019. Twelve affected entities have formed the Joint Water Management Advisory Board to collectively work together to prevent future flood devastation from occurring again.

The Joint Water Management Advisory Board is preparing to create a Flood Mitigation and Resiliency Plan (Plan) to holistically evaluate flood risks, identify mitigation actions to reduce the impacts of flooding on public and private infrastructure, and to provide viable solutions to minimize flooding damage. The Board is committed to maintain healthy and sustainable communities in Dodge County.

The City of Fremont supports this project, the Water Sustainability Fund grant application, and is offering $33,333 in funds as local match to the development of the Plan.

Sincerely,

Scott Getzschman
Mayor
RESOLUTION NO. 2019-

A Resolution of the City Council of the City of Fremont, Nebraska, to approve a financial commitment for a portion of the local match required by the Hazard Mitigation Grant Program and to authorize the Mayor to sign a letter of financial commitment in support of this effort.

WHEREAS, The Joint Water Management Advisory Board applied for Hazard Mitigation Grant Program funding through the Nebraska Emergency Management Agency (NEMA) to develop a flood mitigation and resiliency plan to reduce the impacts of flooding on public and private infrastructure; and

WHEREAS, The grant, if awarded, requires a local match which will be split between the partners of the Joint Water Management Advisory Board; and

WHEREAS, Fremont's portion of the local match will not exceed $33,333.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council to approve a financial commitment not to exceed $33,333, towards the local match required by the Hazard Mitigation Grant Program funding and to authorize the Mayor to sign a letter of financial commitment to pledge these funds.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

__________________________________________
Scott Getzschman, Mayor

ATTEST:

__________________________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Mayor and City Council
FROM: Lottie Mitchell, Grant Coordinator
DATE: July 30, 2019
SUBJECT: Award JEO Consulting Hazard Mitigation Grant Program Application Assistance, Program Development, Execution, and Administration

Recommendation: Approve resolution 2019-152

Background: Following a federally declared disaster, Federal Emergency Management Agency (FEMA) in partnership with the Nebraska Emergency Management Agency (NEMA) have Hazard Mitigation Grant Programs (HMGP) available to assist property owners in mitigating the risk of flooding by elevation or filling in basements and other flood proofing measures. They also have HMGP available to help communities purchase flood-prone properties, remove the buildings and maintain the land as open space. HMGP reimburses 75% of project costs.

HMGP are awarded to local jurisdictions. In an effort to make these programs available to our community we submitted two Notice of Interest forms. One for Acquisition and one for Construction. We are anticipating an invitation to submit full applications by Friday, August 2, 2019.

Requests for Proposals for professional engineering firm to assist with the Hazard Mitigation Grant Program Application and development of a Voluntary Acquisition and Demolition Program and Mitigation Construction Program for flood-prone properties within the City of Fremont and surrounding zoning jurisdiction were issued July 2, 2019.

JEO Consulting was the only RFP received for both the Acquisition and Construction programs. There is no fiscal impact to the City. The consultant understands assistance with the grant applications will be done prior to any funding being awarded. If no grant funds are awarded, the projects will be cancelled and the selected firm will not be compensated for any grant application work. If the applications are awarded, JEO Consulting will be responsible for the grant administration and execution of the programs. Homeowners receiving the benefit of the HMGP would provide up to the required 25% matching funds.

Fiscal Impact: None.
RESOLUTION NO. 2019-152

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing staff to work with JEO Consulting on the application to the Hazard Mitigation Grant Program (HMGP) and if awarded, execute a contract with JEO Consulting for the development, execution, and administration of a Flood Mitigation Construction program.

WHEREAS, Following a federally declared disaster, Federal Emergency Management Agency (FEMA) in partnership with the Nebraska Emergency Management Agency (NEMA) have Hazard Mitigation Grant Programs (HMGPs) available; and,

WHEREAS, Request for Proposals for Engineering Flood Plain Professionals were requested to assist with the application, program development, and program execution; and,

WHEREAS, The City of Fremont intends to apply for HMGP for flood mitigation construction; and,

WHEREAS, Execution of negotiated contract is contingent upon award of grant funds.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont, that staff be authorized to work with JEO Consulting on the application to the Hazard Mitigation Grant Program and if awarded, contract with JEO Consulting to develop, execute, and administer a Flood Mitigation Construction program.

PASSED AND APPROVED THIS 30th DAY OF JULY 2019.

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Mayor and City Council
FROM: Lottie Mitchell, Grant Coordinator
DATE: July 30, 2019
SUBJECT: Award JEO Consulting Hazard Mitigation Grant Program Application Assistance, Program Development, Execution, and Administration

Recommendation: Approve resolution 2019-153

Background: Following a federally declared disaster, Federal Emergency Management Agency (FEMA) in partnership with the Nebraska Emergency Management Agency (NEMA) have Hazard Mitigation Grant Programs (HMGP) available to assist property owners in mitigating the risk of flooding by elevation or filling in basements and other measures. They also have HMGP available to help communities purchase flood-prone properties, remove the buildings and maintain the land as open space. HMGP reimburses 75% of project costs.

HMGP are awarded to local jurisdictions. In an effort to make these programs available to our community we submitted two Notice of Interest forms. One for Acquisition and one for Construction. We are anticipating an invitation to submit full applications by Friday, August 2, 2019.

Requests for Proposals for professional engineering firm to assist with the Hazard Mitigation Grant Program Application and development of a Voluntary Acquisition and Demolition Program and Mitigation Construction Program for flood-prone properties within the City of Fremont and surrounding zoning jurisdiction were issued July 2, 2019.

JEO Consulting was the only RFP received for both the Acquisition and Construction programs. There is no fiscal impact to the City. The consultant understands assistance with the grant applications will be done prior to any funding being awarded. If no grant funds are awarded, the projects will be cancelled and the selected firm will not be compensated for any grant application work. If the applications are awarded, JEO Consulting will be responsible for the grant administration and execution of the programs. Homeowners receiving the benefit of the HMGP would provide up to the required 25% matching funds.

Fiscal Impact: None.
RESOLUTION NO. 2019-153

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing staff to work with JEO Consulting on the application to the Hazard Mitigation Grant Program (HMGP) and if awarded, execute a contract with JEO Consulting for the development, execution, and administration of a Voluntary Acquisition and Demolition program of flood damaged property.

WHEREAS, Following a federally declared disaster, Federal Emergency Management Agency (FEMA) in partnership with the Nebraska Emergency Management Agency (NEMA) have Hazard Mitigation Grant Programs (HMGPs) available; and,

WHEREAS, Request for Proposals for Engineering Flood Plain Professionals were requested to assist with the application, program development, and program execution; and,

WHEREAS, The City of Fremont intends to apply for HMGP for voluntary property acquisition; and,

WHEREAS, Execution of negotiated contract is contingent upon award of grant funds.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont, that staff be authorized to work with JEO Consulting on the application to the Hazard Mitigation Grant Program and if awarded, contract with JEO Consulting to develop, execute, and administer a Voluntary Acquisition and Demolition program of flood damaged property.

PASSED AND APPROVED THIS 30th DAY OF JULY 2019.

____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Dave Goedeken, Director of Public Works/City Engineer

DATE: July 30, 2019

SUBJECT: July 23, 2019 Traffic Committee Report

Recommendation: Approve and Place July 23, 2019 Traffic Committee Report into the record. Approve Resolution 2019-154 to remove “No Parking” signs from 18th Street immediately East of Main Street.

Background: City Staff meets monthly to consider traffic related issues in the City of Fremont. The committee met on July 23rd to consider three items. (See Attached Committee Report)

1) 18th and Main Streets, remove “No Parking” signs

2) Ohio Street, East and West of Seaton Avenue, Place Handicap Signage.

3) Pebble Street and 8th, 9th, and 10th Streets, place “Stop” sign

The committee recommends the following:

- Approve Resolution to remove the “No Parking” signs immediately east of Main Street and leaving the curb marked in red.
- Leave the Handicap signs on Ohio Street and not place additional signs.
- Place traffic counters Pebble Street to determine speeds and volumes of traffic. Review accident reports and consider the request at the August Traffic Safety Committee meeting.

Fiscal Impact: The City will have the expense of the removing the signs and the engineering review of the Stop sign request.
To the Fremont City Council

June 20, 2019

I am requesting that the 2 no parking signs located at 1750 N Main Street, located on 18th St. be removed. The reasons they were put there years ago was because of North Side School and Lorrain Vanhover had a beauty shop at this location. The residence is now a home and North Side School is no longer in existence, there is no reason for the signs to be there. I am also requesting that the no parking sign at 1806 N Main Street located on 18th St. also be removed for the same reasons. My wife and I own both properties and when mowing the signs are difficult to mow around. The curbs are painted red so that should alert people that there is no parking, as that is how it is marked on the southeast side of the intersection of 18th and Main. Your consideration of this matter would be greatly appreciated.

Sincerely

[Signature]

Lindell Smith
1806 N Main St.
Fremont NE. 68025
Phone 402-660-2625
from the street without notice of any kind for reasons affecting the health, safety and general welfare of the City and its citizens, if the circumstances or urgency of the situation reasonably require exercise of such power, and the Chief of Police shall further have the power to remove any object or thing which is an obstruction to the vision of vehicles or pedestrians.

§5-409  PARKING: FIRE HYDRANTS AND STATIONS.

No vehicle shall be parked within fifteen (15') feet in either direction of any fire hydrant nor within twenty (20') feet of the driveway entrance to any fire station.

§5-410  PARKING: LOADING, UNLOADING ZONE.

Loading and unloading of all goods, wares and merchandise shall be done only when the vehicle is legally parked against the curb or an alley entrance. In the event any place of business does not have an alley entrance suitable for delivery purposes, the owner thereof, by petition to the City Council, may be granted by the Council a delivery stall in the street in front of such place of business. The curb or similar area shall be painted yellow and the stall be used during the hours of such business only by vehicles loading and unloading goods, wares and merchandise.

§5-411  PARKING: CURBS, PAINTED.

It shall be the duty of the Public Works Department to cause the curb space to be painted and keep the same painted as provided in this Article. No person, firm, or corporation shall paint the curb of any street, or in any manner set aside, or attempt to prevent the parking of vehicles in any street, or part thereof, except at such places where the parking of vehicles is prohibited by the provisions of this Article. The marking or designating of portions of streets or alleys where the parking of vehicles is prohibited or limited shall be done only by the City through its proper officers, at the direction of the City Council.

A. RED. The use of red paint upon the curb of any street shall indicate that parking and stopping of vehicles is entirely prohibited within such area.

B. YELLOW. The use of yellow paint on the curb of any street shall indicate that such space has been set aside for a truck loading and unloading zone.

C. GREEN. The use of green paint upon the curb of any street shall indicate that the space has been set aside for a fifteen (15) minute parking zone, unless posted otherwise.

D. WHITE. The use of white paint upon the curb of any street shall indicate that such space has been set aside for a passenger loading and unloading zone.

§5-412  PARKING: PASSENGER LOADING AND UNLOADING.

