COMMUNITY DEVELOPMENT AGENCY MEETING
November 12, 2019 – 7:00 P.M.
City Council Chambers 400 East Military, Fremont NE
AGENDA

1. Meeting called to order

2. Roll call

3. Resolution 2019-007 forwarding a proposed Redevelopment Plan for Fremont Mall – Enhanced Employment Area to the Planning Commission for purposes of review, public hearing and recommendation regarding said plan’s conformity with the comprehensive plan of the City (staff report)

4. Adjournment

CITY COUNCIL MEETING
November 12, 2019
City Council Chambers 400 East Military, Fremont NE
REGULAR MEETING – 7:00 P.M.
AMENDED 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)

4. Motion to adopt current agenda for November 12, 2019 Regular Meeting

5. Executive Session to discuss threatened or potential litigation

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.

6. Motion to approve October 30, 2019 through November 12, 2019 claims and authorize checks to be drawn on the proper accounts (staff report)

7. Move to receive Report of the Treasury (staff report)

8. Dispense with and approve October 29, 2019 City Council Meeting Minutes
9. Resolution 2019-230 authorizing Mayor to sign street and parking space closure agreement for live reindeer attraction at the annual downtown Christmas Walk (staff report)

10. Move to appoint Jackson Radloff, Jared Poskochil, Jaydn Foster, and Francisco Cortes as Fremont Police Officers per recommendation of the Mayor (staff report)

11. Resolution 2019-231 accepting and authorizing the execution of a service/consultant agreement with Northeast Nebraska Economic Development District (NENEDD) for the general administration of Community Development Block Grant 19-EM-002 (staff report)

12. Consideration of excavation/asphalt/concrete license application(s) (staff report)

13. Resolution 2019-232 of the City Council of the City of Fremont, Nebraska, to renew the Department of Utilities' property insurance program with Starr Tech and Associated Electric & Gas Insurance Services Limited (AEGIS) for the November 27, 2019 to November 27, 2020 policy year (staff report)

14. Resolution 2019-234 to allow the Mayor and Chief of Police to sign the Equitable Sharing Agreement and Certification to fund the III Corp Drug Task Force with seizure funds from drug investigations (staff report)

15. Motion to approve fee waiver request for Christensen Field Indoor Horse Arena (staff report)

16. Motion to approve and authorize execution of Memorandum of Understanding with Fremont Public Schools authorizing School Resource Officers (staff report)

17. Resolution 2019-235 of the City Council of the City of Fremont, Nebraska, to approve the renewal of Maintenance Agreement No. 11, and all related documents, with the Nebraska Department of Roads (staff report)

PUBLIC HEARINGS:

18. Resolution 2019-236 to approve the Class I Liquor License for Chuy’s Mexican Restaurant, LLC dba Chuy’s Mexican Restaurant located at 215 N. Main Street, Suite B (staff report)

19. Resolution 2019-237 to approve the Class C Liquor License for Downtown Dugout Bar, LLC dba Dugout Bar on Main located at 239 E. 6th Street (staff report)

20. Resolution 2019-227 to approve a Conditional Use Permit to expand the Deerfield Clubhouse Apartments by 44 units on property legally described as Lot 1, Deerfield Second Addition, Fremont, Nebraska (staff report)

21. Resolution 2019-226 authorizing a conditional use permit for self storage units on a 3.83 acre parcel located at 460 W. 52nd Street. (staff report)

22. Resolution 2019-224 to allow a modification to an existing Conditional Use Permit to all the removal of a 73’ cell tower and replace it with a 129’ cell tower located at 1600 E. Military Ave. (staff report)

23. Resolution 2019-228 approving an amendment to a pre-existing Conditional Use Permit to reduce the area included in such permit on property located east of Linden Elementary School and south of the Presbyterian Church parking lot on the corner of Linden and K Streets (staff report)

a. Resolution 2019-229 of the City Council of the City of Fremont, Nebraska, approving a Conditional Use Permit for Four Triplex Dwelling Units on property generally located at Linden and K Streets (staff report)
24. Ordinance 5516 annexing by voluntary petition 2.821 acres of property described as a tract of land being a portion of lot 8, poultry complex addition generally situated on the south side of Cloverly Rd., approximately 195 feet east of S. Main Street (first reading) (staff report)
   a. Ordinance 5515 detaching property consisting of 12.34 acres generally situated east of South Main St. and north of Farm Hills Rd. (first reading) (staff report)

25. Ordinance 5513 to rezone property associated with Brooks Hollow generally located at Aberdeen Street and Peterson Avenue, from R Rural to SR Suburban Residential (first reading) (staff report)
   a. Resolution 2019-225 of the City Council of the City of Fremont, Nebraska, to approve the Brooks Hollow Second Addition Final Plat (staff report)
   b. Ordinance 5514 annexing by voluntary petition Brooks Hollow Second Addition (first reading) (staff report)

UNFINISHED BUSINESS: requires individual associated action

26. Resolution 2019-209 of the City Council of the City of Fremont, Nebraska approving the City Council Meeting Agenda Policy

27. Ordinance 5512 amending Chapter 3, Section 3-230 of the Fremont Municipal Code titled Municipal Sewerage System; charge and considerations for connections (second reading) (staff report)

28. Ordinance 5506 voluntary annexation application for approximately the north 220’ of Lot 1, Fountain Springs Fourth Subdivision (final reading) (staff report)

29. Ordinance 5507 amending Exhibit B of Ordinance 5427 Section 11-504.01 regarding placement and density of multifamily dwellings (final reading) (staff report)

30. Council Member Ellis item - Reconsideration of Resolution 2019-188 for a conditional use permit to allow agricultural crops planted and cultivated in residential zoning inside the City limits at SunRidge Place, generally located at between Military Avenue (report)

NEW BUSINESS: requires individual associated action

31. Consider recommendation from the Joint Water Management Advisory Board (JWMAB), Resolution 2019-238 to authorize Northeast Nebraska Economic Development District to provide grant administration and authorize the City Administrator to sign an agreement with JEO Consulting Group on behalf of the JWMAB (staff report)

32. Resolution 2019-239 of the City Council of the City of Fremont, Nebraska, authorizing City of Fremont, Department of Utilities Staff to sign a purchase agreement with S.T. Cotter for U8 Turbine Valves and Generator Inspection (staff report)

33. Resolution 2019-240 approving a Local Option Economic Development Loan for $165,000 to 505 Brewing Company, LLC, authorizing staff to negotiate a loan agreement, and authorizing the Mayor to sign the appropriate loan transactions (staff report)

34. Ordinance 5517 to create a clean energy assessment district; to establish definitions; to provide for the financing, administration, and collections, to promote energy efficiency improvements and renewable energy systems known as Property Assessed Clean Energy (PACE) District (first reading) (staff report)
35. Council Member Yerger item - Motion to approve authorization of the City Attorney to research other communities, develop an implementation plan, and draft a City Policy for instituting public prayer at the beginning of all Fremont City Council Meetings (report)

36. Council Member Yerger item - Motion to approve requiring the City Clerk to prepare, maintain and present a cumulative informative report on Open Meeting Period discussion topics, including drop box card topics, compiled from prior meetings, along with the City’s action type designation (actionable/non-actionable), action assignment, the disposition status and the date of resolution of actionable items (report)

37. Adjournment

Agenda posted at the Municipal Building on November 6, 2019 and online at www.fremontne.gov. Agenda distributed to the Mayor and City Council on November 6, 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 Publically Notified 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 Members of the CDA

FROM: Brian Newton, City Administrator

DATE: November 12, 2019

SUBJECT: Redevelopment Plan, Enhanced Employment Area – Fremont Mall

Recommendation: Forward proposed Redevelopment Plan to Planning Commission

Background: The attorney for the Fremont Mall, presented information to City Council at an October 1, 2019 Study Session about imposing an occupation tax on retail sales of 1% to fund Mall improvements. In order to impose such a tax, a Redevelopment Plan must include an Enhanced Employment Area for the Fremont Mall.

The first step in this process is for the CDA to forward the Redevelopment Plan to the Planning Commission for a hearing.

Fiscal Impact: None
CITY OF FREMONT
REDEVELOPMENT PLAN FOR THE
FREMONT MALL REHABILITATION
INCLUDING REQUEST FOR
DESIGNATION AS AN ENHANCED EMPLOYMENT AREA AND IMPOSITION OF A
ONE PERCENT OCCUPATION TAX ON SALES

I. INTRODUCTION.

The City of Fremont, Nebraska, recognizes that blight is a threat to the continued stability and vitality of the City as a focal point of business, financial, social, cultural and civic activity of the region, and a focus of community pride and achievement. Therefore, the City has initiated a program of revitalization whose goal is to enhance the City of Fremont as the center of government in the county-wide region; as the center of retail, business, industry, office, financial and entertainment activities for the community. To reach this goal of maintaining the City of Fremont as a multi-use center of the region, it will be necessary that the Fremont Mall be strengthened by capturing a share of the anticipated private market activity within the region. This area constitutes a critical portion of the community located on a major thoroughfare. This plan seeks to enhance the Fremont Mall by assisting in site rehabilitation in order to attract new tenants and generate retail activity. The level of investment to finance the needed site rehabilitation will require the combined efforts of the public and private sectors.

This Redevelopment Plan covers an area north of U.S. Highway 30 and west of North Yeager Road which is legally described and shown on Exhibit “A”, attached hereto and incorporated herein by this reference (“Community Redevelopment Area”). The Community Redevelopment Area was declared blighted and substandard by the Fremont City Council pursuant to the Nebraska Community Development Law. The Community Redevelopment Area has been determined, through the blight and substandard resolution, to be in need of revitalization and strengthening to ensure that it will contribute to the economic and social well-being of the City.

To encourage private investment in the Community Redevelopment Area, this Redevelopment Plan has been prepared to set forth the Fremont Mall Rehabilitation Redevelopment Project (“Redevelopment Project”), which is considered to be of the highest priority in accomplishing the goal of revitalizing and strengthening the Community Redevelopment Area.
II. EXISTING SITUATION.

This section of the Redevelopment Plan examines the existing conditions within the designated Community Redevelopment Area. This section is divided into the following subsections: existing land use, existing zoning, existing public improvements, and existing building condition/blighting influences.

A. Existing Land Use. The Community Redevelopment Area contains a retail mall consisting of approximately 231,846 square feet in the main building and additional buildings on out lots. There is a substantial vacancy in the mall of approximately 81,669 square feet. This occupancy decline has followed a national trend and occurred in the last 5 years. A depiction of the Redevelopment Area and the vacancy is shown on Exhibit “B”.

B. Existing Zoning. The Community Redevelopment Area is zoned PD for Planned Development. The intent of the district is to provide for an area for a unified commercial center which provides goods and services to a regional trading area. Some of the permitted uses include retail stores.

C. Existing Public Improvements.

1. Street System. There is no internal street network or system constructed within the Community Redevelopment Area. There are however driving lanes in the parking areas with public access. Highway 30 (23rd Street) adjoins the Redevelopment Area on the south and North Yeager Road adjoins the Area on the east.

2. Utilities. Existing public utilities are available in the Redevelopment Area.

D. Existing Building Conditions/Blighting Influences. The Fremont Mall has suffered significant declines in retail occupancy, similar to many malls in the country with a movement to online purchasing. Today approximately 35% of the mall is vacant. Estimated retail sales in the mall have declined from nearly $18,000,000 in 2015 to less than an estimated $6,000,000 in 2018. It is further estimated that sales tax generated at the mall has declined from $1,250,000 to less than $412,000 during the same period. (Sales tax numbers include state and local taxes). The current layout of the mall is obsolete for recruiting new tenants. Significant revision, repair and replacement will be required to update the mall to entice today’s buying public to re-engage in local retail shopping.

III. FUTURE SITUATION.

This section of the Redevelopment Plan examines the future conditions within the Community Redevelopment Area. This section is divided into the following subsections:

A. Proposed Land Use Plan
A. **Proposed Land Use Plan.** No changes are contemplated in the current Land Use Plan for the area. The Redevelopment Project will primarily provide for site rehabilitation in order to repair and repurpose the retail facility to attract new tenants and enhance the mall entrance.

The Agency will negotiate a specific redevelopment agreement with the Developer outlining the proposed Redevelopment Project, and what contributions are necessary from the City of Fremont. In such case the written redevelopment agreement would include specific funding arrangements, and specific covenants and responsibilities of the City, Agency and the redeveloper to implement the Redevelopment Project.

B. **Conformance with the Comprehensive Plan; Conformance with the Community Development Law Declarations.** In accordance with Nebraska State Law, the Redevelopment Plan described in this document has been designed to conform to the City of Fremont General Plan 2030 (“Comp Plan”). The City Council finds that this redevelopment plan is feasible and in conformity with the general plan for the development of the City as a whole and the plan is in conformity with the legislative declarations and determinations set forth in the Community Development Law.

C. **Relationship to Local Objectives.** The Redevelopment Plan has been developed on the basis of the goals, policies and actions adopted by the City for the community as a whole and for the Fremont Mall area.

D. **Building Requirements and Redevelopment Standards.** The redevelopment of the Community Redevelopment Area should generally achieve the following requirements and standards:

1. **Population Density.** There are no dwelling units currently located within the Community Redevelopment Area. The development proposed under this Redevelopment Plan does not include any residential construction. Consequently, there will be no change proposed for the permanent population density within the Community Redevelopment Area.