(1) It shall be unlawful for the operator of any motor vehicle, except the operator of a motor bus operated as a part of a motor bus transportation system within the City, to park, stop or stand such vehicle within any bus stop zone which shall be for the exclusive use of such buses; provided, that where the curb is marked by orange or yellow paint and designated for the exclusive use of such motor buses during the hours indicated on signs that will be erected at each zone, vehicles may be parked in the zones during hours other than those indicated on such signs for exclusive use of such buses. The City Council shall by resolution designate such bus stop zones.

(2) It shall be unlawful for the operator of any motor vehicle to park, stop or stand such vehicle within any white zone except for the purpose of passenger loading and unloading; provided, that where the curb is marked by white paint and designated for the exclusive use of passenger loading and unloading during the hours indicated on signs that will be erected at each zone, vehicles may be parked in the zones during hours other than those indicated on such signs for exclusive use for passenger loading and unloading. The City Council shall by resolution designate such vehicle zones.
60-6,166. Stopping, standing, or parking prohibited; exceptions.

(1) Except when necessary to avoid conflict with other traffic or when in compliance with law or the directions of a peace officer or traffic control device, no person shall:

(a) Stop, stand, or park any vehicle:

(i) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;

(ii) On a sidewalk;

(iii) Within an intersection;

(iv) On a crosswalk;

(v) Between a safety zone and the adjacent curb or within thirty feet of points on the curb immediately opposite the ends of a safety zone unless the Department of Transportation or the local authority indicates a different length by signs or markings;

(vi) Alongside or opposite any street excavation or obstruction when stopping, standing, or parking would obstruct traffic;

(vii) Upon any bridge or other elevated structure over a highway or within a highway tunnel;

(viii) On any railroad track; or

(ix) At any place where official signs prohibit stopping;

(b) Stand or park a vehicle, whether occupied or not, except momentarily to pick up or discharge a passenger or passengers:

(i) In front of a public or private driveway;

(ii) Within fifteen feet of a fire hydrant;

(iii) Within twenty feet of a crosswalk at an intersection;

(iv) Within thirty feet of any flashing signal, stop sign, yield sign, or other traffic control device located at the side of a roadway;
(v) Within twenty feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within seventy-five feet of such entrance when properly signposted; or

(vi) At any place where official signs prohibit standing; or

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:

(i) Within fifty feet of the nearest rail of a railroad crossing; or

(ii) At any place where official signs prohibit parking.

(2) No person shall move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as shall be unlawful.

When two vehicles approach an intersection from different streets or highways at approximately the same time, the right-of-way rule requires the driver of the vehicle on the left to yield the right-of-way to the vehicle on the right. The right-of-way can be modified at through streets or highways by placing YIELD (R1-2) signs (see Sections 2B.08 and 2B.09) or STOP (R1-1) signs (see Sections 2B.05 through 2B.07) on one or more approaches.

Guidance:

Engineering judgment should be used to establish intersection control. The following factors should be considered:

A. Vehicular, bicycle, and pedestrian traffic volumes on all approaches;
B. Number and angle of approaches;
C. Approach speeds;
D. Sight distance available on each approach; and
E. Reported crash experience.

YIELD or STOP signs should be used at an intersection if one or more of the following conditions exist:

A. An intersection of a less important road with a main road where application of the normal right-of-way rule would not be expected to provide reasonable compliance with the law;
B. A street entering a designated through highway or street; and/or
C. An unsignalized intersection in a signalized area.

In addition, the use of YIELD or STOP signs should be considered at the intersection of two minor streets or local roads where the intersection has more than three approaches and where one or more of the following conditions exist:

A. The combined vehicular, bicycle, and pedestrian volume entering the intersection from all approaches averages more than 2,000 units per day;
B. The ability to see conflicting traffic on an approach is not sufficient to allow a road user to stop or yield in compliance with the normal right-of-way rule if such stopping or yielding is necessary; and/or
C. Crash records indicate that five or more crashes that involve the failure to yield the right-of-way at the intersection under the normal right-of-way rule have been reported within a 3-year period, or that three or more such crashes have been reported within a 2-year period.

YIELD or STOP signs should not be used for speed control.

Support:

Section 2B.07 contains provisions regarding the application of multi-way STOP control at an intersection.

Guidance:

Once the decision has been made to control an intersection, the decision regarding the appropriate roadway to control should be based on engineering judgment. In most cases, the roadway carrying the lowest volume of traffic should be controlled.

A YIELD or STOP sign should not be installed on the higher volume roadway unless justified by an engineering study.

Support:

The following are considerations that might influence the decision regarding the appropriate roadway upon which to install a YIELD or STOP sign where two roadways with relatively equal volumes and/or characteristics intersect:

A. Controlling the direction that conflicts the most with established pedestrian crossing activity or school walking routes;
B. Controlling the direction that has obscured vision, dips, or bumps that already require drivers to use lower operating speeds; and
C. Controlling the direction that has the best sight distance from a controlled position to observe conflicting traffic.

Standard:

Because the potential for conflicting commands could create driver confusion, YIELD or STOP signs shall not be used in conjunction with any traffic control signal operation, except in the following cases:

A. If the signal indication for an approach is a flashing red at all times;
B. If a minor street or driveway is located within or adjacent to the area controlled by the traffic control signal, but does not require separate traffic signal control because an extremely low potential for conflict exists; or
C. If a channelized turn lane is separated from the adjacent travel lanes by an island and the channelized turn lane is not controlled by a traffic control signal.
Except as provided in Section 2B.09, STOP signs and YIELD signs shall not be installed on different approaches to the same unsignalized intersection if those approaches conflict with or oppose each other.

Portable or part-time STOP or YIELD signs shall not be used except for emergency and temporary traffic control zone purposes.

A portable or part-time (folding) STOP sign that is manually placed into view and manually removed from view shall not be used during a power outage to control a signalized approach unless the maintaining agency establishes that the signal indication that will first be displayed to that approach upon restoration of power is a flashing red signal indication and that the portable STOP sign will be manually removed from view prior to stop-and-go operation of the traffic control signal.

Option:

A portable or part-time (folding) STOP sign that is electrically or mechanically operated such that it only displays the STOP message during a power outage and ceases to display the STOP message upon restoration of power may be used during a power outage to control a signalized approach.

Support:

Section 9B.03 contains provisions regarding the assignment of priority at a shared-use path/roadway intersection.

Section 2B.05 STOP Sign (R1-1) and ALL WAY Plaque (R1-3P)

Standard:

When it is determined that a full stop is always required on an approach to an intersection, a STOP (R1-1) sign (see Figure 2B-1) shall be used.

The STOP sign shall be an octagon with a white legend and border on a red background.

Secondary legends shall not be used on STOP sign faces.

At intersections where all approaches are controlled by STOP signs (see Section 2B.07), an ALL WAY supplemental plaque (R1-3P) shall be mounted below each STOP sign. The ALL WAY plaque (see Figure 2B-1) shall have a white legend and border on a red background.

The ALL WAY plaque shall only be used if all intersection approaches are controlled by STOP signs.

Supplemental plaques with legends such as 2-WAY, 3-WAY, 4-WAY, or other numbers of ways shall not be used with STOP signs.

Support:

The use of the CROSS TRAFFIC DOES NOT STOP (W4-4P) plaque (and other plaques with variations of this word message) is described in Section 2C.59.

Guidance:

Plaques with the appropriate alternative messages of TRAFFIC FROM LEFT (RIGHT) DOES NOT STOP (W4-4aP) or ONCOMING TRAFFIC DOES NOT STOP (W4-4bP) should be used at intersections where STOP signs control all but one approach to the intersection, unless the only non-stopped approach is from a one-way street.

Option:

An EXCEPT RIGHT TURN (R1-10P) plaque (see Figure 2B-1) may be mounted below the STOP sign if an engineering study determines that a special combination of geometry and traffic volumes is present that makes it possible for right-turning traffic on the approach to be permitted to enter the intersection without stopping.

Support:

The design and application of Stop Beacons are described in Section 4L.05.

Figure 2B-1. STOP and YIELD Signs and Plaques

[Image of STOP and YIELD signs with R1-1, R1-3P, R1-2, and R1-2aP plaques]
Section 2B.06 STOP Sign Applications

Guidance:

01 At intersections where a full stop is not necessary at all times, consideration should first be given to using less restrictive measures such as YIELD signs (see Sections 2B.08 and 2B.09).

02 The use of STOP signs on the minor-street approaches should be considered if engineering judgment indicates that a stop is always required because of one or more of the following conditions:

   A. The vehicular traffic volumes on the through street or highway exceed 6,000 vehicles per day;
   B. A restricted view exists that requires road users to stop in order to adequately observe conflicting traffic on the through street or highway; and/or
   C. Crash records indicate that three or more crashes that are susceptible to correction by the installation of a STOP sign have been reported within a 12-month period, or that five or more such crashes have been reported within a 2-year period. Such crashes include right-angle collisions involving road users on the minor-street approach failing to yield the right-of-way to traffic on the through street or highway.

Support:

03 The use of STOP signs at grade crossings is described in Sections 8B.04 and 8B.05.

Section 2B.07 Multi-Way Stop Applications

Support:

01 Multi-way stop control can be useful as a safety measure at intersections if certain traffic conditions exist. Safety concerns associated with multi-way stops include pedestrians, bicyclists, and all road users expecting other road users to stop. Multi-way stop control is used where the volume of traffic on the intersecting roads is approximately equal.

02 The restrictions on the use of STOP signs described in Section 2B.04 also apply to multi-way stop applications.

Guidance:

03 The decision to install multi-way stop control should be based on an engineering study.

04 The following criteria should be considered in the engineering study for a multi-way STOP sign installation:

   A. Where traffic control signals are justified, the multi-way stop is an interim measure that can be installed quickly to control traffic while arrangements are being made for the installation of the traffic control signal.
   B. Five or more reported crashes in a 12-month period that are susceptible to correction by a multi-way stop installation. Such crashes include right-turn and left-turn collisions as well as right-angle collisions.
   C. Minimum volumes:
      1. The vehicular volume entering the intersection from the major street approaches (total of both approaches) averages at least 300 vehicles per hour for any 8 hours of an average day; and
      2. The combined vehicular, pedestrian, and bicycle volume entering the intersection from the minor street approaches (total of both approaches) averages at least 200 units per hour for the same 8 hours, with an average delay to minor-street vehicular traffic of at least 30 seconds per vehicle during the highest hour; but
      3. If the 85th-percentile approach speed of the major-street traffic exceeds 40 mph, the minimum vehicular volume warrants are 70 percent of the values provided in Items 1 and 2.
   D. Where no single criterion is satisfied, but where Criteria B, C.1, and C.2 are all satisfied to 80 percent of the minimum values. Criterion C.3 is excluded from this condition.

Option:

05 Other criteria that may be considered in an engineering study include:

   A. The need to control left-turn conflicts;
   B. The need to control vehicle/pedestrian conflicts near locations that generate high pedestrian volumes;
   C. Locations where a road user, after stopping, cannot see conflicting traffic and is not able to negotiate the intersection unless conflicting cross traffic is also required to stop; and
   D. An intersection of two residential neighborhood collector (through) streets of similar design and operating characteristics where multi-way stop control would improve traffic operational characteristics of the intersection.
RESOLUTION NO. ____________

A Resolution of the City Council of the City of Fremont, Nebraska, to remove “No Parking Signs” from 18th Street immediately East of the Main Street.

BE IT RESOLVED: by the City Council of Fremont that:

Scott Getzschman, Mayor of the City of Fremont, Nebraska is hereby authorized to sign this resolution allowing the Fremont Street Department to remove “No Parking Signs” from 18th Street immediately East of the Main Street.

PASSED AND APPROVED THIS 30th DAY OF July, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tylor Ficken
City Clerk
Staff Report

TO:             Honorable Mayor and City Council
FROM:          Jennifer L. Dam, AICP, Planning Director
DATE:          July 25, 2019
SUBJECT:       Ordinance 5497 amending Ordinance 5270 to correct the legal description
                of a previously approved Planned Unit Development

Recommendation: Hold First Reading

Background:

Ordinance 5166 for a Planned Unit Residential Development (PUD) was approved by
the City Council on June 29, 2010 for 1615 East Military Avenue on property described
as “Lot 6, excepting the south 114.12 feet thereof, together with the west 18.67 feet of
lot 2, the west 50.21 feet of Lot 3, and the east 76.49 feet of Lot 3 all in Wacek & Van
Patten’s Addition to the City of Fremont, Dodge County, Nebraska.”

That PUD consisted of two apartment buildings (one with 14 units and one with 12
units), 24 garage stalls, and 28 surface stalls.

Ordinance 5222 was approved by the City Council on September 27, 2011 to amend
the PUD to add an addition to the clubhouse. The legal description was the same as
above.

Ordinance 5270 was approved by the City Council on April 30, 2013. This expanded
the area covered by the PUD to add two apartment buildings and additional garages.
The legal description on the ordinance was Lots 2, 3, 6 and 7 Wacek & Van Patten’s
Addition to the City of Fremont, Dodge County, Nebraska.

The above legal description covered an area larger than what was intended by the
PUD, based on the map and site plan attached to the staff report. In addition, the
zoning map was not adjusted to reflect the expanded PUD area, either as reflected on
the site plan or as reflected by the legal description.

This ordinance, number 5497, is intended to confirm the correct legal description of the
PUD, so that the zoning map can be updated to reflect the proper boundaries. The
original conditions are repeated to ensure that they remain in effect.

The proper legal description is “Parts of Lots 2, 3, 6 and 7 all in Wacek and Van
Patten’s addition to the City of Fremont, Dodge County, Nebraska, more particularly
described as follows: The west 18.67 feet of Lot 2; all of Lot 3; Lot 6 except the west
25.09 feet of the south 114.12 feet and the east 70 feet of the south 114.2 feet; the
north 25.09 feet of Lot 7 except the east 129.04 feet; the west 76 feet of Lot 7 except the north 25.09 feet and the south 114.33 feet."

Copy of area of original PUD (heavier black line)
2013 Amendment to PUD Site Plan (*Site Plan shows correct property, legal description incorrect*)
Copy of vicinity map attached to 2013 amendment
Copy of Original Plat of Wacek & Van Pattens’ Addition with Incorrect PUD Legal outlined
Current parcel layout in same area. Area of correct PUD outlined in red, incorrect legal in blue
ORDINANCE NO. 5166

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, TO AMEND THE PLANNED UNIT DEVELOPMENT AT 1615 EAST MILITARY AVENUE, FREMONT, DODGE COUNTY, NEBRASKA, PROVIDING FOR CONDITION OF APPROVAL OF THE DEVELOPMENT PLAN; AND, PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA;

SECTION I. That a tract of land known as 1615 East Military Avenue, being Lot 6, excepting the south 114.12 feet thereof, together with the west 18.67 feet of lot 2, the west 50.21 feet of Lot 3, and the east 76.49 feet of lot 3 all in Wacek & Van Patten's Addition to the City of Fremont, Dodge County, Nebraska, is designated as a Planned Unit Residential Development District.

SECTION II. That the Planned Development described in Section 1 of this Ordinance be amended by adding an addition to the clubhouse and approved subject to the following:

1. That all construction on the site conform to the development plan submitted;
2. A 10 feet public utility easement shall be recorded on the parcel abutting side property lines and south of the 14 unit building traversing the site from east to west.
3. Create and record a public utility easement for gas service.
4. Align and locate the water and sanitary service lines along a north south axis with the eastern property line in the northern portion of the site and west of the 12 unit building per the Department of Utilities approval.
5. Prior to construction provide a detailed landscape plan with fencing.
6. Provide a fire hydrant south of the 12 unit building.
7. All fire turn arounds shall comply with local and state codes

SECTION III. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 29th DAY OF JUNE, 2010

Donald B. Edwards, Mayor

ATTEST:

Kimberly Volk, QMC
AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, TO AMEND THE PLANNED UNIT DEVELOPMENT AT 1615 EAST MILITARY AVENUE, FREMONT, DODGE COUNTY, NEBRASKA, PROVIDING FOR CONDITION OF APPROVAL OF THE DEVELOPMENT PLAN; AND, PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA;

SECTION I. That a tract of land known as 1615 East Military Avenue, being Lot 6, excepting the south 114.12 feet thereof, together with the west 18.67 feet of lot 2, the west 50.21 feet of Lot 3, and the east 76.49 feet of Lot 3 in Wacek & Van Patten's Addition to the City of Fremont, Dodge County, Nebraska, is designated as a Planned Unit Residential Development District.

SECTION II. That the Planned Development described in Section 1 of this Ordinance be amended by adding an addition to the clubhouse and approved subject to the following:

1. That all construction on the site conform to the development plan submitted to the Planning Commission in May 2010 and the revised plan submitted in September 2011;
2. A 10 feet public utility easement shall be recorded on the parcel abutting side property lines and south of the 14 unit building traversing the site from east to west.
3. Create and record a public utility easement for gas service.
4. Align and locate the water and sanitary service lines along a north south axis with the eastern property line in the northern portion of the site and west of the 12 unit building per the Department of Utilities approval.
5. Prior to construction provide a detailed landscape plan with fencing.
6. Provide a fire hydrant south of the 12 unit building.
7. All fire turn arounds shall comply with local and state codes

SECTION III. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 27th DAY OF September, 2011

[Signature]
Scott Getzschman, Mayor

ATTEST:
Kimberly Volk, MMC City Clerk
ORDINANCE NO. 5270

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, TO AMEND THE PLANNED UNIT DEVELOPMENT AT 1615 EAST MILITARY AVENUE, FREMONT, DODGE COUNTY, NEBRASKA, PROVIDING FOR CONDITION OF APPROVAL OF THE DEVELOPMENT PLAN; AND, PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA;

SECTION I. That a tract of land known as 1615 East Military Avenue, being Lots 2, 3, 6 and 7, Wacek & Van Patten's Addition to the City of Fremont, Dodge County, Nebraska, is designated as a Planned Unit Residential Development District.

SECTION II. That the Planned Development described in Section 1 of this Ordinance be amended by adding an addition to the clubhouse and approved subject to the following:

1. The applicant will provide additional screening between the 8 bay garage and adjacent properties (either thru landscaping or fencing).
2. The applicant will provide screening between the eastern building and the adjacent properties (either thru landscaping or fencing).
3. The applicant will ensure that all drainage will be contained on site and removed using the proposed drainage system and will not drain onto adjacent properties.

SECTION III. EFFECTIVE DATE. This ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 30th DAY OF APRIL, 2013

Scott Getzschman, Mayor

ATTEST:

Lynne McIntosh, CMC, Deputy City Clerk
ORDINANCE NO. 5497

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING ORDINANCE NO. 5270, CORRECTING THE LEGAL DESCRIPTION OF THE APPROVED PLANNED UNIT DEVELOPMENT ON PROPERTY GENERALLY LOCATED AT 1615 EAST MILITARY AVENUE, PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREBWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council for the City of Fremont, Nebraska, seeks to promote the health, safety, morals, and the general welfare of the community; and

WHEREAS, the legal description of the property for which a PUD was approved in Ordinance 5270 has been determined to be incorrect; and

WHEREAS, the City has determined that a Planned Unit Development was approved on the subject property by Ordinance 5270; and

WHEREAS, a public hearing to correct the legal description was held by the City Council on July 30, 2019; and

WHEREAS, the City has determined that such proceedings were in compliance with Neb. Rev. Stat. §19-904 pertaining to zoning regulations and restrictions;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA, AS FOLLOWS:

SECTION I. The tract of land known as 1615 East Military Avenue legally described as Parts of Lots 2, 3, 6 and 7 all in Wacek and Van Patten’s addition to the City of Fremont, Dodge County, Nebraska, more particularly described as follows: The west 18.67 feet of Lot 2; all of Lot 3; Lot 6 except the west 25.09 feet of the south 114.12 feet and the east 70 feet of the south 114.2 feet; the north 25.09 feet of Lot 7 except the east 129.04 feet; the west 76 feet of Lot 7 except the north 25.09 feet and the south 114.33 feet, is designated as a Planned Unit Residential Development District.

SECTION 2. That the Planned Development described in Section 1 of this Ordinance be amended by adding an addition to the clubhouse and approved subject to the following:

   a) The property owner will provide additional screening between the 8 bay garage and adjacent properties (either through landscaping or fencing).

   b) The property owner will provide screening between the eastern building and the adjacent properties (either through landscaping or fencing).

   c) The property owner will ensure that all drainage will be contained on site and removed using the proposed drainage system and will not drain onto adjacent properties.

SECTION 3. REPEALER. That part of the official zoning map referred to in Ordinance No. 5270 or any other section of said ordinance in conflict with this ordinance is hereby
repealed.

SECTION 4. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or application hereof, is for any reason held invalid or unconstitutional by any Court, such portion or application shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions or application hereof.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS 30th DAY OF JULY, 2019

___________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
Exhibit A

Chapter 200 – Regulations Specific to Area

202 General Commercial Area

Commercial uses may be platted as individual lots with sufficient land area to satisfy set back requirements.