   Redevelopment of the Community Redevelopment Area will provide for revitalization of the Mall. Often an investment and improvement of the magnitude proposed by this Plan has the benefit of spurring improvements in nearby commercial areas.
2. **Land Coverage and Building Density.** The Mall covers approximately 231,846 square feet under one roof within the Community Redevelopment Area with additional coverage on four out lot structures.

3. **General Environment.** This plan will rehabilitate a retail mall that has suffered significant retail closings over the past 5 years. The vacation of the former JC Penny’s space has resulted in a huge loss of retail activity and sales tax revenue for the city. Additionally the mall has suffered deferred maintenance due to loss of revenue. This commercial activity will intensify and strengthen Fremont as a focal point for local and regional retail sales and development.

   Implementation of this Plan will provide for the significant reinvestment in the Mall with tenant improvements, structural improvements, including the roof and HVAC units. This activity is intended to increase the amount and variety of activity in the Fremont Mall while maintaining good traffic flow, pedestrian movement and visual interest.

   Significant funds will be required to reconfigure retail space from time to time as new tenants are located. Immediately, roof repair and HVAC repair and enhancements are necessary.

4. **Pedestrian ways and Open Spaces.** Provide a pedestrian circulation system to facilitate the movement of pedestrians to and within the major development activities within the area.

5. **Building Heights and Massing.** Building heights and massing for the proposed project will comply with the PD zone.

6. **Circulation, Access and Parking.** The Plan provides for vehicular access to the Community Redevelopment Area in a manner consistent with the needs of the development and the community.

   The Plan provides for an adequate supply of appropriately located parking in accordance with applicable zoning district regulations. Adequate parking needs to be provided so the development does not generate parking problems for abutting commercial and residential streets.

7. **Off-Street Loading, Service and Emergency Facilities.** The Plan provides for consolidated off-street loading and service facilities.

   The Plan provides for emergency vehicle access in a manner compatible with established design and environmental objectives.

E. **Proposed Changes and Actions.** The Community Redevelopment Area is anticipated to function as an upscale retail mall after significant investment through
implementation of an Enhanced Employment Area Occupation Tax and Developer capital. This section describes the proposed changes needed, if any, to the zoning ordinances or maps, street layouts, street levels or grades, and building codes and ordinances, and actions to be taken to implement this Redevelopment Plan.

1. **Zoning, Building Codes and Ordinances.** The Community Redevelopment Area is zoned PD Planned Business Center. No additional changes to the City’s Zoning Ordinances, Building Codes, or other local ordinances are contemplated to implement this Redevelopment Plan.

2. **Traffic Flow, Street Layout and Street Grades.** The primary streets providing access to the Community Redevelopment Area is Highway 30 and North Yeager Road.

3. **Public Redevelopments, Improvements, Facilities, Utilities and Rehabilitations.** In order to support the uses in the Community Redevelopment Area, no additional public redevelopments, improvements, facilities, utilities and rehabilitations will be needed.

4. **Site Preparation and Demolition.** Site preparation will consist of demolition and relocation of interior walls to resize tenant spaces and the re-facing of mall entrance.

5. **Private Redevelopment, Improvements, Facilities and Rehabilitation.** The private improvements anticipated within the Community Redevelopment Area include site preparation, repair of the roof, rehabilitation of the HVAC system, replacement of exterior lights and required interior rehabilitation for tenant relocation to the Mall.

6. **Open Spaces, Pedestrian ways, Landscaping, Lighting, Parking.** The proposed site plan and private sector improvements will comply with the City’s minimum open space, pedestrian way, landscaping, lighting, and parking standards as defined in the Zoning and Subdivision Ordinances, Building Codes, or other local ordinances. In addition, the City may elect to require additional standards in these areas as described in a written redevelopment agreement in order to help remove blight and substandard conditions.

F. **Proposed Costs and Financing; Statements.** The Agency will work with the redeveloper owner of the Community Redevelopment Area to identify proposed funding, timeframe, ability to carry out the proposed Redevelopment Project, and what, if any, contributions are necessary to be made by the Agency and the City of Fremont.

The Agency will begin good faith negotiating on a specific written redevelopment agreement with the redeveloper owner of the Community Redevelopment Area. The written redevelopment agreement will include a site plan consistent with this Redevelopment Plan, development descriptions, specific funding arrangements, and specific covenants and responsibilities of the City and the redeveloper to implement the Redevelopment Project.
Estimated Redevelopment Project costs, including site preparation, and rehabilitation are broken down as follows:

**POTENTIAL ELIGIBLE PRIVATE IMPROVEMENTS***

<table>
<thead>
<tr>
<th>Enhanced Employment Area (EEA) ELIGIBLE COSTS</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Roof repair</td>
<td>621,452</td>
</tr>
<tr>
<td>HVAC replace and repair</td>
<td>400,000</td>
</tr>
<tr>
<td>Rehabilitate vacant space for tenants (excluding Dunhams)</td>
<td>2,156,192</td>
</tr>
<tr>
<td>Rehabilitate restrooms</td>
<td>80,000</td>
</tr>
<tr>
<td>Mall entrance enhancement</td>
<td>130,000</td>
</tr>
<tr>
<td><strong>Total EEA Costs</strong></td>
<td><strong>$3,387,644</strong></td>
</tr>
</tbody>
</table>

**Non EEA Costs provided by Developer**

| Rehabilitate vacant space for Dunhams         | $1,402,230 |
| **TOTAL EEA and PRIVATE IMPROVEMENTS**        | **$4,789,874** |

The figures above are estimates. Final figures are subject to a specific site plan, design specifications, City approval and public procedures and regulations.

Fremont Mall, LLC, requests that the Community Development Agency declare the Redevelopment Area, shown on attached Exhibit “A” as an Enhanced Employment Area under the Community Development Law; that the City impose a 1% occupation tax on such area to finance the payment of an Occupation Tax Bond issued by the Agency in the amount of $2,200,000. Specific undertakings related to the Enhanced Employment Area and the Occupation Tax are shown in Section IV below.

The Proposed EEA Improvements will exceed the amount of funds available from the imposition of a 1% occupation tax rate. This Plan proposes that the Occupation Tax Bond be purchased by the Developer to fund the required rehabilitation of the Fremont Mall. The balance of private improvements shall be paid by the Developer.

This Redevelopment Plan does not contemplate the use of tax increment financing.

**IV. ENHANCED EMPLOYMENT AREA DESIGNATION.**

THE ENHANCED EMPLOYMENT AREA DESIGNATED BY THE AGENCY AS ELIGIBLE FOR THE IMPOSITION OF AN OCCUPATION TAX TO PAY FOR AUTHORIZED WORK WITHIN THE AREA IS DESCRIBED AS FOLLOWS:

**Property Description (the “Enhanced Employment Area”)**

This property is generally referred to as the Fremont Mall.
Legal Descriptions  See attached Exhibit A for the legal description of the tract to be declared as an Enhanced Employment Area

The Act provides the EEA authorized work within the Enhanced Employment Area means the performance of any one or more of the following purposes:

(a) The acquisition, construction, maintenance, and operation of public off street parking facilities for the benefit of the Enhanced Employment Area;

(b) Improvement of any public place or facility in the Enhanced Employment Area, including landscaping, physical improvements for decoration or security purposes, and plantings;

(c) Construction or installation of pedestrian shopping malls or plazas, sidewalks or moving sidewalks, parks, meeting and display facilities, bus stop shelters, lighting, benches or other seating furniture, sculptures, trash receptacles, shelters, fountains, skywalks, and pedestrian and vehicular overpasses and underpasses, and any useful or necessary public improvements;

(d) Leasing, acquiring, constructing, reconstructing, extending, maintaining, or repairing parking lots or parking garages, both above and below ground, or other facilities for the parking of vehicles, including the power to install such facilities in public areas, whether such areas are owned in fee or by easement, in the Enhanced Employment Area; and

(e) Maintenance, repair, and reconstruction of any improvements or facilities authorized by the Community Development Law;

Redevelopment Plan to the Enhanced Employment Area Complies with the Act:

The Act requires that in connection with the approval of any redevelopment plan which includes the designation of an enhanced employment area, the governing body may approve the redevelopment plan if it determines that any new investment within such enhanced employment area will result in at least ten new employees and new investment of five hundred thousand dollars in counties with at least twenty five thousand inhabitants but fewer than fifty thousand inhabitants.

This Plan meets these enhanced employment area statutory qualifications because (a) at project stabilization employment in the Enhanced Employment Area is expected to increase by 20 employees including a mixture of part time, full time and managerial positions, (b) the project in the Enhanced Employment Area includes estimated new private sector investment of $2,589,874, and (c) as of the 2010 census, Dodge County’s population was 36,671.

Levy of General Business Occupation Tax and Levy:

A city may levy a general business occupation tax upon the businesses and users of space within an enhanced employment area for the purpose of paying all or any part of the costs and expenses of any redevelopment project within such enhanced employment area. Any occupation tax
imposed pursuant to the Act shall make a reasonable classification of businesses, users of space, or kinds of transactions for purposes of imposing such tax.

The businesses and their classification in the Enhanced Employment Area are as follows:

<table>
<thead>
<tr>
<th>BUSINESS</th>
<th>CLASSIFICATION</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 Apparel</td>
<td>Clothing Retail</td>
</tr>
<tr>
<td>2. Hobby &amp; Crafts</td>
<td>Hobby &amp; Craft Retail</td>
</tr>
<tr>
<td>3. Shoes</td>
<td>Shoe Retail</td>
</tr>
<tr>
<td>4. Cosmetics</td>
<td>Beauty Retail</td>
</tr>
<tr>
<td>5. Quick Serve</td>
<td>Prepared Food Retail</td>
</tr>
<tr>
<td>6. Specialty Store</td>
<td>Specialty Retail</td>
</tr>
<tr>
<td>7. Salon</td>
<td>Service Retail</td>
</tr>
<tr>
<td>8. Restaurant</td>
<td>Prepared Food Retail</td>
</tr>
<tr>
<td>9. Service/Fitness</td>
<td>Service Retail</td>
</tr>
<tr>
<td>10. Fast Food</td>
<td>Prepared Food Retail</td>
</tr>
<tr>
<td>11. Theatre/entertainment</td>
<td>Entertainment</td>
</tr>
<tr>
<td>12. Sporting Goods</td>
<td>Sporting Goods Retail</td>
</tr>
<tr>
<td>13. Miscellaneous Retail</td>
<td>Retail</td>
</tr>
<tr>
<td>14. Vehicle Repair</td>
<td>Retail</td>
</tr>
</tbody>
</table>

No occupation tax shall be imposed on any business or transaction which is subject to tax under section 53-160, 66-489, 66-489.02, 66-4,140, 66-4,145, 66-4,146, 77-2602, or 77-4008 of the Act or which is exempt from tax under section 77-2704.24 of the Act. Any such occupation tax agreed to by the Agency and the City shall remain in effect so long as the Agency has bonds outstanding which have been issued stating such occupation tax as an available source for payment.

The collection of a tax imposed pursuant to the Act shall be made and enforced in such a manner as the governing body shall by ordinance determine to produce the required revenue. The governing body may provide that failure to pay the tax imposed pursuant to this section shall constitute a violation of the ordinance and subject the violator to a fine or other punishment as provided by ordinance.

Undertaking by Fremont Mall, LLC.

The Developer undertakes to rehabilitate the Redevelopment Area and in so doing invest more than $500,000 and create through new tenants, (over current employment) more than 10 jobs.
EXHIBIT “A”
REDEVELOPMENT AREA

Lots 1, 2, 3, 5, 6 and 7 Rodamar Addition Replat 1, City of Freemont, Dodge County, Nebraska.
EXHIBIT “B”
VACANCY TRENDS
EXHIBIT “C”
SITE SURVEY
Vacated Tenants
- Buckle
- Hallmark
- Hastings Entertainment
- JCPenney
- USA Steak
- Radio Shack
- Schweser's
- Claire's
- GNC 2/2019

Fremont Mall Vacancy Trends

Occupied
231,846 SF
98%
Vacant
5,390 SF
2%
Occupied w/ Reduced Rent
2,100 SF
1%

2015

Occupied
231,846 SF
98%
Vacant
5,390 SF
2%
Occupied w/ Reduced Rent
2,100 SF
1%

2016

Occupied
159,577 SF
67%
Vacant
77,659 SF
33%
Occupied w/ Reduced Rent
61,951 SF
26%

2017

Occupied
155,567 SF
66%
Vacant
81,669 SF
34%
Occupied w/ Reduced Rent
67,621 SF
29%

2018
Vacated Tenants
- Buckle
- Hallmark
- Hastings Entertainment
- JCPenney
- USA Steak
- Radio Shack
- Schweser’s
- Claire’s
- GNC 2/2019

Fremont Mall Vacancy Trends

Occupied 2015:
- 231,846 SF (98%)
- Vacant 5,390 SF (2%)

Occupied 2016:
- 231,846 SF (98%)
- Vacant 5,390 SF (2%)

Occupied 2017:
- 159,577 SF (67%)
- Vacant 77,659 SF (33%)

Occupied 2018:
- 155,567 SF (66%)
- Vacant 81,669 SF (34%)
Fremont Mall Vacancy Trends

Vacated Tenants
- Buckle
- Hallmark
- Hastings
- Entertainment
- JCPenney
- USA Steak
- Radio Shack
- Schweser's
- Claire's
- GNC 2/2019