Height and Area Regulations:

<table>
<thead>
<tr>
<th></th>
<th>Lot Area (SF)</th>
<th>Lot Width (FT)</th>
<th>Front Yard Setback (FT)</th>
<th>Street Side Yard Setback (FT)</th>
<th>Interior Side Yard Setback (FT)</th>
<th>Rear Yard Setback (FT)</th>
<th>Height (FT)</th>
</tr>
</thead>
<tbody>
<tr>
<td>General Commercial</td>
<td>20,000</td>
<td>100</td>
<td>25</td>
<td>25</td>
<td>15</td>
<td>20</td>
<td>45</td>
</tr>
<tr>
<td>Commercial Lot 2 Gallery 23, East Addition Replat 1</td>
<td>20,000</td>
<td>100</td>
<td>25</td>
<td>25</td>
<td>15</td>
<td>20</td>
<td>60</td>
</tr>
</tbody>
</table>
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Shane Wimer, Assistant City Administrator
DATE: July 30, 2019
SUBJECT: Ordinance 5498 to amend Section 5-902 Storage of Dismantled, Wrecked, Junked and Inoperable Motor Vehicle

Recommendation: Approve amendments to Section 5-902

**Background:** The City of Fremont has numerous junk or abandon vehicles stored on private property throughout the city that degrade surrounding properties and undervalue the property. These junk vehicles left unchecked become eyesores for the community and promote a habitat for rodents and noxious weed growth. Section 5-902 deals with the Storage of Dismantled, Wrecked, Junked, and Inoperable Motor Vehicles as a Nuisance. The police department and code enforcement are having a difficult time enforcing the ordinance due to the current wording. Staff along with Legal Counsel have changed and added wording to the ordinance to allow police and code enforcement greater latitude to enforce the ordinance.

Staff has provided a marked up version of the ordinance with the suggested changes that are deemed necessary to enforce it. Staff has also provided several photos to help council assess what code enforcement and the police department are trying to combat.

**Fiscal Impact:** None
Sec. 5-902. - Storage of dismantled, wrecked, junked and inoperable motor vehicles as nuisance.

(a) It is expressly found and determined that the storage or accumulation of dismantled, partially dismantled, wrecked, junked, or inoperable motor vehicles, campers and trailers left upon private property, in places other than junk yards or other appropriate areas, tends to interfere with the enjoyment of property, reduce the value of private property, and invite plundering and vandalism, create fire hazards, extend and aggravate urban blight, and result in a serious hazard to the public health, safety, comfort, convenience, welfare and happiness of the residents of the City and is hereby declared to be a nuisance. No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle, boat, camper or trailer of any kind which is dismantled, partially dismantled, wrecked, junked, or inoperable for a period of time in excess of fifteen (15) days; provided, this section shall not apply to any vehicle located on private property within an enclosed building, or to any vehicle held in connection with a business enterprise lawfully operated within the City.

(b) The following words and phrases shall have the meanings respectively ascribed to them by this section:

1) Motor vehicle is any vehicle which is designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go carts, golf carts, all-terrain vehicles, boats, campers and trailers.

2) Camper is any motor vehicle with facilities for sleeping and/or cooking while camping.

3) Trailer is an unpowered motor vehicle towed by another.

4) Boat is a small vessel propelled on water by oars, sails, or an engine

5) Junked motor vehicle is any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates, or is in and the condition of which is wrecked, dismantled, partially dismantled, inoperable, not towable, not drivable, abandoned or discarded.

6) Inoperable motor vehicle shall mean a motor vehicle which cannot be started and driven or towed legally upon the roadway.

(c) (1) Whenever any owner or occupant of real property permits a nuisance to exist, such owner and any occupant shall be notified of the existence of such nuisance by the City, and if the nuisance is not abated within fifteen (15) days from the service of the notice, the owner or occupant shall be guilty of creating a nuisance. The notice may be served by personally handing a copy thereof to each owner, or the owner's duly authorized agent, and to the occupant; or by leaving said notice at the usual place of residence, or in the event the owner is a nonresident of the City and his residence is known, notice may be served upon him by certified mail. Service of notice by certified mail shall be deemed complete when the notice is delivered to the owner by the United States mail.

(2) Upon failure of the owner or occupant to so abate the nuisance within fifteen (15) days of notice being given, in addition to or in lieu of filing charges for violation of this
Chapter, the City may cause any junked motor vehicle to be towed from the property, at the expense of the owner of said motor vehicle. The City shall make a reasonable effort to contact the owner of the towed vehicle by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in if the owner is unknown; or by contacting the Director of Motor Vehicles, if the vehicle is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lien holder or mortgagor. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lien holder or mortgagor, if known and does not claim the vehicle within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the vehicle may be sold. Any proceeds from the sale of the vehicle less any expenses incurred by the Municipality in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

(Ord. No. 3997, 75-258, 1902)
ORDINANCE 5-902

Storage of Dismantled, wrecked, Junked and Inoperable Motor Vehicles as Nuisance.
Ordinance 5-902 that deals with Junk and Abandon vehicles has some flaws in it that hinder Code Enforcement and Law Enforcement to apply the ordinance.
Questions?
Ordinance _________

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING THE MUNICIPAL CODE OF THE CITY OF FREMONT, NEBRASKA, ORDINANCE NO. 5-902; AMENDING VARIOUS DEFINITIONS, REMOVING AND ADDING LANGUAGE TO ASSIST IN THE UNDERSTANDING AND ENFORCEMENT OF SUCH ORDINANCE: PROVIDING FOR AN EFFECTIVE DATE OF SUCH AMENDMENTS; AND PROVIDING FOR PUBLICATION IN PAMPHLET FORM.

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

SECTION I. CHAPTER 5. ARTICLE 9 is hereby amended to read as follows:

Sec. 5-902. - Storage of dismantled, wrecked, junked and inoperable motor vehicles as nuisance.

(a) It is expressly found and determined that the storage or accumulation of dismantled, partially dismantled, wrecked, junked, or inoperable motor vehicles, campers and trailers left upon private property, in places other than junk yards or other appropriate areas, tends to interfere with the enjoyment of property, reduce the value of private property, and invite plundering and vandalism, create fire hazards, extend and aggravate urban blight, and result in a serious hazard to the public health, safety, comfort, convenience, welfare and happiness of the residents of the City and is hereby declared to be a nuisance. No person shall park, store, leave, or permit the parking, storing or leaving of any motor vehicle, motor boat, camper or trailer of any kind which is dismantled, partially dismantled, wrecked, junked, or inoperable for a period of time in excess of fifteen (15) days; provided, this section shall not apply to any vehicle located on private property within an enclosed building, or to any vehicle held in connection with a business enterprise lawfully operated within the City.

(b) The following words and phrases shall have the meanings respectively ascribed to them by this section:

1) Motor vehicle is any vehicle which is designed to travel along the ground and shall include, but not be limited to automobiles, buses, motor bikes, motorcycles, motor scooters, trucks, tractors, go carts, golf carts, all-terrain vehicles, boats, campers and trailers.

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5) Junked motor vehicle is any motor vehicle which does not have lawfully affixed thereto an unexpired license plate or plates, or is in the condition of which is wrecked, dismantled, partially dismantled, inoperable, not towable, not drivable, abandoned or discarded.
6) Inoperable motor vehicle shall mean a motor vehicle which cannot be started and driven or towed legally upon the roadway.

(c) 1) Whenever any owner or occupant of real property permits a nuisance to exist, such owner and any occupant shall be notified of the existence of such nuisance by the City, and if the nuisance is not abated within fifteen (15) days from the service of the notice, the owner or occupant shall be guilty of creating a nuisance. The notice may be served by personally handing a copy thereof to each owner, or the owner's duly authorized agent, and to the occupant; or by leaving said notice at the usual place of residence, or in the event the owner is a nonresident of the City and his residence is known, notice may be served upon him by certified mail. Service of notice by certified mail shall be deemed complete when the notice is delivered to the owner by the United States mail.

2) Upon failure of the owner or occupant to so abate the nuisance within fifteen (15) days of notice being given, in addition to or in lieu of filing charges for violation of this Chapter, the City may cause any junked motor vehicle to be towed from the property, at the expense of the owner of said motor vehicle. The City shall make a reasonable effort to contact the owner of the towed vehicle by sending a notice to the registered owner, if known; by sending an inquiry to the county it is registered in if the owner is unknown; or by contacting the Director of Motor Vehicles, if the vehicle is without license plates and the owner is unknown. If notified by the Director of Motor Vehicles that a lien or mortgage exists on said vehicle, notice shall also be sent to the lien holder or mortgagee. Any person claiming such vehicle shall be required to pay the cost of removal and storage of such vehicle. If the owner, lien holder or mortgagee, if known and does not claim the vehicle within five (5) days after the date when the notice was mailed, or upon receiving word from the Director of Motor Vehicles that the owner is unknown, title will immediately vest in the Municipality and the vehicle may be sold. Any proceeds from the sale of the vehicle less any expenses incurred by the Municipality in such removal, storage and sale shall be held without interest in a separate account for the benefit of the owner of such vehicle for a period of two (2) years. If not claimed within such period of time, the proceeds shall then be paid into the General Fund.

(Ord. No. ______7-25-19)

SECTION II. That the originals of all ordinances or parts of ordinances of the City of Fremont and sections of the Fremont Municipal Code amended herein, and all other ordinances in conflict herewith are hereby repealed.

SECTION III. That this ordinance shall be published in pamphlet form and shall take effect and be in force from and after its passage, approval and publication according to law.

PASSED AND APPROVED THIS 30TH DAY OF JULY, 2019

Scott Getzschman, Mayor

ATTEST:

Tyler Ficken, City Clerk
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: David Goedeken, Public Works Director
DATE: July 30, 2019
SUBJECT: Award Contract for Fremont Airport Terminal Aircraft Parking Apron Project


Background: This project is the Terminal Aircraft Parking Apron segment of the larger Terminal Project at the Fremont Airport. The City’s consultant, Burns McDonnell has prepared the plans and specifications and worked closely with the FAA and NDOT in the programming and design process. Staff has worked with the Airport Advisory Board at every step of the process. Bids were received and opened for this project on July 10th, 2019. One bid was received as listed below.

M.E. Collins Contracting Company $1,855,251.20

Staff presented the bid results to the Airport Advisory Board at their July 19th meeting. The Board voted to recommend the City Council approve the award of the Contract to M.E. Collins.

Fiscal Impact: A separate item on the July 30th, 2019 City Council Meeting will approve a Grant from the FAA and NDOT for 90% funding of this project. The City cost share will be 10% of the total project cost.
July 16, 2019

Mr. Dave Goedeken
Director of Public Works
City of Fremont, Nebraska
400 East Military Avenue
Fremont, Nebraska
402-727-2639

Re: Engineer’s Recommendation for the New Aircraft Parking Apron at the Fremont Municipal Airport (FET)
AIP No. 3-31-0029-012
BMcD No. 115366

Dear Mr. Goedeken:

Burns & McDonnell has tabulated and confirmed the bid received for the aforementioned project and dated July 10, 2019. The tabulation summary of the bid is provided in Table A. A detailed tabulation of the bid is enclosed for your review.

<table>
<thead>
<tr>
<th>TABLE A</th>
</tr>
</thead>
<tbody>
<tr>
<td>TABULATION SUMMARY OF BID AND ENGINEER’S ESTIMATE</td>
</tr>
<tr>
<td>BIDDER/ENGINEER</td>
</tr>
<tr>
<td>M.E. Collins Contracting Company, Inc. (Bidder)</td>
</tr>
<tr>
<td>Burns &amp; McDonnell Engineering Company, Inc. (Engineer)</td>
</tr>
</tbody>
</table>

The Bidder provided documentation for the items noted below. A copy of each item is attached herein.

1. Bid Bond (5%)
2. Signed Proposal Form
3. Acknowledgement of Addendums
4. Buy American Certification
5. DBE Utilization Statements with Letters of Intent

There were no mathematical errors on the Bidder’s submitted proposal in regards to unit prices and extensions. Based on the bid tabulation, the apparent low bid for the Base Bid and Base Bid plus Bid Alternate 1 is M.E. Collins Contracting Company, Inc.

The Disadvantaged Business Enterprise, (DBE) goal for this project is 4.85%. The apparent low bidder’s proposed value of DBE participation is 6.03% of the Base Bid or 4.84% of the Base Bid.
Mr. Dave Goedeken  
July 16, 2019  
Page 2

plus Bid Alternate 1. The Bidder did sign the Utilization Statement committing to a minimum of 4.85% DBE utilization on this contract. The Bidder submitted Letters of Intent for each DBE subcontractor. These letters were not signed by the DBE Subcontractors in the submitted bid package. However, the Bidder, without request, emailed signed Letters of Intent to Burns & McDonnell on July 11, 2019.

The City of Fremont declared the Bidder’s bid proposal as irregular at the bid opening. The package was not submitted in a sealed envelope as required by the Project Manual, Part 2 – Instructions to Bidders. However, FAA General Provision 20-09 permits the Owner to waive technicalities if such waiver is in the best interest of the Owner and conforms to local laws pertaining to the letting of construction contracts. There was only one Bidder who proposed on this project.

On June 12, 2019, a telephone interview was conducted with M.E. Collins’ CEO, Mr. Michael Collins. The purpose of the call was to reaffirm the Contractor’s understanding of the project and clarify any outstanding items or concerns of the apparent low bidder. The topics of discussion included the following:

1. DBE verification and utilization confirmation.
2. Prior work history with projects of similar location, scope, and cost. The Contractor confirmed they have performed many projects with the City of Fremont and have had satisfactory history performing aviation projects in the State of Nebraska.
3. Discussion of insurance requirements and confirmation the Contractor can meet the contract amounts and additional named insureds.
4. Confirmation that the Contractor understands Quality Control vs Quality Assurance on the project. Quality Assurance will be procured by the City of Fremont and their resident project representative (RPR) team.
5. Confirmation the Contractor does not have concerns with the calendar day schedule of the project and confirmation the Contractor is anticipating a 2020 construction season.
6. Items of Concerns as Stated by the Contractor: None indicated.

Based on the results of the tabulation of bids, review of the bid documentation, and discussions with the apparent low bidder, Burns & McDonnell recommends the following awards contingent upon available funding. These recommendations are shown in Table B.
Mr. Dave Goedeken  
July 16, 2019  
Page 3  

**TABLE B**  

<table>
<thead>
<tr>
<th>RECOMMENDATION</th>
<th>AWARD COMBINATION</th>
<th>TOTAL CONSTRUCTION COST</th>
<th>CONTRACTOR</th>
</tr>
</thead>
<tbody>
<tr>
<td>Primary</td>
<td>Base Bid Plus Bid Alternate 1</td>
<td>$1,855,251.20</td>
<td>M.E. Collins Contracting Company, Inc.</td>
</tr>
<tr>
<td>Secondary</td>
<td>Base Bid</td>
<td>$1,488,413.00</td>
<td>M.E. Collins Contracting Company, Inc.</td>
</tr>
</tbody>
</table>

I trust this information is sufficient for your purposes. If there are any additional questions or comments regarding this information, please contact me at 816-822-3329.

Sincerely,  

[Signature]  

Thomas Dowse, PE  
Project Manager  

cc: Steve Whitton, Anna Lannin, Veronica Trujillo, Dave Hadel  
Enclosures: Project Bid Tabulation, Single Bidder Analysis, M.E. Collins Bid Documentation, SAMS Search, Bid Opening Attendance Sheet
A Resolution of the City Council of the City of Fremont, Nebraska accepting and awarding the bid to M.E. Collins Contracting Company for the construction of the Terminal Aircraft Parking Apron at the Fremont Airport in the amount of $1,855,251.20

WHEREAS, Written quotes were received from contractors for the Terminal Aircraft Parking Apron at the Fremont Airport

WHEREAS, The City’s Consultant, has reviewed the bid received and recommends that the project be awarded to M.E. Collins Contracting Company, in the amount of $1,855,251.20.

WHEREAS, This action is contingent on concurrence of the FAA and the NDOT.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council accept the recommendation awarding the bid to M.E. Collins Contracting Company for the construction of the Terminal Aircraft Parking Apron at the Fremont Airport in the amount of $1,855,251.20

PASSED AND APPROVED THIS 30th DAY OF July, 2019

___________________________
SCOTT GETZSCHMAN, MAYOR

ATTEST:

___________________________
TYLER FICKEN, CITY CLERK
STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Dave Goedeken, Director of Public Works

DATE: July 30, 2019

SUBJECT: Professional Services Agreement, Amendment No. 1, with Burns McDonnell for Engineering Services in connection with the Construction Inspection of Airport Aircraft Parking Apron Project.


Background: The City entered into the original Engineering Services on March 10th, 2019. The design has been completed and bids have been received for the construction of this Project. During the design and review phase of the project there were changes to the scope of the project from those initially programmed in the original Engineering Services Agreement. These changes in scope increased footprint project, and the working days of the project increased by approximately 60%.

This Amendment increases the total cost of the agreement from the original amount of 431,230.00 to $577,330.00, a net increase of $146,100.00. The Amended Agreement and Scope of Work have been approved by the NDA and FAA.

The City followed FAA guidelines in the negotiations phase of this work and Amendment No. 1 has been approved by the FAA.

Fiscal Impact: The fee for services is $577,330.00. The net increase in total contract amount is $146,100.00. 90% of the cost of work will be paid with NDOT Grant Allocation Funds for the Fremont Airport, the City’s cost share is 10%.
AMENDMENT TO PROFESSIONAL SERVICES AGREEMENT
ENGINEER-OWNER AGREEMENT
(Doc. No. AE-6)

AMENDMENT No. 1          Date: 07/19/2019

THIS AMENDMENT modifies the Agreement dated March 20, 2019 made by and between Burns & McDonnell Engineering Company, Inc., (hereinafter called ENGINEER), and the City of Fremont, Nebraska (hereinafter called OWNER) for the following Project: New Aircraft Parking Apron (Phase 1). For good and valuable consideration, the sufficiency of which is acknowledged, the parties agree to make the following changes to their Agreement.

1. The parties agree that the ENGINEER’s Scope of Services is amended as follows:
   A. Section 2.7 Construction Phase Services (Office) is hereby replaced with Attachment 1.
   B. Section 2.8 Construction Phase Services (Field) is hereby replaced with Attachment 2.

2. The following adjustments are made to the ENGINEER’s compensation:
   A. Table A of Section 6.1 Summary of Compensation is amended to:

<table>
<thead>
<tr>
<th>TABLE A : SUMMARY OF COMPENSATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation Type</td>
</tr>
<tr>
<td>Item</td>
</tr>
<tr>
<td>1.0 Preliminary Design (Section 2.4), Design (Section 2.5), &amp; Bidding &amp; Construction Award Phases (Section 2.6)</td>
</tr>
<tr>
<td>2.0 Construction Phase Services (Office (Section 2.7) &amp; Field (Section 2.8))</td>
</tr>
<tr>
<td>3.0 Construction Phase Services (Closeout) (Section 2.9)</td>
</tr>
<tr>
<td>Total by Compensation Type</td>
</tr>
<tr>
<td>Total</td>
</tr>
</tbody>
</table>

3. The time for completion of ENGINEER’s Services is adjusted as follows:
   None

4. Other changes to the Agreement, if any, are stated below:
   A. Section 2.1.3.8 is amended to: Construction duration is estimated to be 155 Calendar Days and consist of two phases. The costs associated with Construction Phase Services (Office) and Construction Phase Services (Field) are subject to revision based on the Contractor’s performance of the Project.

5. The terms of this AMENDMENT supersede any contrary terms of the Agreement. This AMENDMENT will be deemed a part of, and be subject to, all other terms and conditions of the Agreement. Except as modified above, the Agreement will remain in full force and effect.
IN WITNESS WHEREOF, the parties have executed this AMENDMENT the day and year first written above.

THIS AGREEMENT CONTAINS A BINDING ARBITRATION PROVISION, WHICH MAY BE ENFORCED BY THE PARTIES.

OWNER: City of Fremont, Nebraska

By: ____________________________
Name: __________________________
Title: __________________________

ENGINEER: Burns & McDonnell Engineering Company, Inc.

By: ____________________________
Name: David G. Hadel
Title: Manager, Aviation Services
2.7 Construction Phase Services (Office)

Construction duration is estimated at 155 Calendar Days for the Contractor’s performance time during the 2020 Calendar Year. The ENGINEER has assumed the successful Contractor will work Monday thru Friday and every other Saturday during that timeframe for approximately 121 actual working days.

This phase will include providing construction phase services for the construction of the Project including the following activities:

2.7.1 Consult with and advise OWNER and act as OWNER’S consultant.

2.7.2 Develop Issued for Construction (IFC) Documents and provide five copies of documents to the Contractor.

2.7.3 Attend and conduct, at the Airport, one preconstruction meeting with the Contractor, OWNER and FAA. This meeting will be attended by the ENGINEER’S Project Manager, and Construction Services Team. The preconstruction conference will comply with FAA Central Region, AIP Sponsor Guide, Section 1040. Meeting minutes will be prepared by the ENGINEER and distributed to the point of contact for each attending entity.

2.7.4 Develop Contractor’s construction contracts and facilitate execution of contracts with the OWNER and NDOT/FAA.

2.7.5 Develop a Construction Observation Program, (COP). This document will outline the general responsibilities of the OWNER, FAA, ENGINEER and Construction Contractor. The document will be developed in accordance to FAA’s Section 1030 – Construction Observation Program. The COP will include the following items:

2.7.5.1 Name of the person representing the OWNER who has overall responsibility of contract administration for the Project and the authority to take necessary actions to comply with the contract.

2.7.5.2 Names of testing laboratories and a certificate of accreditation, indicating proficiency in specific test standards.

2.7.5.3 Names of other engineering firms with quality assurance responsibilities for the Project including a description of the services to be provided by each firm.

2.7.5.4 Listing of qualifications for the ENGINEER’S management team including; Project Manager, site observers, laboratory personnel, and testing personnel.

2.7.5.5 Listing of tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.

2.7.5.6 Procedures for confirming that:

2.7.5.6 (a) Tests are taken in accordance with the approved construction observation program.

2.7.5.6 (b) Tests are documented properly.

2.7.5.6 (c) Corrective actions/retesting are taken for failed tests.

2.7.5.6 (d) Mix designs meet project specifications and ENGINEER’S review is properly documented.

2.7.5.6 (e) Quality and quantity of materials meet project requirements.
2.7.6 Perform shop drawing reviews, material certifications and "Buy American" verifications as received from the Contractor. The ENGINEER estimates 22 original shop drawings will be reviewed. It is assumed 40% of the initial submittals will need to be resubmitted by the Contractor and re-reviewed by the ENGINEER. It is assumed 2-hours per review and 1-hr per re-review (includes administrative processing). As a result, an amount not-to-exceed 54 hours are allotted for this effort.