2015

Occupied
231,846 SF
98%
Occupied w/ Reduced Rent
2,100 SF
1%

2016

Occupied
231,846 SF
98%
Occupied w/ Reduced Rent
2,100 SF
1%

2017

Occupied
159,577 SF
67%
Occupied w/ Reduced Rent
61,951 SF
39%

2018

Occupied
155,567 SF
66%
Occupied w/ Reduced Rent
67,621 SF
44%
RESOLUTION NO. 2019-007

RESOLUTION FORWARDING A PROPOSED REDEVELOPMENT PLAN FOR THE CITY OF FREMONT, NEBRASKA, TO THE PLANNING COMMISSION OF THE CITY OF FREMONT FOR PURPOSES OF ITS REVIEW, PUBLIC HEARING AND RECOMMENDATION REGARDING SAID PLAN'S CONFORMITY WITH THE COMPREHENSIVE PLAN OF THE CITY OF FREMONT

BE IT RESOLVED BY THE COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF FREMONT, NEBRASKA:

Recitals:

a. The Chairperson and Board of the Community Development Agency of Fremont, Nebraska (the “City”) and in compliance with all public notice requirements imposed by the Community Development Law, Chapter 18, Article 21, Reissue Revised Statutes of Nebraska, as amended (the “Act”), duly declared the redevelopment area legally described on Exhibit A attached hereto (the “Redevelopment Project Area”) to be blighted and substandard and in need of redevelopment; and

b. Pursuant to and in furtherance of the Act, a Redevelopment Plan (the “Redevelopment Plan”) has been prepared and submitted to the Agency by the Fremont Mall, LLC, in the form attached hereto as Exhibit B, for the purpose of redeveloping the Redevelopment Project Area; and

c. Pursuant to §18-2112 of the Act, the Agency, prior to recommending the Redevelopment Plan to the City, must refer the Redevelopment Plan to the Planning Commission of the City for its review, public hearing and recommendations as to its conformity to the general plan for the development of the City as a whole:

Resolved that:

1. The Agency hereby refers the Redevelopment Plan, attached hereto as Exhibit B to the Planning Commission of the City for its review, public hearing and recommendations as to the Redevelopment Plan’s conformity to the general plan for the development of the City as a whole.

2. All prior resolutions of the Agency in conflict with the terms and provisions of this resolution are hereby expressly repealed to the extent of such conflicts.

PASSED AND APPROVED on November 12, 2019.

COMMUNITY DEVELOPMENT AGENCY OF THE CITY OF FREMONT, NEBRASKA.

BY: _____________________________
Scott Getzschman, Chairperson

ATTEST: ___________________________
Tyler Ficken, Secretary
Exhibit A
Legal Description of Redevelopment Project Area

Lots 1, 2, 3, 5, 6 and 7 Rodamar Addition Replat 1, City of Freemont, Dodge County, Nebraska.
Exhibit B
Redevelopment Plan

[Attach copy of
CITY OF FREMONT
REDEVELOPMENT PLAN FOR THE
FREMONT MALL REHABILITATION
INCLUDING REQUEST FOR
DESIGNATION AS AN ENHANCED EMPLOYMENT AREA AND IMPOSITION OF A
ONE PERCENT OCCUPATION TAX ON SALES]
STAFF REPORT

TO:         Honorable Mayor and City Council
FROM:      Jody Sanders, CPA, Director of Finance
DATE:      November 12, 2019
SUBJECT:  Claims

Recommendation: Move to approve October 30 through November 12, 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 November 8, 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 November 14, 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.
- 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.
- Progress payments to Emerson Process Management under the contract for the SCADA project.
- 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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<th>Type of Funds</th>
<th>Amount</th>
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<td>Utility funds claims</td>
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PAYMENT TYPES
Checks ............................................. Y
EFTs .............................................. Y
ePayables .......................................... Y

VOUCHER SELECTION CRITERIA
Voucher/discount due date .................... 10/31/2019
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 .......................... 2020/01
Payment date ................................. 10/31/2019
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**BANK TOTAL**

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**VENDOR TOTAL**: 2,261.66

**Employee Benefits**

**BANK TOTAL**: 2,261.66

**HAND ISSUED TOTAL**: 2,261.66

**EFT/EPAY TOTAL**: 173,767.04

**TOTAL EXPENDITURES**: 79,627.35

**GRAND TOTAL**: 255,656.05
## CITY OF FREMONT
### ELECTRONIC WITHDRAWAL LIST

**FOR CITY COUNCIL MEETING: 11/12/19**

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**TOTAL EXPENDITURES:** 505.99
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EFTs .................................................... Y
ePayables ............................................. Y

VOUCHER SELECTION CRITERIA
  Voucher/discount due date ...................... 11/13/2019
  All banks ........................................ A

REPORT SEQUENCE OPTIONS:
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  Bank/Vendor ....................................... X One vendor per page? (Y,N) ............... N
  Fund/Dept/Div ..................................... Validate cash on hand? (Y,N) ............. N
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  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
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  Disbursement year/per ......................... 2020/02
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VENDOR TOTAL * 30.00

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**VENDOR TOTAL:** $126.72

**VENDOR TOTAL:** $123.19

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**VENDOR TOTAL:** $905.99

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**VENDOR TOTAL:** $145,578.60

**City property & liability insurance annual premium**

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VENDOR TOTAL * 1,940.88

00 General Fund BANK TOTAL * 686,115.61 34,119.50
## EXPENDITURE APPROVAL LIST

**Program:** GM339L  
**As Of:** 11/13/2019  
**Payment Date:** 11/13/2019

**City of Fremont**  
**Employee Benefits**  
**Bank:** 01

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**AS OF:** 11/13/2019  
**PAYMENT DATE:** 11/13/2019  
**City of Fremont**  
**E911**  
**BANK:** 09

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Sewer Fund – 055
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VENDOR TOTAL * 101.35
TOTAL EXPENDITURES **** 66,971.35
GRAND TOTAL ******************* 66,971.35
PAYMENT TYPES
- Checks: Y
- EFTs: Y
- ePayables: Y

VOUCHER SELECTION CRITERIA
- Voucher/discount due date: 10/31/2019
- 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: 2020/01
- Payment date: 10/31/2019
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VENDOR TOTAL * 121,570.69

VENDOR TOTAL * 3,577.26

VENDOR TOTAL * 35.00

VENDOR TOTAL * 40.00

VENDOR TOTAL * 179,109.69

EFT/EPAY TOTAL *** 121,570.69

TOTAL EXPENDITURES **** 182,761.95

GRAND TOTAL *************** 304,332.64
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**Final Total**: 285,146.92  
**Count**: 170
**PAYMENT TYPES**

- Checks .............................................. Y
- EFTs .............................................. Y
- ePayables ........................................... Y

**VOUCHER SELECTION CRITERIA**

- Voucher/discount due date ....................... 11/04/2019
- All banks ........................................... A

**REPORT SEQUENCE OPTIONS:**

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

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 ......................... 2020/02
- Payment date ..................................... 11/04/2019
** An employee's direct deposit to a savings account was returned as undeliverable. We issued the employee a paper check for this amount. The $720 has been subtracted from the Claims total amount, as it is already included in the direct deposit number for payroll dated 10/31/2019.
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TOTAL EXPENDITURES 11,856.23
### Nebraska and Local Sales and Use Tax Return

**Form 10**

- **Reference No.:** 01B005603929
- **Date Filed:** Tue, Nov 05, 2019 12:40:55 PM
- **Scheduled Payment Amount:** 231,433.45
- **Scheduled Payment Date:** Wed, Nov 13, 2019

**Due Date:** 11/20/2019

#### Name and Location

**DEPARTMENT OF UTILITIES**  
400 E MILITARY AVE  
FREMONT, NE 68025-5141

#### Name and Mailing Address

**DEPARTMENT OF UTILITIES**  
400 E MILITARY AVE  
FREMONT, NE 68025-5141

---

1. **Gross sales and services in Nebraska**
2. **Net Nebraska taxable sales**
3. **Nebraska sales tax (line 2 multiplied by .055)**
4. **Nebraska use tax**
5. **Local use tax from Nebraska Schedule I**
6. **Local sales tax from Nebraska Schedule I**
7. **Total Nebraska and local sales tax (line 3 plus line 6)**
8. **Sales tax collection fee (line 7 multiplied by .025; Maximum allowed $75.00 per location)**
9. **Sales tax due (line 7 minus line 8)**
10. **Total Nebraska and local use tax (line 4 plus line 5)**
11. **Total Nebraska and local sales and use tax due (line 9 plus line 10)**
12. **Previous balance with applicable interest at 5.0% per year and payments received through 11/01/2019**
13. **Balance DUE (line 11 plus or minus line 12). Pay in full**

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**NE Sales & Use Tax for the month of October 2019**

- **Sales Tax Payable**
  - Use Tax 051-0000-236-0000 $201,514.30
  - Use Tax 051-0000-236-0100 $22,574.81
  - Use Tax 053-0000-236-0100 $7,361.99
  - Use Tax 057-0000-236-0100 $105.43

- **Collection Fee**
  - 051-5001-421-0000 $75.00

- **Cash/Total Due**
  - 051-0000-131-0000 $223,966.03
  - 053-0000-131-0000 $7,361.99
  - 057-0000-131-0000 $105.43

- **Interest**
  - 051-5001-920-6077 $48.08

---

**Check the box if your business has permanently closed, has been sold to someone else, or your permit is no longer needed. New owners must apply for their own sales tax permit.**

---

Under penalties of law, I declare that, as a taxpayer or preparer I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is correct and complete.
EAL DESCRIPTION: EAL: 11072019 ANDERSEND

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

VOUCHER SELECTION CRITERIA
Voucher/discount due date ......................... 11/13/2019
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 ......................... .. 2020/02
Payment date ................................. 11/13/2019
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**Library copier kiosk, software, hardware and training**

**Screen plates and shredder rings at power plant**

**Coal purchase**
## DEPARTMENT OF UTILITIES

**EXPENDITURE APPROVAL LIST**

**PROGRAM: GM339L**

**AS OF:** 11/13/2019  
**PAYMENT DATE:** 11/13/2019

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**As Of:** 11/13/2019  
**Payment Date:** 11/13/2019  
**Department of Utilities**

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VENDOR TOTAL * 608.48
VENDOR TOTAL * 519.81
VENDOR TOTAL * 40.00
VENDOR TOTAL * 1,476.60
VENDOR TOTAL * 3,420.75
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VENDOR TOTAL * 93.84
VENDOR TOTAL * 93.84

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**VENDOR TOTAL**: 2,563.02

**VENDOR TOTAL**: 6,623.38

**VENDOR TOTAL**: 41.58

**VENDOR TOTAL**: 282.52

**VENDOR TOTAL**: 2,575.00

**VENDOR TOTAL**: 5,150.00

**VENDOR TOTAL**: 360.66

**VENDOR TOTAL**: 77.73

**VENDOR TOTAL**: 309,920.87

**VENDOR TOTAL**: 309,920.87

**VENDOR TOTAL**: 400.00

**VENDOR TOTAL**: Freight on coal
PREPARED 11/07/2019, 10:17:20
PROGRAM: GM39L
DEPARTMENT OF UTILITIES

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**TOTAL EXPENDITURES:** 725,506.33
**GRAND TOTAL:** 3,929,240.59
TO: Honorable Mayor and City Council
FROM: Jody Sanders, CPA, Director of Finance
DATE: November 12, 2019
SUBJECT: Report of Treasury

Recommendation: Move to receive Report of the Treasury

Background: The City Council receives internally-produced quarterly financial statements in addition to the annual audited financial statements; however, reports are typically not available until mid-month after each quarter. This statement reports the bank account balances at the end of the prior month, and is available by the first council meeting of each month. The Council will continue to receive the quarterly financial statements, but this snapshot gives the Council more timely information regarding cash reserve balances.

Fiscal Impact: As noted in the report. The City’s total did decrease by $2 million; however, the CDARS (see explanation below), for the City increased by a like amount. The Utility total also decreased by $2.265 million, but this change is due to continued construction payments on the WWTP improvements, using bond proceeds issued for that purpose.

Please note at the bottom of the second page that the City has several CDARs investments. The Certificate of Deposit Account Registry Service (CDARS) is a program that allows the public to spread money around various banks. The purpose of CDARS is to help people who invest in certificate of deposits (CDs) to stay below the Federal Deposit Insurance Corporation (FDIC) insurance limits at any given bank. These are listed separately, as they are exclusively insured separate and apart from FDIC coverage provided at each bank. These investment amounts are not included in the totals on the worksheet.
### City of Fremont
#### Report of Treasury - Cash and Investment Bank Balances
October 31, 2019

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<td>$ 1,170,841</td>
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<td><strong>CD Investments</strong></td>
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<td>Sales Tax/Streets fund</td>
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<td>Total CD Investments</td>
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# City of Fremont

**Report of Treasury - Cash and Investment Bank Balances**

**October 31, 2019**

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<tr>
<th>Account Name</th>
<th>First National Bank - Fremont</th>
<th>First State Bank</th>
<th>Pinnacle Bank of Fremont</th>
<th>Cornerstone Bank, Columbus</th>
<th>NE Land National Bank, North Platte</th>
<th>Nebraska Public Investment Trust</th>
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<td>Checking/Money Market</td>
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<td>Sewer Improvement</td>
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<td>150</td>
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<td>$3,091,954</td>
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<td>Gas</td>
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**CITY CDARS CERTIFICATES**

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**DU CDARS CERTIFICATES**

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<td>$-</td>
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</table>
REGULAR MEETING:
1. Meeting called to order. Mayor Getzschman opened the Public Comment period and comments were made. After 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.