2.7.7 Respond to field issues throughout the duration of the construction (155 Calendar Days). It is assumed this effort will require 6 hours per week for a not-to-exceed total of 135 hours.

2.7.8 Prepare and procure construction services contracts for material testing laboratory.

2.7.9 Review and provide recommendations for monthly and final Contractor pay estimates and submit weekly progress reports. Assumed to be five pay estimates at 1.5-hour each and 22 progress reports at 1-hour each for a not-to-exceed total of 33 hours.

2.7.10 Issue instructions of OWNER to Contractor(s); prepare routine Change Orders as requested by Owner; act as interpreter of the terms and conditions of the Contract Documents and observe of the performance thereunder by the parties thereto, and make decisions on claims of OWNER and Contractor(s) relating to the execution and progress of the Work and other matters and questions related thereto; but ENGINEER shall not be liable for the results of any such interpretations or decisions rendered by ENGINEER in good faith. This effort assumes 2 of these efforts at 8 hours per effort for a not-to-exceed total of 16 hours.

2.7.11 Coordinate and review weekly test reports. Assumed to be 1-hour per week for 22 weeks for a not-to-exceed total of 22 hours.

2.7.12 Conduct weekly progress meetings via conference call and prepare meeting minutes. This effort is assumed to be 2-hours per week for 22-weeks for a not-to-exceed total of 44 hours.

2.7.13 ENGINEER will provide management services for its design during construction of the Project. This item consists of cooperating with the OWNER, Contractor, and the ENGINEER’s Resident Project Representative. This effort is assumed to require 3 hours per week for a project duration of 22 weeks for a not to exceed total of 66 hours.

2.7.14 Make visits to the Site at intervals appropriate to the stages of construction to consult with and advise ENGINEER'S Resident Project Representative, and observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in accordance with the Contract Documents. ENGINEER shall not be required to make exhaustive or continuous inspections to check the quality or quantity of the Work nor shall the ENGINEER be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor’s failure to perform construction work in accordance with the Contract Documents. The planned site visits are as follows:

2.7.14.1 Trip No. 1: Observe the earthwork/ soil-stabilization operations. The duration of this trip (including travel, time on site, preparation, and reporting) will be 14 hours.

2.7.14.2 Trip No. 2: Observe the initial subbase rock installation operations. The duration of this trip (including travel, time on site, preparation, and reporting) will be 14 hours.

2.7.14.3 Trip No. 3: Observe the initial aggregate base rock installation operations. The duration of this trip (including travel, time on site, preparation, and reporting) will be 14 hours.

2.7.14.4 Trip No. 4: Observe the initial paving operations. The duration of this trip (including travel, lodging, time on site, preparation, and reporting) will be 16 hours.
2.7.14.5 Trip No. 5: Pre-final walkthrough trip to prepare a final punch list. The duration of this trip (including travel, time on site, preparation, and reporting) will be 14 hours.

2.7.14.6 Trip No. 6: Attend final walk through with the OWNER and FAA. The duration of this trip (including travel, time on site, preparation, and reporting) will be 14 hours.
2.8 Construction Phase Services (Field)
Construction duration is estimated to be 155 Calendar Days and consist of two phases during the 2020 Calendar Year.

The furnishing of such resident project representative shall not make ENGINEER responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor(s') failure to perform the construction work in accordance with the Contract Documents.

This phase will include providing construction phase services for the construction of the Project including the following activities:

2.8.1 Provide a Resident Representative on site for 121 working days, Monday thru Friday and every other Saturday, for 10 hours per day or for a not-to-exceed duration of 1210 hours. The Resident Representative will be responsible for the following reporting:

2.8.1.1 Weekly Reports: Testing summaries, weather reports, DBE reports, labor and equipment reports, and weekly progress photos. The weekly reports will be submitted on a weekly basis to the OWNER and FAA.

2.8.1.2 Final Report: At the conclusion of the Project, the ENGINEER shall submit a final test and quality control report documenting the results of tests performed. Those tests that failed or did not meet the applicable test standard shall be highlighted and corrective action/retesting noted. The reports shall include the pay reductions applied and justification of accepting any out-of-tolerance materials.

2.8.1.3 Wage Rate Interviews and DBE Compliance Reports: These reports will be conducted on a random basis as work progresses throughout the duration of the Project.

2.8.2 Keep an ongoing record set of drawings based on the Contractor’s onsite red lined drawings.

2.8.3 Attend the preconstruction meeting and weekly construction progress meetings.

2.8.4 Prepare a final punch list for the Project.

2.8.5 ENGINEER’S Resident Representative will observe the progress and quality of the executed Work, and to determine, in general, if the Project is proceeding in reasonably close conformance with the Contract Documents. ENGINEER’S Resident Representative shall not be required to make exhaustive or continuous inspections to check the quality or quantity of the Work nor shall the ENGINEER’s Resident Representative be responsible for construction means, methods, techniques, sequences, or procedures, or for safety precautions or programs, or for Contractor’s failure to perform construction work in accordance with the Contract Documents.
<table>
<thead>
<tr>
<th>TITLE</th>
<th>HOURS</th>
<th>RATE/HR</th>
<th>TOT (Office)</th>
<th>TOT (Field)</th>
<th>TOT (Contract)</th>
</tr>
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<tr>
<td>Principal</td>
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<td>$75.00</td>
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<td>Ast. Civil Eng.</td>
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<td>Sr. Technician</td>
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<tr>
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<td>Geotechnical Engineer</td>
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<tr>
<td>Clerical</td>
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<td>$23.00</td>
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</table>

Total Direct Salary Costs: $31,783.50, $54,296.00, -

2 LABOR & GENERAL ADMINISTRATIVE OVERHEAD

a. Percentage of Direct Salary Cost: (Office Rate) 221.95%  $70,543.48
b. Percentage of Direct Salary Cost: (Field Rate) 221.95%  $120,509.97

Subtotal: $102,326.98, $174,805.97, -

4 PROFIT/FIXED FEE: (Not to Exceed)

Percentage: 10.00%  $10,232.70, $17,480.60, -

5 Subtotal: $112,559.68, $192,286.57, -

6 OUT OF POCKET EXPENSES

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<thead>
<tr>
<th>OFFICE &amp; FIELD</th>
<th>No. of Units</th>
<th>Units</th>
<th>Cost/Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travel: Mileage</td>
<td>3,710.00</td>
<td>Miles</td>
<td>$0.580</td>
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<tr>
<td>Food: Per Diem</td>
<td>8.00</td>
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<td>Lodging: Per Diem (incl. taxes)</td>
<td>1.00</td>
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<td>Printing, Shipping &amp; Misc.</td>
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<tr>
<td>Subtotal</td>
<td>$4,340.33</td>
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<th>FIELD</th>
<th>No. of Units</th>
<th>Units</th>
<th>Cost/Unit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Travel: Mileage</td>
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<td>Miles</td>
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<td>Food: Per Diem</td>
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<td>154.00</td>
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Summary of Out of Pocket Expenses: $4,340.33, $27,688.43, -

7 SUBCONSULTANTS

Benesch - Construction Materials Testing  $- - - $45,000.00

Subtotal  $- - - $45,000.00

8 MAXIMUM TOTAL FEE

Subtotal  $116,900.00, $219,975.00, $45,000.00

TOTAL (Not to Exceed)  $381,875.00
## SUMMARY EXHIBIT 2
### DERIVATION OF CONSULTANT PROJECT COSTS

**SUMMARY OF COSTS**
New Aircraft Parking Apron
Construction Phase Services (155 Calendar Day Contract: Base Plus Bid Alt 1)
Fremont Municipal Airport

**BASIC & SPECIAL SERVICES**

**July 2, 2019**

### BASIC & SPECIAL SERVICES

<table>
<thead>
<tr>
<th></th>
<th>Principal</th>
<th>Project Manager</th>
<th>Sr. Civil Eng.</th>
<th>Staff Civil Eng.</th>
<th>Asst. Civil Eng.</th>
<th>Sr. Electrical Eng.</th>
<th>Staff Electrical Eng.</th>
<th>Sr. Technician</th>
<th>Staff Technician</th>
<th>Resident Observer</th>
<th>Geotechnical Engineer</th>
<th>Clerical</th>
<th>Other Costs</th>
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<tbody>
<tr>
<td><strong>Gross Hourly Rates</strong></td>
<td>$265.61</td>
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<td>$192.83</td>
<td>$203.83</td>
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<td><strong>BASIC SERVICES</strong></td>
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<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>1. CONSTRUCTION SERVICES (OFFICE)</td>
<td>2.0</td>
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<td>0.0</td>
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<td><strong>Total</strong></td>
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<td>3. CONSTRUCTION CLOSEOUT</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$381,875.00</td>
</tr>
<tr>
<td><strong>SPECIAL SERVICES</strong></td>
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<td></td>
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<td>1. CONSTRUCTION MATERIALS TESTING (BENESCH)</td>
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</tr>
<tr>
<td><strong>Total</strong></td>
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<td>$ -</td>
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<tr>
<td><strong>PART B SUBTOTAL</strong></td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$45,000.00</td>
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<tr>
<td><strong>PART A &amp; PART B TOTAL</strong></td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
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<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$ -</td>
<td>$381,875.00</td>
</tr>
</tbody>
</table>

(1) Mileage, Motel & Meals  
(2) Equipment, Materials & Supplies  
(3) Computer Services  
(4) Vendor Services  
(5) Miscellaneous Items  
Note: Subconsultant Costs (as used) are identified as a Special Services Task.
RESOLUTION NO. 2019-156

A Resolution of the City Council of the City of Fremont, Nebraska to authorize to approval of Amendment No. 1 to the Professional Services Agreement for Engineering Services with Burns McDonnell in connection with the Aircraft Parking Apron at the Fremont Airport.

WHEREAS, the City of Fremont has entered into the original Engineering Services agreement with Burns McDonnell for the amount of $431,230.00

WHEREAS, Amendment No. 1 increases the total amount of the Engineering Services Agreement to $577,330.00

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of the City of Fremont, Nebraska approve the Professional Services Agreement Amendment No. 1 for Engineering Services in connection with the New Aircraft Parking Apron at the Fremont Airport.

PASSED AND APPROVED THIS 30th DAY OF July, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken
City Clerk
REGISTERED REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Dave Goedeken, Director of Public Works

DATE: July 30, 2019

SUBJECT: Approve Grant Agreement with Federal Aviation Administration (FAA) for the construction of the Fremont Airport Aircraft Parking Apron.

Approve Resolution 2019-157 to approve the Grant Agreement with the FAA for the construction of the Fremont Airport Aircraft Parking Apron.

Background: The City has been programming and designing a new Aircraft Parking Apron at the Fremont Airport. This is part of the larger Terminal Project. Staff has worked closely with the Airport Advisory Board, the Design Consultant, the FAA, and the NDOT to bring this project to conclusion.