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

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:


CONSENT AGENDA: Moved by Council Member Jensen seconded by Council Member McClain to approve items 6-8, 10, 11, 14 and 15 of the consent agenda. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

6. Dispense with and approve October 8, 2019 City Council Meeting Minutes.


8. Motion to approve request to waive rental fees for use of facilities for Post Prom event.

10. Resolution 2019-223 to accept CenturyLink 3 year support quote for the ShoreTel administrative telephone equipment/server for 911 and Police Department.

11. Motion authorizing the Mayor to sign the Administrative Services Agreement, Client Profile Amendment for the 01/01/2020 Deductible Change, Client Profile Amendment for the 10/01/2019 Renewal, and the Stop Loss Agreement with Blue Cross Blue Shield of Nebraska for Medical and Dental Insurance.

14. Motion authorizing the Mayor to sign Confirmation of Purchase Letter for IMA.
15. Motion authorizing the Mayor to sign Short Term Disability Plan Document for Lincoln Financial.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR SEPARATE DISCUSSION:

5. Motion to approve October 9, 2019 through October 29, 2019 claims and authorize checks to be drawn on the proper accounts. Council Member McClain moved, seconded by Council Member Jensen to approve October 9, 2019 through October 29, 2019 claims and authorize checks to be drawn on the proper accounts. Ayes: McClain, Ellis, Kuhns, Bechtel, Jensen, Legband. Abstention: Yerger, Jacobus. Motion carried.


12. Consideration of excavation/asphalt/concrete license application(s). Council Member Jensen moved, seconded by Council Member Legband to approve the application. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.


UNFINISHED BUSINESS: requires individual associated action

16. Resolution 2019-142 accepting and awarding contract of Saunders County Grading to Sawyer Construction Co. for a Shooting Range (Staff recommends this item be continued indefinitely). Council Member Jacobus moved, seconded by Council Member Jensen to continue the item indefinitely. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.


19. Ordinance 5506 voluntary annexation application for approximately the north 220' of Lot 1, Fountain Springs Fourth Subdivision (second reading). Council Member Jacobus moved, seconded by Council Member Kuhns to hold second reading of Ordinance 5506. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading of the Ordinance.

20. Ordinance 5507 amending Exhibit B of Ordinance 5427 Section 11-504.01 regarding placement and density of multifamily dwellings (second reading). Council Member Kuhns moved, seconded by Council Member Legband to hold second reading of Ordinance 5507. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided second reading of the Ordinance.

NEW BUSINESS: requires individual associated action

27. Council Member Jacobus item: Discuss consideration of full-time versus part-time Library-based IT staff position – possible action may be taken. Council Member Jacobus moved, seconded by Council Member Jensen to move item #27 on the agenda to the first item under New Business. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus. Nay: Legband. Motion carried. Council Member Jacobus moved, seconded by Council Member Ellis to approve the Library Board follow the direction that they feel best fits the Library based on their analysis and their input with the Library and the Library staff and to work with HR to bring a full time position in for IT. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus. Nays: Kuhns, Legband. Motion carried.


23. Resolution 2019-221 to place “No Engine Breaking” signs on Morningside Road between Highway 275 and Luther Road, and receive Traffic Committee Report. Council Member Yerger moved, seconded by Council Member Jacobus to approve Resolution 2019-221. Ayes: McClain, Ellis, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.

24. Ordinance 5510 for the sale and conveyance of real estate to the State of Nebraska Department of Transportation for the Southeast Beltway Project (first reading). Council Member Kuhns moved, seconded by Council Member Jensen to introduce the Ordinance. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided first reading. Council Member Kuhns moved, seconded by Council Member Legband to suspend the rules and move to final reading of the Ordinance. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. City Clerk provided final reading of the Ordinance. Mayor Getzschman called for a final vote on the Ordinance. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Ordinance 5510 is approved.

25. Resolution 2019-222 of the City Council of the City of Fremont, Nebraska, to authorize execution of Preliminary Engineering Services Agreement Supplemental Agreement No. 8 – BO1213, for Rawhide
Creek Trail Fremont. Council Member Jensen moved, seconded by Council Member Jacobus to approve Resolution 2019-222. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried.


28. Adjournment. Moved by Council Member Kuhns seconded by Council Member Jensen to adjourn the meeting. Ayes: McClain, Ellis, Kuhns, Bechtel, Yerger, Jensen, Jacobus, Legband. Motion carried. Meeting adjourned at 11:18 p.m.


Tyler Ficken, City Clerk  Scott Getzschman, Mayor
STAFF REPORT

TO:            HONORABLE MAYOR AND CITY COUNCIL

FROM:          Tyler Ficken, City Clerk

DATE:          November 12, 2019

SUBJECT:       Parking lot and parking space closure for live reindeer attraction

Recommendation: Approve Resolution 2019-230

Background: Approval of the Resolution will authorize closure of a City parking lot and parking spaces for a live reindeer attraction for the annual downtown Christmas Walk on Saturday November 30, 2019 from 4:00 p.m. to 7:00 p.m. for the live reindeer attraction for the annual downtown Christmas Walk.

MainStreet of Fremont has provided a certificate of insurance and an executed contract.
PARKING LOT AND PARKING SPACE CLOSURE AGREEMENT

This Parking Lot and Parking Space Closure Agreement (Agreement) is made and entered into on the 12th day of November 2019, by and between the City of Fremont (Owner) and MainStreet of Fremont (Lessees) (collectively Parties).

1. RECITALS

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

1.1.1. live reindeer attraction, and

1.2. Owner is willing to lease the following parking lot and parking spaces:

1.2.1. Parking lot located on the northwest corner of 6th and Park Streets

1.2.2. 3 parking spaces located on the north side of the Dodge County Title and Escrow building on 6th Street

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. 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 November 30, 2019, at 4:00 p.m. until 7:00 p.m. November 30, 2019, those times being authorized by the City Council. 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. ASSIGNMENT OF RIGHTS

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

6. INDEMNIFICATION

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

6.1.1. 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.

6.2. 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 Owner’s Facilities and parking space(s).

7. INSURANCE

7.1. 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.

8. APPLICABLE LAW
8.1. The provisions of this Agreement are subject to the laws of the State of Nebraska.

9. HEADINGS

9.1. 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: Main Street of Fremont
By: Amy Schep
Name: Courtney Schep
Title: Executive Director
Date: 10/26/19

Owner - City of Fremont
By: ______________________
Name: ______________________
Title: ______________________
Date: ______________________
**ACORD Certificate of Liability Insurance**

**Client#: 21207**

**Date (MM/DD/YYYY): 7/23/2019**

**Producer:** INSPRO Insurance  
P.O. Box 689  
Fremont, NE 68026  
402 721-9707

**Contact:** Preston Walford  
FAX (A/C, No):  
E-MAIL ADDRESS: pwalford@insproins.com

**Insured:** Main Street Fremont, Inc.  
529 N Main Street  
Fremont, NE 68025

**Coverages**

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<th>Revision Number:</th>
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<td>Commercial General Liability (A)</td>
<td>CMPNE000006723</td>
<td>07/01/2019</td>
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<tr>
<td>Excess Liability (B)</td>
<td>WCPNE06723</td>
<td>07/01/2019</td>
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City of Fremont is listed as an Additional Insured.

**Certificate Holder:** City of Fremont attn: Kim Volk  
400 E Military Ave.  
Fremont, NE 68025

**Cancellation:** Should any of the above described policies be cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

**Authorized Representative:**

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The ACORD name and logo are registered marks of ACORD.
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RESOLUTION NO. 2019-230

A Resolution of the City Council of the City of Fremont Nebraska, approving the request of MainStreet of Fremont to close a City parking lot and parking spaces for a live reindeer attraction for the annual downtown Christmas Walk.

WHEREAS, MainStreet of Fremont has requested the closure of parking lot located on the northwest corner of 6th and Park Streets from 4:00 p.m. to 7:00 p.m. on November 30, 2019; and,

WHEREAS, MainStreet of Fremont has requested the exclusive use of 3 parking spaces located on the north side of the Dodge County Title and Escrow building on 6th Street from 4:00 p.m. to 7:00 p.m. on November 30, 2019.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council approve MainStreet of Fremont to use the aforementioned location(s) during the provided time for the live reindeer attraction for the annual downtown Christmas Walk, and authorizes the Mayor to sign the Parking Lot and Parking Space Agreement.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER 2019.

SCOTT GETZSCHMAN, MAYOR

ATTEST:

TYLER FICKEN, CITY CLERK
Staff Report

TO: Mayor and City Council
FROM: Jennifer McDuffee, Director of Human Resources
DATE: November 12, 2019
SUBJECT: Appointment of Police Officers

Recommendation: Move to appoint Jackson Radloff, Jared Poskochil, Jaydn Foster, and Francisco Cortes as police officers per recommendation of the Mayor.

Background:

Positions are open due to the departures of Tatum Dobson, Glen Still, Howard Hanson, and Andrew Hilscher.
October 29, 2019

Honorable Mayor and City Council
City of Fremont
Fremont, NE 68025

Dear Mayor and City Council:

The Civil Service Commission certifies the following candidates are eligible for appointment to four Police Officer vacancies in the Fremont Police Department.

Jackson Radloff  Blair, NE
Jared Poskochil  Omaha, NE
Andrew Sage  Omaha, NE
Jaydn Foster  Fremont, NE
Francisco Cortes  Omaha, NE
Andrew Wulf  Omaha, NE

Relevant experience, education, and training were evaluated to assess the suitability of the applicants for the vacancy.

Sincerely,

[Signature]

Stephen F Tellatin
Civil Service Commission
TO: Honorable Mayor and City Council
FROM: Lottie Mitchell, Grant Coordinator/Executive Assistant
DATE: November 12, 2019

Recommendation: Approve Resolution 2019-231

Background: On October 28, 2019, the City of Fremont received notification from the Nebraska Department of Economic Development (DED) that $485,000 has been awarded to the City for the CDBG 19-EM-002 program.

CDBG 19-EM-002 will provide $450,000 for repairs to the Fremont, Farmland, Railroad Levee. Other grant funded project costs include $10,000 for construction management and $25,000 for general administration. Local matching funds are not a requirement of the grant contract but will be provided due to the cost of project.

The City of Fremont utilizes the consultant and grant administration services NENEDD provides for Community Development Block Grants. The agreement is attached.

Fiscal Impact: The approval of the Service/Consultant Agreement for General Administration for 19-EM-002 has no fiscal impact as the grant administration in the amount of $25,000 is covered by grant funds. The estimated project budget is shown below.

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<tr>
<th>Description</th>
<th>Amount</th>
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<tr>
<td>Other Repairs</td>
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<td>Grant Administration &amp; Construction Mgmt.</td>
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<td>FEMA (75%)</td>
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</tbody>
</table>
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 19-EM-002, 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 $25,000. Reimbursement under this contract shall be based on monthly billings, supported by 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 of, 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 31rd 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 _________________________________________
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).
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.

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<th>SIGNATURE</th>
<th>_____________________________</th>
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<tr>
<th>DATE</th>
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RESOLUTION NO. 2019-231

A RESOLUTION ACCEPTING AND AUTHORIZING THE EXECUTION OF A SERVICE/CONSULTANT AGREEMENT WITH NORTHEAST NEBRASKA ECONOMIC DEVELOPMENT DISTRICT (NENEDD) FOR THE GENERAL ADMINISTRATION OF COMMUNITY DEVELOPMENT BLOCK GRANT 19-EM-002.

WHEREAS, the City of Fremont wishes to enter into a Service/Consultant Agreement with NENEDD for the general administration of Community Development Block Grant 19-EM-002; and

WHEREAS, the City of Fremont agrees to reimburse NENEDD a sum of not to exceed $25,000 to complete the General Administration Scope of Work for said grant.

NOW, THEREFORE, BE IT RESOLVED by the Mayor and City Council of Fremont, Nebraska, that the City enter into a Service/Consultant Agreement with NENEDD for the general administration of Community Development Block Grant 19-EM-002, that the terms and conditions, as contained in the Agreement with NENEDD, are hereby approved, and that the Mayor is hereby authorized to execute said Agreement.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019.

_____________________________
Scott Getzschman, Mayor

ATTEST:

_____________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Tyler Ficken, City Clerk

DATE: November 12, 2019

SUBJECT: Cement/Asphalt/Excavate Work License Application

Recommendation: Move to approve the Cement worker license application(s) as presented subject to fulfillment of all licensing requirements.

Background: Cement 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>
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</thead>
<tbody>
<tr>
<td>Custom Concrete Designs, Inc. dba CCD Enterprises</td>
<td>Troy Alan Wendels</td>
<td>Concrete</td>
</tr>
</tbody>
</table>
TO THE FREMONT MAYOR AND COUNCIL:

The undersigned does hereby make application for license in the business of Cement Work

License should be issued to Custom Concrete Designs, Inc. DBA CCD ENTERPRISES

License shall be used by applicant as the sole owner of business, which will be conducted under the name of CCD ENTERPRISES at

(If applicant is not sole owner, set out the other owners: N/A)

Applicant telephone number at place of business or where can be reached 402-876-1497

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 19 years of practical experience in this type of work at the following places (Cover the last five years)

Lueder Const. Overland Constructors, MCL, Diced, NP Dodge
P. J. Morgan, 5th Fence, S.P. Storage, Ali Agri Storage, Armor Storage, BCI Properties, Beidler Technology, Campbell management

I have the following technical education:

I give you the following references: Walnut Hills Const. 5th Fence, NP Dodge

Properties, Lueder Construct. Overland Constructors, Layout Contractor supply

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 10-28-19

Signature
STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Jan Rise, Administrative Services Director

DATE: November 12, 2019

SUBJECT: Renew Property Insurance 2019-2020


Background: The results achieved on this renewal far exceed those currently being experienced in the hard property marketplace. The commercial property marketplace is experiencing a minimum of 10 to 15 percent rate increase with some experiencing a much higher increase, including some with no loss history. The insured value of the Department of Utilities’ (DU) property is $478,829,639.