Bids have been received for the construction of the Apron, and are on the July 30, 2019 City Council Agenda for award of contract. A Scope of Work and Agreement for Construction Inspection is also on the July 30th, 2019 City Council Agenda for Approval.

The Grant is for Authorization of Federal Funds for Design, Construction, and Inspection of the Final Terminal Aircraft Parking Apron.

Fiscal Impact: The total project cost including Construction, NDOT oversite and Construction Inspection is $2,439,444.00. The Federal Share is $2,195,500.00 (90%), the Local Share is $243,944.00 (10%)
GRANT AGREEMENT
PART I—OFFER

Date of Offer

Airport/Planning Area
Fremont Municipal

AIP Grant Number
3-31-0029-012-2019

DUNS Number
076 982 131

TO: City of Fremont, Nebraska (FET)
(herin called the “Sponsor”)

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the “FAA”)

WHEREAS, the Sponsor has submitted to the FAA a Project Application dated June 24, 2019, for a grant of Federal funds for a project at or associated with the Fremont Municipal Airport, which is included as part of this Grant Agreement; and

WHEREAS, the FAA has approved a project for the Fremont Municipal Airport (herein called the “Project”) consisting of the following:

Expand Apron (7-inch Concrete [9,300 Square Yards])

which is more fully described in the Project Application.

NOW THEREFORE, According to the applicable provisions of the former Federal Aviation Act of 1958, as amended and recodified, 49 U.S.C. § 40101, et seq., and the former Airport and Airway Improvement Act of 1982 (AAIA), as amended and recodified, 49 U.S.C. § 47101, et seq., (herein the AAIA grant statute is referred to as “the Act”), the representations contained in the Project Application, and in consideration of (a) the Sponsor’s adoption and ratification of the Grant Assurances dated March 2014, as applied and interpreted consistent with the FAA Reauthorization Act of 2018 (see 2018 FAA Reauthorization grant condition.), (b) and the Sponsor’s acceptance of this Offer; and, (c) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the Grant Assurances and conditions as herein provided.

THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay Ninety (90%) percent of the allowable costs incurred accomplishing the Project as the United States share of the Project.
This Offer is made on and **SUBJECT TO THE FOLLOWING TERMS AND CONDITIONS:**

**CONDITIONS**

1. **Maximum Obligation.** The maximum obligation of the United States payable under this Offer is **$2,045,500.00.**

   The following amounts represent a breakdown of the maximum obligation for the purpose of establishing allowable amounts for any future grant amendment, which may increase the foregoing maximum obligation of the United States under the provisions of 49 U.S.C. § 47108(b):
   - $0 for planning
   - **$2,045,500.00** for airport development or noise program implementation; and,
   - $0 for land acquisition.

2. **Multi-Year Grant.** This project is part of a multi-year grant, which is more fully described in the Special Conditions. The total United States share of the project is **$2,195,500,** and the project is planned to be funded in Fiscal Years **FY2019-FY2020.** For the fiscal years in which this project is being funded, the FAA will establish that fiscal year’s maximum obligation in a letter to the Sponsor. When the FAA can calculate the funding and incur the obligation, the FAA will issue this letter to the Sponsor. Funding which will be subject to the restriction on the use of such apportionments imposed on FAA by existing and future Appropriations Acts. This commitment does not in itself obligate, preclude, or restrict the FAA in the use of any funds made available for discretionary use to further aid the Sponsor in meeting the cost of this project.

3. **Period of Performance.** The period of performance begins on the date the Sponsor formally accepts this agreement. Unless explicitly stated otherwise in an amendment from the FAA, the end date of the period of performance is 4 years (1,460 calendar days) from the date of formal grant acceptance by the Sponsor.

   The Sponsor may only charge allowable costs for obligations incurred prior to the end date of the period of performance (2 CFR §200.309). Unless the FAA authorizes a written extension, the sponsor must submit all project closeout documentation and liquidate (pay off) all obligations incurred under this award no later than 90 calendar days after the end date of the period of performance (2 CFR §200.343).

   The period of performance end date does not relieve or reduce Sponsor obligations and assurances that extend beyond the closeout of a grant agreement.

4. **Ineligible or Unallowable Costs.** The Sponsor must not include any costs in the project that the FAA has determined to be ineligible or unallowable.

5. **Indirect Costs - Sponsor.** Sponsor may charge indirect costs under this award by applying the indirect cost rate identified in the project application as accepted by the FAA, to allowable costs for Sponsor direct salaries and wages.

6. **Determining the Final Federal Share of Costs.** The United States’ share of allowable project costs will be made in accordance with the regulations, policies, and procedures of the Secretary. Final determination of the United States' share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.

7. **Completing the Project Without Delay and in Conformance with Requirements.** The Sponsor must carry out and complete the project without undue delays and in accordance with this agreement, and the regulations, policies, and procedures of the Secretary. Per 2 CFR § 200.308, the Sponsor agrees to report to the FAA any disengagement from performing the project that exceeds three months. The report must include a reason for the project stoppage. The Sponsor also agrees to comply with the assurances which are part of this agreement.
8. **Amendments or Withdrawals before Grant Acceptance.** The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the Sponsor.

9. **Offer Expiration Date.** This offer will expire and the United States will not be obligated to pay any part of the costs of the project unless this offer has been accepted by the Sponsor on or before **August 19, 2019**, or such subsequent date as may be prescribed in writing by the FAA.

10. **Improper Use of Federal Funds.** The Sponsor must take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner for any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term “Federal funds” means funds however used or dispersed by the Sponsor, that were originally paid pursuant to this or any other Federal grant agreement. The Sponsor must obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. The Sponsor must return the recovered Federal share, including funds recovered by settlement, order, or judgment, to the Secretary. The Sponsor must furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the Sponsor, in court or otherwise, involving the recovery of such Federal share require advance approval by the Secretary.

11. **United States Not Liable for Damage or Injury.** The United States is not responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.

12. **System for Award Management (SAM) Registration And Universal Identifier.**

   A. Requirement for System for Award Management (SAM): Unless the Sponsor is exempted from this requirement under 2 CFR 25.110, the Sponsor must maintain the currency of its information in the SAM until the Sponsor submits the final financial report required under this grant, or receives the final payment, whichever is later. This requires that the Sponsor review and update the information at least annually after the initial registration and more frequently if required by changes in information or another award term. Additional information about registration procedures may be found at the SAM website (currently at [http://www.sam.gov](http://www.sam.gov)).

   B. Data Universal Numbering System: DUNS number means the nine-digit number established and assigned by Dun and Bradstreet, Inc. (D & B) to uniquely identify business entities. A DUNS number may be obtained from D & B by telephone (currently 866–705–5771) or on the web (currently at [http://fedgov.dnb.com/webform](http://fedgov.dnb.com/webform)).

13. **Electronic Grant Payment(s).** Unless otherwise directed by the FAA, the Sponsor must make each payment request under this agreement electronically via the Delphi eInvoicing System for Department of Transportation (DOT) Financial Assistance Awardees.

14. **Informal Letter Amendment of AIP Projects.** If, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by $25,000 or five percent (5%), whichever is greater, the FAA can issue a letter amendment to the Sponsor unilaterally reducing the maximum obligation.

   The FAA can also issue a letter to the Sponsor increasing the maximum obligation if there is an overrun in the total actual eligible and allowable project costs to cover the amount of the overrun provided it will not exceed the statutory limitations for grant amendments. The FAA’s authority to increase the maximum obligation does not apply to the “planning” component of condition No. 1.

   The FAA can also issue an informal letter amendment that modifies the grant description to correct administrative errors or to delete work items if the FAA finds it advantageous and in the best interests of
the United States.

An informal letter amendment has the same force and effect as a formal grant amendment.

15. **Air and Water Quality.** The Sponsor is required to comply with all applicable air and water quality standards for all projects in this grant. If the Sponsor fails to comply with this requirement, the FAA may suspend, cancel, or terminate this agreement.

16. **Financial Reporting and Payment Requirements.** The Sponsor will comply with all federal financial reporting requirements and payment requirements, including submittal of timely and accurate reports.

17. **Buy American.** Unless otherwise approved in advance by the FAA, the Sponsor will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for which funds are provided under this grant. The Sponsor will include a provision implementing Buy American in every contract.

18. **Maximum Obligation Increase For Nonprimary Airports.** In accordance with 49 U.S.C. § 47108(b), as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

   A. May not be increased for a planning project;

   B. May be increased by not more than 15 percent for development projects;

   C. May be increased by not more than 15 percent or by an amount not to exceed 25 percent of the total increase in allowable costs attributable to the acquisition of land or interests in land, whichever is greater, based on current credible appraisals or a court award in a condemnation proceeding.

19. **Audits for Public Sponsors.** The Sponsor must provide for a Single Audit or program specific audit in accordance with 2 CFR part 200. The Sponsor must submit the audit reporting package to the Federal Audit Clearinghouse on the Federal Audit Clearinghouse’s Internet Data Entry System at [http://harvester.census.gov/facweb/](http://harvester.census.gov/facweb/). Provide one copy of the completed audit to the FAA if requested.

20. **Suspension or Debarment.** When entering into a “covered transaction” as defined by 2 CFR §180.200, the Sponsor must:

   A. Verify the non-federal entity is eligible to participate in this Federal program by:

      1. Checking the excluded parties list system (EPLS) as maintained within the System for Award Management (SAM) to determine if the non-federal entity is excluded or disqualified; or

      2. Collecting a certification statement from the non-federal entity attesting they are not excluded or disqualified from participating; or

      3. Adding a clause or condition to covered transactions attesting individual or firm are not excluded or disqualified from participating.

   B. Require prime contractors to comply with 2 CFR §180.330 when entering into lower-tier transactions (e.g. Sub-contracts).

   C. Immediately disclose to the FAA whenever the Sponsor (1) learns they have entered into a covered transaction with an ineligible entity or (2) suspends or debars a contractor, person, or entity.

21. **Ban on Texting While Driving.**

   A. In accordance with Executive Order 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, and DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the Sponsor is encouraged to:
1. Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving when performing any work for, or on behalf of, the Federal government, including work relating to a grant or subgrant.

2. Conduct workplace safety initiatives in a manner commensurate with the size of the business, such as:
   a. Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and
   b. Education, awareness, and other outreach to employees about the safety risks associated with texting while driving.

B. The Sponsor must insert the substance of this clause on banning texting while driving in all subgrants, contracts and subcontracts.

22. AIP Funded Work Included in a PFC Application.

Within 90 days of acceptance of this award, Sponsor must submit to the Federal Aviation Administration an amendment to any approved Passenger Facility Charge (PFC) application that contains an approved PFC project also covered under this grant award. The airport sponsor may not make any expenditure under this award until project work addressed under this award is removed from an approved PFC application by amendment.

23. Exhibit "A" Property Map. The Exhibit “A” Property Map dated July 09, 2009, is incorporated herein by reference or is submitted with the project application and made part of this grant agreement.