The DU insurance consultant, Aon Risk Solutions (Aon), requested proposals for the DU property program. Eight insurers were invited to submit proposals, with only the incumbents responding. The renewal proposals from Starr Tech and the Associated Electric & Gas Insurance Services Limited (AEGIS) are similar to last year. In its proposal Aegis offered an option to insure 100 percent of the program for $615,000, which was higher than the combined quotes from Starr Tech and Aegis totaling $596,282. Starr Tech’s primary quote includes certified and non-certified terrorism coverage. There is savings to continue the DU property insurance program as expiring with primary and excess property with the two carriers.

The DU renewal results in a 1.7 percent premium increase and a 3.4 percent average rate increase. Starr Tech will provide primary coverage for the first $150,000,000, and AEGIS will provide the excess property coverage of $200,000,000, for the DU property insurance program totaling $350,000,000.

The resulting renewal proposal for the November 27, 2019-2020 coverage period includes a combined premium of $606,300, in comparison to last year’s premium of $596,282. Staff’s recommendation is to renew the expiring property insurance program with Starr Tech and AEGIS in the amount of $606,300.

Fiscal Impact: Budgeted $606,300
Property Insurance Renewal Proposal

Program Dates:
November 27, 2019 to November, 2020

October 28, 2019

Presented by:
Gary Wagner
Robert Patton

Aon Risk Solutions
Aon Global Power
City of Fremont Department of Utilities

2019-2020 Renewal Proposal

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City of Fremont Department of Utilities

2019-2020 Renewal Proposal

Client Service Team

To ensure City of Fremont receives distinctive value and service, a dedicated Client Service Team has been assembled for City of Fremont Department of Utilities.

**Account Executive**
Gary Wagner, AAI, AIC, CPSR  
Vice President  
Direct Line: (402) 697-5285  
Cell: (402) 598-3910  
Gary.Wagner@aon.com

**Account Management**
Robert Patton, CISR  
Sr. Account Manager  
Direct Line: (402) 697-5211  
Robert.Patton@aon.com

**Property Broking**
Kathleen Musselman  
Senior Property Placement Specialist  
Aon Global Power and Energy – Boston  
Direct Line: (847) 906-7682  
Kathleen.Musselman@aon.com

**Certificates of Insurance**
acs.chicago@aon.com

**Claims Consultant**
JoLynn Gaul  
Claims Consulting Supervisor  
Direct Line: (402) 697-5263  
JoLynn.Gaul@aon.com

**Bond Services**
Chris Troha  
Surety Broker  
Direct Line: (312) 381-4590  
Chris.Troha@aon.com
## Insurer Rating Summary

<table>
<thead>
<tr>
<th>Carrier</th>
<th>AM Best Rating</th>
<th>Admitted or Non Admitted</th>
</tr>
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<tbody>
<tr>
<td>Starr Tech</td>
<td>A++XV</td>
<td>Admitted</td>
</tr>
<tr>
<td>AEGIS U.S.</td>
<td>A-XIII</td>
<td>Non-Admitted</td>
</tr>
</tbody>
</table>

### Guide to A.M. Best’s Rating Guide

#### Financial Strength Ratings

A Best’s Financial Strength Rating (FSR) is an opinion as to an insurer’s financial strength and ability to meet its ongoing obligations to policyholders.

<table>
<thead>
<tr>
<th>Rating</th>
<th>Descriptor</th>
<th>Definition</th>
</tr>
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<tbody>
<tr>
<td>A++, A+</td>
<td>Superior</td>
<td>Assigned to companies that have, in our opinion, a superior ability to meet their ongoing obligations to policyholders.</td>
</tr>
<tr>
<td>A, A-</td>
<td>Excellent</td>
<td>Assigned to companies that have, in our opinion, an excellent ability to meet their ongoing obligations to policyholders.</td>
</tr>
<tr>
<td>B++, B+</td>
<td>Good</td>
<td>Assigned to companies that have, in our opinion, a good ability to meet their ongoing obligations to policyholders.</td>
</tr>
<tr>
<td>B, B-</td>
<td>Fair</td>
<td>Assigned to companies that have, in our opinion, a fair ability to meet their ongoing obligations to policyholders, but are financially vulnerable to adverse changes in underwriting and economic conditions.</td>
</tr>
<tr>
<td>C++, C+</td>
<td>Marginal</td>
<td>Assigned to companies that have, in our opinion, a marginal ability to meet their ongoing obligations to policyholders, but are financially vulnerable to adverse changes in underwriting and economic conditions.</td>
</tr>
<tr>
<td>C, C-</td>
<td>Weak</td>
<td>Assigned to companies that have, in our opinion, a weak ability to meet their ongoing obligations to policyholders, but are financially vulnerable to adverse changes in underwriting and economic conditions.</td>
</tr>
<tr>
<td>D</td>
<td>Poor</td>
<td>Assigned to companies that have, in our opinion, a poor ability to meet their ongoing obligations to policyholders and are financially very vulnerable to adverse changes in underwriting and economic conditions.</td>
</tr>
<tr>
<td>E</td>
<td>Under Regulatory Supervision</td>
<td>Assigned to companies (and possibly their subsidiaries/affiliates) that has been placed by an insurance regulatory authority under a significant form of supervision, control or restraint whereby they are no longer allowed to conduct normal ongoing insurance operations. This would include conservatorship or rehabilitation, but does not include liquidation. It may also be assigned to companies issued cease and desist orders by regulators outside their home state or country.</td>
</tr>
<tr>
<td>F</td>
<td>In Liquidation</td>
<td>Assigned to companies that have been placed under an order of liquidation by a court of law or whose owners have voluntarily agreed to liquidate the company. Note: Companies that voluntarily liquidate or dissolve their charters are generally not insolvent.</td>
</tr>
<tr>
<td>S</td>
<td>Suspended</td>
<td>Assigned to companies that have experienced sudden and significant events affecting their balance sheet strength or operating performance whereby the rating implications cannot be evaluated due to a lack of timely or adequate information.</td>
</tr>
</tbody>
</table>

#### Not Rated Categories

Assigned to companies reported on by A.M. Best, but not assigned a Best’s Rating. The five categories are as follows:

- NR-1: Insufficient Data.
- NR-2: Insufficient Size and/or Operating Experience.
- NR-3: Rating Procedure Inapplicable
- NR-4: Company Request.
- NR-5: Not Formally Followed.
# Financial Size Categories

To enhance the usefulness of our ratings, A.M. Best assigns each letter rated (A++ through D) insurance company a Financial Size Category (FSC). The FSC is designed to provide a convenient indicator of the size of a company in terms of its statutory surplus and related accounts.

<table>
<thead>
<tr>
<th>Class</th>
<th>Description</th>
<th>Class</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>I</td>
<td>Less than 1,000,000</td>
<td>IX</td>
<td>250,000,000 to 500,000,000</td>
</tr>
<tr>
<td>II</td>
<td>1,000,000 to 2,000,000</td>
<td>X</td>
<td>500,000,000 to 750,000,000</td>
</tr>
<tr>
<td>III</td>
<td>2,000,000 to 5,000,000</td>
<td>XI</td>
<td>750,000,000 to 1,000,000,000</td>
</tr>
<tr>
<td>IV</td>
<td>5,000,000 to 10,000,000</td>
<td>XII</td>
<td>1,000,000,000 to 1,250,000,000</td>
</tr>
<tr>
<td>V</td>
<td>10,000,000 to 25,000,000</td>
<td>XIII</td>
<td>1,250,000,000 to 1,500,000,000</td>
</tr>
<tr>
<td>VI</td>
<td>25,000,000 to 50,000,000</td>
<td>XIV</td>
<td>1,500,000,000 to 2,000,000,000</td>
</tr>
<tr>
<td>VII</td>
<td>50,000,000 to 100,000,000</td>
<td>XV</td>
<td>2,000,000,000 or greater</td>
</tr>
<tr>
<td>VIII</td>
<td>100,000,000 to 250,000,000</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Property Program Review
2019-2020 Program Overview

Property Limits & Pricing

<table>
<thead>
<tr>
<th>Policy Limit of Liability - $350M</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Underwriter</td>
<td>Starr Tech</td>
</tr>
<tr>
<td>Primary</td>
<td>$150,000,000</td>
</tr>
<tr>
<td>Underwriter</td>
<td>AEGIS</td>
</tr>
<tr>
<td>Excess</td>
<td>$200,000,000</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th></th>
<th>2018-2019</th>
<th>2019-2020</th>
<th>% +/-</th>
</tr>
</thead>
<tbody>
<tr>
<td>TIV</td>
<td>$486,790,748</td>
<td>$478,829,639</td>
<td>-1.6%</td>
</tr>
<tr>
<td>Program Premium</td>
<td>(1)$596,282</td>
<td>(1)$606,300</td>
<td>+1.7%</td>
</tr>
<tr>
<td>Average Rate</td>
<td>0.1225</td>
<td>0.1226</td>
<td>+3.4%</td>
</tr>
</tbody>
</table>

(1)Does not include Starr Tech engineering fee of $14,500.
City of Fremont Department of Utilities

2019-2020 Renewal Proposal

City of Fremont Department of Utilities
Premium Comparison
2018 term versus 2019 term

<table>
<thead>
<tr>
<th>Underwriting Company</th>
<th>Expiring Limit</th>
<th>Expiring Premium</th>
<th>Renewal Limit</th>
<th>Renewal Premium</th>
<th>AEGIS 100% Option</th>
<th>Premium</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starr Tech</td>
<td>$150,000,000</td>
<td>$468,190</td>
<td>$150,000,000</td>
<td>$477,211</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Cert. TRIA</td>
<td>$25,282</td>
<td></td>
<td>$17,180</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Non-Cert. TRIA</td>
<td>$2,810</td>
<td></td>
<td>$1,909</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>AEGIS</td>
<td>$200,000,000</td>
<td>$100,000</td>
<td>$110,000</td>
<td>$350,000,000</td>
<td>$602,941</td>
<td></td>
</tr>
<tr>
<td>Cert. TRIA</td>
<td>$0</td>
<td></td>
<td>$0</td>
<td>$12,059</td>
<td></td>
<td></td>
</tr>
<tr>
<td>TOTAL</td>
<td>$350,000,000</td>
<td>$596,282</td>
<td>$350,000,000</td>
<td>$606,300</td>
<td>$350,000,000</td>
<td>$615,000</td>
</tr>
</tbody>
</table>

Inspection Fee           | $14,500       | $14,500          | $5,800        |

TOTAL PREMIUM          | $610,782      | $620,800         | $620,800
City of Fremont Department of Utilities

2019-2020 Renewal Proposal

PROPERTY PROGRAM DETAILS 2019-20

TERM: November 27, 2019 – November, 2020

COVERAGE: Property

<table>
<thead>
<tr>
<th>Coverage</th>
<th>Limit/Sublimit</th>
</tr>
</thead>
<tbody>
<tr>
<td>Policy Loss Limit</td>
<td>$350,000,000</td>
</tr>
<tr>
<td>Sublimits</td>
<td></td>
</tr>
<tr>
<td>Accounts Receivable</td>
<td>$5,000,000</td>
</tr>
<tr>
<td>Business Interruption</td>
<td>No Coverage</td>
</tr>
<tr>
<td>Claims Preparation/Professional Fees</td>
<td>(1)$500,000</td>
</tr>
<tr>
<td>Computer Systems – Non-Physical Damage</td>
<td>(2)(Annual Aggregate) 1,000,000</td>
</tr>
<tr>
<td>Earth Movement except for E&amp;O, Newly Aquired and Misc. Unnamed Locations</td>
<td>(Annual Aggregate) 100,000,000</td>
</tr>
<tr>
<td>Earth Movement for E&amp;O, Newly Aquired and Misc. Unnamed Locations</td>
<td>(Annual Aggregate) 1,000,000</td>
</tr>
<tr>
<td>Flood (no coverage zones A&amp;V)</td>
<td>(Annual Aggregate) 100,000,000</td>
</tr>
<tr>
<td>Flood Zone A/V-100 year</td>
<td>(Annual Aggregate) 2,000,000</td>
</tr>
<tr>
<td>Debris Removal (25% or)</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Demolition / ICC</td>
<td>20,000,000</td>
</tr>
<tr>
<td>EDP Media/Extra Expense</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Errors &amp; Omissions</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Expediting Expense</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Extra Expense (excludes purchase of replacement power)</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Extra Expense (includes the purchase of replacement power, extra labor, and shipping costs incurred installing, removing, and reinstalling spare equipment owned, rented, or leased by the named insured sublimited to $10,000 pre day recovery)</td>
<td>2,500,000</td>
</tr>
<tr>
<td>Fire &amp; Police Dept Service Charges</td>
<td>included</td>
</tr>
<tr>
<td>Hazardous Substances</td>
<td>(Annual Aggregate) 2,500,000</td>
</tr>
<tr>
<td>Miscellaneous Unnamed Locations</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Newly Acquired-120 days</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Protection/Preservation of Property</td>
<td>2,000,000</td>
</tr>
<tr>
<td>Service Interruption</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Transit</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Valuable Papers</td>
<td>5,000,000</td>
</tr>
<tr>
<td>Personal Property at Exposition, Fair, Trade Show</td>
<td>250,000</td>
</tr>
</tbody>
</table>
City of Fremont Department of Utilities

2019-2020 Renewal Proposal

### Deductibles

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>All Perils; except</td>
<td>100,000</td>
</tr>
<tr>
<td>Transit; except</td>
<td>100,000</td>
</tr>
<tr>
<td>Transit; non utility locations</td>
<td>10,000</td>
</tr>
<tr>
<td>Unit #6 16,500 KW Steam Turbine/Generator</td>
<td>100,000</td>
</tr>
<tr>
<td>Unit #7 22,000 KW Steam Turbine/Generator</td>
<td>100,000</td>
</tr>
<tr>
<td>Unit #8 92,000 KW Steam Turbine/Generator</td>
<td>200,000</td>
</tr>
<tr>
<td>Cumbustion Turbine Generator</td>
<td>300,000</td>
</tr>
<tr>
<td>Transformers</td>
<td>1.5 per KVA with a 50,000 minimum</td>
</tr>
<tr>
<td>Service Interruption-Waiting Period</td>
<td>24 Hours</td>
</tr>
<tr>
<td>Extra Expense</td>
<td>30 days</td>
</tr>
</tbody>
</table>

1. Increased from $250,000
2. Previously excluded

- 72 Hour Occurrence Definition applies to Wind, Flood, and Earthquake
- Transmission lines located beyond 1,000 ft. from any insured premises are excluded
- Repair or Replacement Coverage applies to all equipment except Steam Turbine Generator No. 6 at Lon D. Wright is on Actual Cash Values basis with 50% maximum depreciation
- 90 Days Notice of Cancellation, except 10 days for non-payment of premium
- Definition of Steam Turbine/Generator applies
- Definition of Transformer applies
- Definition of Combustion Turbine Generator applies
- Reported Value Endorsement applies – Quotation based on the following reported values (all at 100%): $478,829,639 (2019 Reported Values)
- Computer related Loss Clause applies
- Property/Fire, Boiler & Machinery and Jurisdictional Inspection Services included as an Engineering Fee of $14,500
- Data Corruption Endorsement
- Wind Endorsement
- Political Risk Exclusion Endorsement applies
- Extra Expense for replacement power is further sublimited to $10,000 per day
- Biological or Nuclear Exclusion Endorsement
- Bridge Wording Endorsement
- Commercial Property Conditions
- Common Policy Condition
- Trade or Economic Sanctions Endorsement
- Waste Water Treatment Plan located at 6325 E Morningside Road, Fremont, NE is considered outside of 100 year flood zone.
Acknowledgement and Instruction to Bind

We hereby acknowledge receipt and review of the information presented in the Renewal Proposal (“Proposal”) dated 10/28/19 for property coverage and provided in the attached Quote Disclosure Report (QDR) dated 10/28/19. We hereby instruct Aon Risk Services [Region], Inc. (“Aon”; “Commercial Risk Solutions”) to bind the insurance program(s) selected by us and understand that our instruction to bind constitutes an acceptance of the terms and conditions and payments described in this Renewal Proposal.

Date: ____________________________
On behalf of City of Fremont Department of Utilities

Optional Quotes:

<table>
<thead>
<tr>
<th>Optional Quotes</th>
<th>Accept</th>
<th>Decline</th>
</tr>
</thead>
<tbody>
<tr>
<td>Starr $150,000,000 Limit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Starr (Certified Terrorism) - $17,180</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Starr (Non-Certified Terrorism) - $1,909</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AEGIS $200,000,000 Limit</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AEGIS 100% Option - $350,000,000</td>
<td></td>
<td></td>
</tr>
<tr>
<td>AEGIS (Certified Terrorism) - $12,059</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

AON HAS GONE GREEN

Aon Risk Solutions is committed to reducing the time you spend managing and filing confidential paperwork, and we are also committed to reducing our impact on the environment. Therefore, we are excited to announce changes to our policy document delivery model. Your renewal policies will be sent via electronic delivery. Electronic versions of your policies will be available to you 24/7 through the Client Service Access (CSA) tool in AonLine, Aon’s client portal. You will receive an email alert indicating a new policy is available through Client Services Access. Just click the link in the email to start the process of registering and accessing your documents.
RESOLUTION NO. 2019-232

A Resolution of the City Council of the City of Fremont, Nebraska, to renew the Department of Utilities’ property insurance program with Starr Tech and Associated Electric & Gas Insurance Services Limited (AEGIS) for the November 27, 2019 to November 27, 2020 policy year.

WHEREAS, the Department of Utilities’ (DU) insurance consultant, Aon Risk Solutions (Aon), has reviewed and negotiated the DU’s property insurance program for the 2019--2020 renewal; and,

WHEREAS, the renewal results in a 1.7 percent premium increase and a 3.4 percent average rate increase, with Starr Tech providing coverage for the first $150,000,000 of property coverage, and AEGIS providing the excess property coverage of $200,000,000, for a total of $350,000,000; and,

WHEREAS, the resulting renewal proposal for the November 27, 2019 to November 27, 2020 policy term includes a combined premium of $606,300.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council accept the recommendation of the Utility and Infrastructure Board to renew the property insurance program with Starr Tech and AEGIS for the November 27, 2019 to November 27, 2020 policy term in the amount of $606,300.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019.

_______________________________________
Scott Getzschman, Mayor

ATTEST:

_______________________________________
Tyler Ficken, City Clerk
Recommendation: Approve resolution 2019-234

Background: The III Corp Drug Task Force on occasion will seize funds used in the trafficking of drugs. The seizure of these funds must be reported to the federal government and equitably divided between local and federal agencies.

The Equitable Sharing Agreement and Certification is a form showing what funds the III Corp Drug Task Force has received as well as expenditures during 2018 fiscal year. This form must be signed by the Mayor and Chief of Police to maintain our participation in the equitable sharing program. III Corp must participate in this program in order to receive seizure funds from drug investigations.

Recently, grants that the III Corp Drug Task Force had been receiving from the federal government have dried up. This leaves funding of III Corp to each of the local jurisdictions that participate. The funds from the Equitable Sharing Agreement go toward the operation of the III Corp Drug Task Force.

Fiscal Impact: Dependent on amount of eligible seizures.
Equitable Sharing Agreement and Certification

NCIC/ORI/Tracking Number: NB0270100
Agency Name: Fremont Police Department
Mailing Address: 725 North Park Avenue
Fremont, NE 68025

Type: Police Department

Agency Finance Contact
Name: Sanders, Jody J
Phone: 402-727-26927
Email: jody.sanders@fremontne.gov

Jurisdiction Finance Contact
Name: Sanders, Jody
Phone: 402-727-26927
Email: jody.sanders@fremontne.gov

ESAC Preparer
Name: Luttig, Laura
Phone: 402-727-26925
Email: laura.luttig@fremontne.gov

FY End Date: 09/30/2019
Agency FY 2020 Budget: $7,930,555.00

### Annual Certification Report

#### Summary of Equitable Sharing Activity

<table>
<thead>
<tr>
<th>Activity</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Beginning Equitable Sharing Fund Balance</td>
<td>$22,738.81</td>
<td>$0.00</td>
</tr>
<tr>
<td>2. Equitable Sharing Funds Received</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>3. Equitable Sharing Funds Received from Other Law Enforcement Agencies and Task Force</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>4. Other Income</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>5. Interest Income</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>6. Total Equitable Sharing Funds Received (total of lines 1-5)</td>
<td>$22,738.81</td>
<td>$0.00</td>
</tr>
<tr>
<td>7. Equitable Sharing Funds Spent (total of lines a - n)</td>
<td>$2,347.71</td>
<td>$0.00</td>
</tr>
<tr>
<td>8. Ending Equitable Sharing Funds Balance</td>
<td>$20,391.10</td>
<td>$0.00</td>
</tr>
</tbody>
</table>

**Notes:**
- Department of Justice Asset Forfeiture Program participants are: FBI, DEA, ATF, USPIS, USDA, DCIS, DSS, and FDA
- Department of the Treasury Asset Forfeiture Program participants are: IRS, ICE, CBP and USSS.

#### Summary of Shared Funds Spent

<table>
<thead>
<tr>
<th>Item</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>a. Law Enforcement Operations and Investigations</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>b. Training and Education</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>c. Law Enforcement, Public Safety, and Detention Facilities</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>d. Law Enforcement Equipment</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>e. Joint Law Enforcement/Public Safety Equipment and Operations</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>f. Contracts for Services</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>g. Law Enforcement Travel and Per Diem</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>h. Law Enforcement Awards and Memorials</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>i. Drug, Gang, and Other Education or Awareness Programs</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>j. Matching Grants</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>k. Transfers to Other Participating Law Enforcement Agencies</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>l. Support of Community-Based Programs</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>m. Non-Categorized Expenditures</td>
<td>$0.00</td>
<td>$0.00</td>
</tr>
<tr>
<td>n. Salaries</td>
<td>$2,347.71</td>
<td>$0.00</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>$2,347.71</strong></td>
<td><strong>$0.00</strong></td>
</tr>
</tbody>
</table>

Date Printed: 11/06/2019
Equitable Sharing Funds Received From Other Agencies

<table>
<thead>
<tr>
<th>Transferring Agency Name</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Other Income

<table>
<thead>
<tr>
<th>Other Income Type</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Matching Grants

<table>
<thead>
<tr>
<th>Matching Grant Name</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Transfers to Other Participating Law Enforcement Agencies

<table>
<thead>
<tr>
<th>Receiving Agency Name</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Support of Community-Based Programs

<table>
<thead>
<tr>
<th>Recipient</th>
<th>Justice Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Non-Categorized Expenditures

<table>
<thead>
<tr>
<th>Description</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Salaries

<table>
<thead>
<tr>
<th>Salary Type</th>
<th>Justice Funds</th>
<th>Treasury Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Salary - Overtime</td>
<td>$2,347.71</td>
<td></td>
</tr>
</tbody>
</table>

Paperwork Reduction Act Notice

Under the Paperwork Reduction Act, a person is not required to respond to a collection of information unless it displays a valid OMB control number. We try to create accurate and easily understood forms that impose the least possible burden on you to complete. The estimated average time to complete this form is 30 minutes. If you have comments regarding the accuracy of this estimate, or suggestions for making this form simpler, please write to the Asset Forfeiture and Money Laundering Section at 1400 New York Avenue, N.W., Washington, DC 20005.

Privacy Act Notice

The Department of Justice is collecting this information for the purpose of reviewing your equitable sharing expenditures. Providing this information is voluntary; however, the information is necessary for your agency to maintain Program compliance. Information collected is covered by Department of Justice System of Records Notice, 71 Fed. Reg. 29170 (May 19, 2006), JMD-022 Department of Justice Consolidated Asset Tracking System (CATS). This information may be disclosed to contractors when necessary to accomplish an agency function, to law enforcement when there is a violation or potential violation of law, or in accordance with other published routine uses. For a complete list of routine uses, see the System of Records Notice as amended by subsequent publications.

Single Audit Information

Independent Auditor
Name: Linder, Chris
Company: BKD, LLP
Phone: 402.473.7600 x 22336 Email: clinder@bdk.com

Date Printed: 11/06/2019
Were equitable sharing expenditures included on your jurisdiction’s prior fiscal year’s Schedule of Expenditures of Federal Awards (SEFA)?

YES ☑️ NO □

Prior year Single Audit Number Assigned by Harvester Database: not applicable spending <750,000
Affidavit

Under penalty of perjury, the undersigned officials certify that they have read and understand their obligations under the Guide to Equitable Sharing for State, Local, and Tribal Law Enforcement Agencies (Guide) and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. The undersigned officials certify that the information submitted on the Equitable Sharing Agreement and Certification form (ESAC) is an accurate accounting of funds received and spent by the Agency.

The undersigned certify that the Agency is in compliance with the applicable nondiscrimination requirements of the following laws and their Department of Justice implementing regulations: Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. § 794), and the Age Discrimination Act of 1975 (42 U.S.C. § 6101 et seq.), which prohibit discrimination on the basis of race, color, national origin, disability, or age in any federally assisted program or activity, or on the basis of sex in any federally assisted education program or activity. The Agency agrees that it will comply with all federal statutes and regulations permitting federal investigators access to records and any other sources of information as may be necessary to determine compliance with civil rights and other applicable statutes and regulations.

Equitable Sharing Agreement

This Federal Equitable Sharing Agreement, entered into among (1) the Federal Government, (2) the Agency, and (3) the Agency's governing body, sets forth the requirements for participation in the federal Equitable Sharing Program and the restrictions upon the use of federally forfeited funds, property, and any interest earned thereon, which are equitably shared with participating law enforcement agencies. By submitting this form, the Agency agrees that it will be bound by the Guide and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations. Submission of the ESAC is a prerequisite to receiving any funds or property through the Equitable Sharing Program.

1. Submission. The ESAC must be signed and electronically submitted within 60 days of the end of the Agency's fiscal year. Electronic submission constitutes submission to the Department of Justice and the Department of the Treasury.