24. Employee Protection from Reprisal.
   A. Prohibition of Reprisals –
      1. In accordance with 41 U.S.C. § 4712, an employee of a grantee or subgrantee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing to a person or body described in sub-paragraph (A)(2), information that the employee reasonably believes is evidence of:
         i. Gross mismanagement of a Federal grant;
         ii. Gross waste of Federal funds;
         iii. An abuse of authority relating to implementation or use of Federal funds;
         iv. A substantial and specific danger to public health or safety; or
         v. A violation of law, rule, or regulation related to a Federal grant.
   2. Persons and bodies covered: The persons and bodies to which a disclosure by an employee is covered are as follows:
      i. A member of Congress or a representative of a committee of Congress;
      ii. An Inspector General;
      iii. The Government Accountability Office;
      iv. A Federal office or employee responsible for oversight of a grant program;
      v. A court or grand jury;
      vi. A management office of the grantee or subgrantee; or
      vii. A Federal or State regulatory enforcement agency.
   3. Submission of Complaint – A person who believes that they have been subjected to a reprisal prohibited by paragraph A of this grant term may submit a complaint regarding the reprisal to the Office of Inspector General (OIG) for the U.S. Department of Transportation.
   4. Time Limitation for Submittal of a Complaint - A complaint may not be brought under this subsection more than three years after the date on which the alleged reprisal took place.
5. Required Actions of the Inspector General – Actions, limitations and exceptions of the Inspector General’s office are established under 41 U.S.C. § 4712(b)

6. Assumption of Rights to Civil Remedy - Upon receipt of an explanation of a decision not to conduct or continue an investigation by the Office of Inspector General, the person submitting a complaint assumes the right to a civil remedy under 41 U.S.C. § 4712(c).

25. **2018 FAA Reauthorization.** This grant agreement is subject to the terms and conditions contained herein including the terms known as the Grant Assurances as they were published in the Federal Register on April 3, 2014. On October 5, 2018, the FAA Reauthorization Act of 2018 made certain amendments to 49 U.S.C. chapter 471. The Reauthorization Act will require FAA to make certain amendments to the assurances in order to best achieve consistency with the statute. Federal law requires that FAA publish any amendments to the assurances in the Federal Register along with an opportunity to comment. In order not to delay the offer of this grant, the existing assurances are attached herein; however, FAA shall interpret and apply these assurances consistent with the Reauthorization Act. To the extent there is a conflict between the assurances and Federal statutes, the statutes shall apply. The full text of the Act is at https://www.congress.gov/bill/115th-congress/house-bill/302/text.

26. **Multi-Year Grants - Letter of Agreement.** The maximum obligation for the current fiscal year stated in Condition 1 of this grant agreement may be increased by the additional amounts, if any, added by the FAA letter to the Sponsor discussed in the subparagraph below, but may not exceed the United States’ share of the total estimated cost of completion, except as provided in 49 USC § 47108(b).

Under 49 USC § 47108, as amended, and at the Sponsor’s request, the FAA commits the United States to obligate an additional amount to this project for FY-2020 pursuant to 49 USC § 47114 and subject to the restrictions on the use of such apportionments imposed on FAA by current or future statute or regulation.

It is further understood by the Sponsor and the FAA that this commitment does not in itself obligate, preclude, nor restrict the FAA in the use of any funds made available for discretionary use to further aid the Sponsor in meeting the cost of this project under the terms of this grant agreement and limitations of the law.

The exact amount of this commitment will be established for each fiscal year by the FAA in a letter to the Sponsor stating the current maximum obligation for this project. This letter will be issued to the Sponsor by the FAA when such computation and obligation can be made in FY-2020. The Sponsor and the FAA agree that upon its issuance, this letter will be considered incorporated by reference into this grant agreement.

27. **Airport Layout Plan.** The Sponsor understands and agrees to update the Airport Layout Plan to reflect the construction to standards satisfactory to the FAA and submit it in final form to the FAA. It is further mutually agreed that the reasonable cost of developing said Airport Layout Plan Map is an allowable cost within the scope of this project.

28. **Lighting.** The Sponsor must operate and maintain the lighting system during the useful life of the system in accordance with applicable FAA standards.

29. **Pavement Maintenance Management Program.** The Sponsor agrees that it will implement an effective airport pavement maintenance management program as required by Grant Assurance Pavement Preventive Management. The Sponsor agrees that it will use the program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. The Sponsor further agrees that the program will:

A. Follow FAA Advisory Circular 150/5380-6, “Guidelines and Procedures for Maintenance of Airport Pavements,” for specific guidelines and procedures for maintaining airport pavements, establishing an
effective maintenance program, specific types of distress and its probable cause, inspection guidelines, and recommended methods of repair;

B. Detail the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed;

C. Include a Pavement Inventory, Inspection Schedule, Record Keeping, Information Retrieval, and Reference, meeting the following requirements:

1. Pavement Inventory. The following must be depicted in an appropriate form and level of detail:
   a. Location of all runways, taxiways, and aprons;
   b. Dimensions;
   c. Type of pavement; and,
   d. Year of construction or most recent major rehabilitation.

2. Inspection Schedule.
   a. Detailed Inspection. A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in the Advisory Circular 150/5380-6, the frequency of inspections may be extended to three years.
   b. Drive-By Inspection. A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition. For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

3. Record Keeping. Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The type of distress, location, and remedial action, scheduled or performed, must be documented. The minimum information is:
   a. Inspection date;
   b. Location;
   c. Distress types; and
   d. Maintenance scheduled or performed.

4. Information Retrieval System. The Sponsor must be able to retrieve the information and records produced by the pavement survey to provide a report to the FAA as may be required.

30. Project Which Contains Paving Work in Excess of $500,000. The Sponsor agrees to:

A. Furnish a construction management program to the FAA prior to the start of construction which details the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program must include as a minimum:

1. The name of the person representing the Sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract;

2. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of the services to be provided;
3. Procedures for determining that the testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation referenced in the contract specifications (D 3666, C 1077);

4. Qualifications of engineering supervision and construction inspection personnel;

5. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test; and

6. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.

B. Submit at completion of the project, a final test and quality assurance report documenting the summary results of all tests performed; highlighting those tests that indicated failure or that did not meet the applicable test standard. The report must include the pay reductions applied and the reasons for accepting any out-of-tolerance material. Submit interim test and quality assurance reports when requested by the FAA.

C. Failure to provide a complete report as described in paragraph b, or failure to perform such tests, will, absent any compelling justification; result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction will be at the discretion of the FAA and will be based on the type or types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.

D. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.

31. Protection of Runway Protection Zone - Airport Property. The Sponsor agrees to prevent the erection or creation of any structure, place of public assembly, or other use in the runway protection zone, as depicted on the Exhibit "A": Property Map, except for NAVAIDS that are fixed by their functional purposes or any other structure permitted by the FAA. The Sponsor further agrees that any existing structures or uses within the Runway Protection Zone will be cleared or discontinued by the Sponsor unless approved by the FAA.

32. Protection of Runway Protection Zone - Easement. The Sponsor agrees to take any and all steps necessary to ensure that the owner of the land within the designated Runway Protection Zone will not build any structure in the Runway Protection Zone that is an airport hazard or which might create glare or misleading lights or lead to the construction of residences, fuel handling and storage facilities, smoke generating activities, or places of public assembly, such as churches, schools, office buildings, shopping centers, and stadiums.

33. Plans and Specifications Approval Based Upon Certification. The FAA and the Sponsor agree that the FAA approval of the Sponsor's Plans and Specification is based primarily upon the Sponsor's certification to carry out the project in accordance with policies, standards, and specifications approved by the FAA. The Sponsor understands that:

A. The Sponsor's certification does not relieve the Sponsor of the requirement to obtain prior FAA approval for modifications to any AIP standards or to notify the FAA of any limitations to competition within the project;

B. The FAA's acceptance of a Sponsor's certification does not limit the FAA from reviewing appropriate project documentation for the purpose of validating the certification statements; and,

C. If the FAA determines that the Sponsor has not complied with their certification statements, the FAA will review the associated project costs to determine whether such costs are allowable under AIP.
34. **Agency Agreement:** The FAA in tendering this offer on behalf of the United States recognizes the existence of an agency relationship between the **City of Fremont**, as principal, and the Nebraska Department of Transportation, as agent, created by the Agency Agreement entered into on **07/09/2019**. The Sponsor agrees that it will not amend, modify or terminate said Agency Agreement without prior approval in writing of the FAA.
The Sponsor’s acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor’s acceptance of this Offer.

UNITED STATES OF AMERICA
FEDERAL AVIATION ADMINISTRATION

______________________________
(Signature)

Jim A. Johnson
(Typed Name)

Director, Central Region Airports Division
(Title of FAA Official)
PART II - ACCEPTANCE

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer, and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

I declare under penalty of perjury that the foregoing is true and correct.¹

Executed this __________ day of __________, __________.

City of Fremont
(Name of Sponsor)

By:
(Signature of Sponsor’s Authorized Official)

Typed Name of Sponsor’s Authorized Official

Title of Sponsor’s Authorized Official

CERTIFICATE OF SPONSOR’S ATTORNEY

I, ______________________, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of Nebraska. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor’s official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at ______________ (location) this __________ day of ________________, __________.

By: ________________________________
(Signature of Sponsor’s Attorney)

¹Knowingly and willfully providing false information to the Federal government is a violation of 18 U.S.C. Section 1001 (False Statements) and could subject you to fines, imprisonment, or both.
FREMONT MUNICPAL AIRPORT  
FREMONT, NEBRASKA  
CONSTRUCT APRON AND TAXIWAY  
PROJECT NO. 3-31-0029-12 (A03)  
SUMMARY OF PROJECT COSTS  
7/22/2019

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<td>M.E. Collins</td>
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| Admin: NDA, Pubs, Legal          | $6,863.00         |
|                                  |                   |
| Project Total                    | **$2,439,444.20** |

ESTIMATED PROJECT TOTAL: $2,439,444  
AS OF 7-22-2019

AIP  
SUMMARY OF FUNDS

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$2,195,500  estimated grant amount  
$1,500,000  current NPE  
$150,000   multi-year, FY2020 funds  
$406,562   July 16 transfer  
$138,938   proposed transfer from 08K  
$0
RESOLUTION NO. 2019-157

A Resolution of the City Council of the City of Fremont, Nebraska to authorize to approval of the Grant Agreement (No. 3-31-0029-012-2019) with the Federal Aviation Association in connection with the Aircraft Parking Apron at the Fremont Airport.

WHEREAS, the City of Fremont has submitted to the FAA a Project Application dated June 24, 2019, for a Grant of Federal Funds for a project in association with the Fremont Municipal Airport.

WHEREAS, the FAA through Grant Agreement (No. 3-31-0029-012-2019) offers and agrees to pay Ninety (90%) percent of the allowable costs incurred in accomplishing the project.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council of Fremont, Nebraska approve the Grant Agreement (No. 3-31-0029-012-2019) with the Federal Aviation Association in connection with the Aircraft Parking Apron at the Fremont Airport.

PASSED AND APPROVED THIS 30th DAY OF July, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken
City Clerk