2. Signatories. The ESAC must be signed by the head of the Agency and the head of the governing body. Examples of Agency heads include police chief, sheriff, director, commissioner, superintendent, administrator, county attorney, district attorney, prosecuting attorney, state attorney, commonwealth attorney, and attorney general. The governing body head is the head of the agency that appropriates funding to the Agency. Examples of governing body heads include city manager, mayor, city council chairperson, county executive, county council chairperson, administrator, commissioner, and governor. The governing body head cannot be an official or employee of the Agency and must be from a separate entity.

3. Uses. Shared assets must be used for law enforcement purposes in accordance with the Guide and all subsequent updates, this Equitable Sharing Agreement, and the applicable sections of the Code of Federal Regulations.

4. Transfers. Before the Agency transfers funds to other state or local law enforcement agencies, it must obtain written approval from the Department of Justice or Department of the Treasury. Transfers of tangible property are not permitted. Agencies that transfer or receive equitable sharing funds must perform sub-recipient monitoring in accordance with the Code of Federal Regulations.

5. Internal Controls. The Agency agrees to account separately for federal equitable sharing funds received from the Department of Justice and the Department of the Treasury, funds from state and local forfeitures, joint law enforcement operations funds, and any other sources must not be commingled with federal equitable sharing funds.

The Agency certifies that equitable sharing funds are maintained by the entity that maintains the Agency's appropriated or general funds and agrees that the funds will be subject to the standard accounting requirements and practices employed by the Agency's jurisdiction in accordance with the requirements set forth in the Guide, any subsequent updates, and the Code of Federal Regulations, including the requirement to maintain relevant documents and records for five years.

The misuse or misapplication of equitably shared funds or assets or supplantation of existing resources with shared funds or assets is prohibited. The Agency must follow its jurisdiction's procurement policies when expending equitably shared funds. Failure to comply with any provision of the Guide, any subsequent updates, and the Code of Federal Regulations may subject the Agency to sanctions.

6. Single Audit Report and Other Reviews. Audits shall be conducted as provided by the Single Audit Act Amendments of 1996 and OMB Uniform Administrative Requirements, Costs Principles, and Audit Requirements for Federal Awards. The Agency must report its equitable sharing expenditures on the Schedule of Expenditures of Federal Awards (SEFA) under Catalog of Federal Domestic Assistance number 16.922 for Department of Justice and 21.016 for Department of the Treasury. The Department of Justice and the Department of the Treasury reserve the right to conduct audits or reviews.

Date Printed: 11/06/2019
7. **Freedom of Information Act (FOIA).** Information provided in this Document is subject to the FOIA requirements of the Department of Justice and the Department of the Treasury. Agencies must follow local release of information policies.

8. **Waste, Fraud, or Abuse.** An Agency or governing body is required to immediately notify the Money Laundering and Asset Recovery Section of the Department of Justice and the Executive Office for Asset Forfeiture of the Department of the Treasury of any allegations or theft, fraud, waste, or abuse involving federal equitable sharing funds.

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**Civil Rights Cases**

During the past fiscal year: (1) has any court or administrative agency issued any finding, judgment, or determination that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above; or (2) has the Agency entered into any settlement agreement with respect to any complaint filed with a court or administrative agency alleging that the Agency discriminated against any person or group in violation of any of the federal civil rights statutes listed above?

☐ Yes  ☒ No

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**Agency Head**

Name: Elliott, Jeff  
Title: Chief of Police  
Email: jeff.elliott@fremontne.gov

Signature: Submitted Electronically  
Date: 11/13/2019

To the best of my knowledge and belief, the information provided on this ESAC is true and accurate and has been reviewed and authorized by the Law Enforcement Agency Head whose name appears above. Entry of the Agency Head name above indicates his/her agreement to abide by the Guide, any subsequent updates, and the Code of Federal Regulations, including ensuring permissibility of expenditures and following all required procurement policies and procedures.

---

**Governance Body Head**

Name: Getzschman, Scott  
Title: Mayor  
Email: scott.getzschman@fremontne.gov

Signature: Submitted Electronically  
Date: 11/13/2019

To the best of my knowledge and belief, the Agency’s current fiscal year budget reported on this ESAC is true and accurate and the Governing Body Head whose name appears above certifies that the agency’s budget has not been supplanted as a result of receiving equitable sharing funds. Entry of the Governing Body Head name above indicates his/her agreement to abide by the policies and procedures set forth in the Guide, any subsequent updates, and the Code of Federal Regulations.

☐ I certify that I have obtained approval from and I am authorized to submit this form on behalf of the Agency Head and the Governing Body Head.
RESOLUTION NO. 2019-234

A Resolution of the City Council of the City of Fremont, Nebraska, to allow the Mayor and Chief of Police to sign the Equitable Sharing Agreement and Certification.

WHEREAS, it is in the best interest of the City of Fremont to investigate and dismantle drug operations; and,

WHEREAS, the seizure of funds used in drug operations is important to the dismantling of these operations; and,

WHEREAS, the ability for the III Corp Drug Task Force to seize such funds is only possible through the Equitable Sharing program through the United States Department of Justice; and,

WHEREAS, the United States Department of Justice requires the signing of an Equitable Sharing and Agreement Certification.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont that the Mayor and Chief of Police are hereby authorized to sign the Equitable Sharing Agreement and Certification.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 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: November 12, 2019
SUBJECT: Fee Waiver Request for Christensen Field Indoor Horse Arena.

Recommendation: Approve the motion

Background: The Fremont Horse Arena Improvement Association (FHAIA) has submitted a letter requesting all fees be waived for use of the Christensen Field Indoor Horse Arena, kitchen and public address system to host a weekend fundraising event.

Although this event does not meet the necessary requirements to receive a fee waiver, I recommend approving this request as money raised will be donated back to the City for improvements to the arena.

Once a date has been established, the organizer will be required to submit a certificate of insurance for the event.

Park Board approved this request at the November 5, 2019 and forwarded it on to City Council for final approval.

Fiscal Impact: Rental fee of $1,017.50 ($817.50 fees + $200 deposit that is refundable). The FHAIA will handle all set-up and tear-down duties associated with this event, no additional City staff will be needed.

The fee waiver application does require that all groups requesting a waiver must provide a deposit. The deposit for this event is $200.00. The deposit it refundable following the event as long as the facilities are left in good condition.
Hello Kim,

My name is Mary Pearson and I am the New President of FHAIA. First of all I would like to extend a HUGE THANK YOU for all the years working with us and allowing access to the indoor arena on Tuesdays if not rented out. You have no idea how much that means to many of us!!

Our club was organized with the intentions of doing what we can to aid in projects of improving the arena, plus being able to ride there as club members. In the current past about the only project we have helped a lot with is the Bull Riding in the Spring which we plan on continuing to help with.

We have meetings the second Wednesday of certain months of the year and at our last meeting which was October 16th the subject came up of projects at the arena that we would really like to see improved. The road between the arena and barns was discussed, along with the addition onto the Arena’s West end which would serve as a holding area before entering the area.

My understanding after asking some questions is they are both on an agenda for future improvements. The road has a draining problem and is hoping to receive black top so loads of gravel that we talked about donating is out.

As far as the addition to the arena this is what we would like to to. First of all, we use to be given a FREE WEEKEND FOR INDOOR ARENA for sponsoring horse shows and different projects to raise money for arena Improvements. We would like to claim a Weekend again if there are any open to run a BARREL RACING CLINIC. We have a member in our group that is a well known, very accomplished Barrel Racer that would pull people in if we put on a clinic with a Barrel Race after. We would tag all profits towards the starting up of a ARENA ADDITION FUND.

We are also planning on meeting with a contractor to maybe get a ruff draft of what is possible in that area and what it would cost. Then we thought if it was OK with you to maybe start going to businesses and people like Donna Rankin
that use the arena a lot to see if they would be interested in making donations along with our Club to get this off the ground.

We only want to do what is acceptable and go through the correct channels to get our goals accomplished. So if you can make this kind of decision yourself or have to take it to a board, to decide if we could claim our free weekend to raise Money to get the BALL rolling on this. We would like to know ASAP!!

I would also appreciate your opinion and if you feel this is a good idea and even feasible.

Thank your for looking into it for us and your consideration.

Mary Pearson
FHAIA President/ FHAIA Arena Director
Mpearson71@hotmail.com
402-870-1378
**CHRISTENSEN FIELD**

**RENTAL AGREEMENT FOR USE OF PARKS & RECREATION DEPARTMENT FACILITIES**

**Date:** Oct 31, 2019  
**Firm/Agency:** FHAIA, Fremont Horse Arena

**Agent or Responsible Person:** Mary Pearson  
**Contact #:** 870-1378

**Purpose of Event:** Horse Event (Fundraiser)  
**Anticipated Attendance:**

**Date(s) of Event:** (Two Day)  
**Time In:**  
**Time Out:**

**Detailed Description of Event:**

Marquee Message

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**Regular Rates**

<table>
<thead>
<tr>
<th>Facility</th>
<th>Weekend (Fri-Sun)</th>
<th>Weekday (Mon-Th)</th>
<th>Monday-Sunday</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Arena</td>
<td>$490/Day</td>
<td>$365/Day</td>
<td>$560/Day</td>
</tr>
<tr>
<td>M.A. Kitchen</td>
<td>$55/Day</td>
<td>$40/Day</td>
<td>$55/Day</td>
</tr>
<tr>
<td>Meeting Room</td>
<td>$90/Day</td>
<td>$70/Day</td>
<td>$90/Day</td>
</tr>
<tr>
<td>Friendship Center</td>
<td>$345/Day</td>
<td>$260/Day</td>
<td>$425/Day</td>
</tr>
<tr>
<td>F.C. Kitchen</td>
<td>$55/Day</td>
<td>$40/Day</td>
<td>$55/Day</td>
</tr>
<tr>
<td>Indoor Arena</td>
<td>$275/Day</td>
<td>$225/Day</td>
<td>$325/Day</td>
</tr>
<tr>
<td>Stage</td>
<td>$60/Day</td>
<td>$60/Day</td>
<td>$60/Day</td>
</tr>
<tr>
<td>Short Stage</td>
<td>$30/Day</td>
<td>$30/Day</td>
<td>$30/Day</td>
</tr>
<tr>
<td>Outdoor Arena</td>
<td>$150/Day</td>
<td>$125/Day</td>
<td>$225/Day</td>
</tr>
<tr>
<td>Enclosed Barn</td>
<td>$100/Day</td>
<td>$75/Day</td>
<td></td>
</tr>
<tr>
<td>Horse Stalls</td>
<td>$15/Day</td>
<td>$15/Day*</td>
<td></td>
</tr>
<tr>
<td>Camping</td>
<td>$20/Day*</td>
<td>$20/Day*</td>
<td></td>
</tr>
<tr>
<td>Heat</td>
<td>Determined by Usage/Horse Arena only</td>
<td></td>
<td></td>
</tr>
<tr>
<td>P/A System</td>
<td>$30</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Commercial Rates**

**Facility**

Indoor Arena: # days x Rate = 687.50

- Kitchen/Beverage: 2 x Rate = 50 = 100.00
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =
  - # days x Rate =

**Other/Additional Fees**

| P/A System | x Rate | = 30.00 |
| Heat       | x Rate | = TBD   |

**Rental Fee:** $817.50  
**Deposit:** $300.00 (Refundable)

**Total Amount Due:** $1017.50 +

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**Holiday Rates:** If approved Rental Rates for City Recognized Holidays (including Christmas Eve and New Year’s Eve) will charged at 1.5 times the Weekend/Commercial Rate. The city reserves the right to not rent facilities on city recognized Holidays, including Christmas Eve and New Year’s Eve.

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**Please Note:** All events should contact the Events Maintenance Supervisor regarding set-up at 402-720-1197 or 402-727-2630.

**Updated December 1, 2018**
EVENT DETAILS

Please check "yes" or "no" to each of the following. If you mark "yes" to any item, please provide details under the "Event Description" below (some items may require written authorization, additional fees, and/or proof of insurance).

<table>
<thead>
<tr>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Is your event open to the public?</td>
</tr>
<tr>
<td>2.</td>
<td>Are you planning to charge registration/admission fees?</td>
</tr>
<tr>
<td>3.</td>
<td>Will you be subletting tables/space?</td>
</tr>
<tr>
<td>4.</td>
<td>Will you be selling merchandise, food or beverages? List description below</td>
</tr>
</tbody>
</table>

*Answering Yes to any question 1-4 classifies the rental as a Commercial Rental. Commercial Rates and requirements will be administered.*

| 5. | Will alcohol be served? — If yes please review Alcohol Policy and Requirements - The Chief of Police and the Parks Director can, at their discretion make changes to security requirements if in their joint opinion there is a need to do so. |
| 6. | Will there be live or amplified music? |
| 7. | Are you hiring a third party vendor? |
| 8. | Will you be decorating the facility (restrictions apply)? |

Additional info related to rental: ________________________________________________________________

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- All Rentals must end by 12:00 A.M., the renter must clean and vacate the facility no later than 12:30 A.M.
- Failure to vacate on time will result in loss of 25% of deposit for every 1/2 hr after 12:30 A.M. (special arrangements must be approved in advance for a later vacate time)

- The Renter shall not use the premises in violation of any Federal or State Law, City Ordinance or Fire regulations, and shall pay charges for special police if same are deemed necessary by the City of Fremont. NO lighted candles permitted in any city facility.

- All COMMERCIAL RENTERS will provide the City of Fremont proof of liability insurance in the minimum amount of $1,000,000 and shall name the city as an additional insured on that policy. Commercial rentals include any person, business, or organization that requires an admittance/entry fee, sale of products, sub letting of tables or space, and fundraising. Commercial rentals will be charged a commercial rate.

- When deemed required by the City of Fremont, the Renter shall provide security for scheduled event through one of the approved Security Vendors for the City of Fremont. The Chief of Police and the Parks Director can, at their discretion make changes to security requirements if in their joint opinion there is a need to do so.

- Security must be secured at least one week in advance and approved by the City of Fremont or rental will be cancelled.

- If Renter wishes to consume alcohol on City Property, the Renter must submit a Permission To Consume Alcohol On City Property Form and follow all of the requirements and fees necessary to obtain approval.

- Rentals that have obtained permission to consume alcohol must cease consumption at 12:00 a.m. midnight, last call at 11:30 p.m. No alcohol is allowed to be consumed or located in the building if security is not present, either before, during or after rental time. Failure to follow this policy will result in loss of full deposit and possible report to local authorities.

- The Renter shall be responsible for damage or breakage to the building or property therein that occurs as a result of negligence or miss-use of said premise by the Renter. The Renter will notify the City of Fremont immediately at the time of damage or breakage to the building or property.

- The Renter shall leave the premises in a clean and orderly condition (garbage, decorations and other debris picked up and placed in outside receptacles), and to close and secure the facility or the City reserves the right to withhold refund of deposit. This does not include taking down chairs and tables set up for an event.

- Large items left behind at any facility will be subject to removal to the city impoundment lot after 3 days from the last day of the rental.

- Only the room(s) rented may be used.

- Helium balloons used for decorating and which end up on ceiling will result in a minimum deduction of $25 from damage/clean up deposit.

- Refund/Cancellation Policy: 80% Refund if cancellation occurs 90 days or more prior to the event
  - 60% Refund if cancellation occurs 60-89 days prior to event
  - 30% Refund if cancellation occurs 30-59 days prior to event
  - 0% Refund if cancellation occurs 29 days or less prior to event

- The City of Fremont Parks and Recreation Department has sole discretion and authority to restrict or refuse the use of any public facility to any group or individual.

- The Renter shall hold the City of Fremont harmless from all liability for injury or death, or loss of or damage to, any person or property that occurs during, or as a result of, the use of facilities by the Renter, and shall indemnify the City for all expenses it may incur as a result of claim or demand by anyone growing out of the use of said facility by Renter.

Other conditions specific to this rental: _________________________________________________________

The undersigned agrees to the terms and conditions set forth above and the Parks and Recreation Department acknowledges receipt of payment of rental charges as specified and dated on agreement.

---

**Agent for Parks and Recreation**

[Signature]

**Date**

**Renter Signature**

**Date**
STAFF REPORT

TO: Fremont City Council
FROM: Molly J. Miller, Legal
DATE: November 12, 2019
SUBJECT: MOU between the City of Fremont and Fremont Public Schools

Recommendation: Approve and Authorize the Execution of the Memorandum Of Understanding between the City of Fremont and the Fremont Public Schools.

Background: The Nebraska State Legislature enacted LB 390 requiring Law Enforcement Agencies providing School Resource Officers (SRO) for Public School Districts to enter into a Memorandum of Understanding ("MOU"). The content of the MOU centers around ensuring educational training on various issues by both the SRO and the Administration of the School District as well as confirmation of record retention. LB 390 allows for the individual School Districts and Law Enforcement Agencies to enter into a MOU prior to December 1, 2019, and if that did not occur, then the State Department of Education would develop a standard MOU that each Law Enforcement Agency and School District would be required to execute. The City of Fremont and Fremont Public Schools have developed the attached MOU that is reflective of each party’s agreement and understanding. This MOU is in compliance with the requirements of LB 390.

Fiscal Impact: None
MEMORANDUM OF UNDERSTANDING

The City of Fremont, Nebraska ("City"), and the Fremont Public Schools ("FPS") are parties to an Interlocal Agreement effective January 1, 2014, and continues annually each year following. The Interlocal Agreement was amended pursuant to the terms of Amendment No. 1 to the School Resource Officer Project, effective on February 12, 2019.

The Nebraska Legislature passed LB390, on or about April 18, 2019, approved by the Governor on or about April 24, 2019, requiring the municipalities and school districts to enter an MOU that delineates the roles and responsibilities of school resource officers, security guards and school officials to balance the interest of safety for students and school staff in relation to parental rights, student success, and family integrity. Therefore, the parties enter into the following Memorandum of Understanding ("MOU") to comply with the new statutory requirements.

1. Each school resource officer or security guard assigned by the City to FPS shall attend a minimum of twenty hours of training focused on the school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

2. A minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned shall attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

3. Records will be kept, by FPS, on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such school records allow for analysis of related data and delineate:
   a. The reason for such referral; and
   b. Federal identified demographic characteristics of such student.

Nothing in this section shall be in conflict with Nebraska State statute on records for minors/juveniles and the confidentiality for which they are kept and maintained. To that end, the records kept by FPS shall redact personally identifiable information concerning the students.

4. FPS policies regarding parental and/or guardian contact when a student is questioned by a school official, school resource officer or security guard are outlined in the Fremont Public Schools Board policies (see Policy 52B.1), Fremont High School Handbook, Fremont
Middle School Handbook, Johnson Crossing Student Handbook and Fremont Public School Elementary Handbook, as amended from time to time.

5. FPS and the City comply with all Federal and State statutes, as amended from time to time, regarding advisement of constitutional rights prior to the questioning of a minor student.

6. FPS policies regarding referral to a school resource officer or security guard for prosecution are outlined in the Fremont Public Schools Board policies (see Policy 52B (section VI, Law Violations), Fremont High School Handbook, Fremont Middle School Handbook, Johnson Crossing Student Handbook, Fremont Public School Elementary Handbook, Nebraska statutes and Federal law, as amended from time to time.

7. Complaints regarding a school resource officer or security guard can be done through the Fremont Police Department.

City of Fremont, Nebraska

By: ___________________________ Date: ______________
Mayor Scott Getzschman

Fremont Public Schools

By: ___________________________ Date: ______________
President of the Board
LEGISLATIVE BILL 390

Approved by the Governor April 24, 2019

Introduced by Pansing Brooks, 28; Hansen, M., 26; Linehan, 39; Walz, 15; Wayne, 13.

A BILL FOR AN ACT relating to public safety; to state findings; to define terms; and to provide duties for the State Department of Education, law enforcement agencies, security agencies, and school districts relating to school resource officers and security guards as prescribed.

Be it enacted by the people of the State of Nebraska,

Section 1. The Legislature finds and declares that:
(1) Our public school children, faculty, and staff are entitled to be safe in schools when they attend school and study or work.
(2) Schools have an interest in keeping students safe.
(3) The interest of schools in keeping students safe may include the presence of school resource officers or security guards if a school district determines such resources are necessary to keep schools safe.
(4) Parents and guardians of students have a vested interest in being informed of school discipline matters involving their children and to be notified as soon as possible if their children are contacted in response to a possible law violation, questioned, searched, cited, or arrested by a peace officer working with school officials.
(5) A comprehensive and clear memorandum of understanding between law enforcement and school officials will delineate the roles and responsibilities of school resource officers, security guards, and school officials to balance the interests of safety for students and school staff in relation to parental rights, student success, and family integrity, with the goal that an increased law enforcement presence at schools will not result in a disparate impact on students in federally identified demographic categories; and
(6) Schools have a duty to respond to and manage disciplinary issues. The primary role of school resource officers and security officers should be to enhance safety with the understanding that school resource officers also work to prevent and respond to law violations and serve as a community resource for students, parents, and school staff.

Sec. 2. For purposes of sections 1 to 4 of this act, unless the context otherwise requires:
(1) Department means the State Department of Education;
(2) Law enforcement agency means an agency or department of this state or of any political subdivision of this state that is responsible for the prevention and detection of crime, the enforcement of the penal, traffic, or highway laws of this state or any political subdivision of this state, and the enforcement of arrest warrants. Law enforcement agency includes a police department, an office of a town marshal, an office of a county sheriff, the Nebraska State Patrol, and any department to which a deputy state sheriff is assigned as provided in section 84-186;
(3) Peace officer has the same meaning as in section 28-169;
(4) School resource officer means any peace officer who is assigned, as his or her primary duty, to any school district to provide law enforcement and security services to any public elementary or secondary school and does not mean a peace officer responding to a call for service, providing proactive enforcement, providing law enforcement or traffic direction for a school-related event, or providing temporary services as a school resource officer when the assigned school resource officer is not available;
(5) Security agency means a contractor that employs security guards used by a school district; and
(6) Security guard means a person who is contracted or employed by a security agency to protect buildings and people and who does not have law enforcement authority or the power to arrest under any apparent authority in the jurisdiction where such person is contracted or employed as a security guard. A security guard may be an off-duty peace officer.

Sec. 3. (1) On or before December 1, 2019, the department shall develop and distribute a model memorandum of understanding that includes the policies required by section 4 of this act. Any law enforcement agency or security agency required to adopt a memorandum of understanding with a school district pursuant to this section that has not developed and adopted a different written memorandum of understanding shall adopt the model memorandum of understanding developed by the department.
(2) On and after January 1, 2021, any law enforcement agency which provides school resource officers and any security agency which provides security services to schools in a school district shall have in effect the model memorandum of understanding or a different written memorandum of understanding with such school district as adopted by such law enforcement agency or security agency. Such different written memorandum of understanding shall be substantially similar to the model memorandum of understanding, shall include provisions in conformance with the minimum standards set forth in the model memorandum of understanding, and may include any other procedures and...
provisions the school district and the law enforcement agency or security agency mutually deem appropriate.

(3) The superintendent of a school district required to adopt a memorandum of understanding under this section shall, within three months after its adoption, provide a copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

(4) On or before January 1, 2021, and each January 1 thereafter, when any school district required to adopt a memorandum of understanding under this section has made any change to its memorandum of understanding, in conjunction with the law enforcement agency or security agency, in the preceding year, the superintendent of such school district shall provide an updated copy of such memorandum of understanding to the department or publicly post such memorandum of understanding on the school district web site.

Sec. 4. Each memorandum of understanding required by section 3 of this act shall govern the use of school resource officers or security guards and shall include, but not be limited to, policies that:

(1) Require each school resource officer or security guard to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(2) Require a minimum of one administrator in each elementary or secondary school where a school resource officer or security guard is assigned to attend a minimum of twenty hours of training focused on school-based law enforcement, including, but not limited to, coursework focused on school law, student rights, understanding special needs students and students with disabilities, conflict de-escalation techniques, ethics for school resource officers and security guards, teenage brain development, adolescent behavior, implicit bias training, diversity and cultural awareness, trauma-informed responses, and preventing violence in school settings;

(3) Ensure records are kept on each student referral for prosecution from a school resource officer in response to an incident occurring at school, on school grounds, or at a school-sponsored event and ensure that such records allow for analysis of related data and delineate:

(a) The reason for such referral; and

(b) Federally identified demographic characteristics of such student;

(4) Identify school policies that address when a parent or guardian will be notified or present, in a language that such parent or guardian understands, if a student is subjected to questioning or interrogation by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(5) Identify the school or law enforcement agency policies that address under what circumstances a student will be advised of constitutional rights prior to being questioned or interrogated by a school official or by a school resource officer or security guard operating in conjunction with a school official;

(6) Identify the school policy required by section 79-262 that addresses the type or category of student conduct or actions that will be referred to law enforcement for prosecution and the type of student conduct or actions that will be resolved as a disciplinary matter by a school official and not subject to referral to law enforcement; and

(7) Identify a student and parent complaint process to express a concern or file a complaint about a school resource officer or security guard and the practices of such school resource officer or security guard with the law enforcement agency or security agency.
Recommendation: Approve Resolution 2019-235

**Background:** Consider Resolution approving annual renewal of Department of Roads Maintenance Agreement No. 11. The agreement provides for general maintenance of State Highways within City Limits by the Street Department and authorizes the Mayor to sign a Roadway Maintenance Certificate of Compliance. The Maintenance Agreement is for the 2020 calendar year.

**Fiscal Impact:** State reimbursement to the City is set by State law and is included in the Street Fund. The City’s reimbursement for maintenance is $22,176.00.
AGREEMENT RENEWAL

Maintenance Agreement No. 11
Maintenance Agreement between the Nebraska Department of Transportation and the
Municipality of Fremont
Municipal Extensions in Fremont

We hereby agree that Maintenance Agreement No. 11 described above be renewed for
the period January 1, 2020 to December 31, 2020.

All figures, terms and exhibits to remain in effect as per the original agreement dated
January 1, 2016 with Attachments B and C attached hereto.

In witness whereof, the parties hereto have caused these presents to be executed by
their proper officials thereunto duly authorized as of the dates indicated below.

Executed by the City this _______ day of ________________________,

ATTEST:  City of _______ Fremont____

______________________________  ______________________________
City Clerk/Witness                                 Mayor/Designee

Executed by the State this _______ day of ________________________.

ATTEST:  State of Nebraska

______________________________
District Engineer, Department of Transportation

NDOT Form 507, August 17
City Maintenance Agreement

Attachment B

City of: Fremont  
Date: 1/1/20

☒ Surface Maintenance

From Attachment "C", it is determined that the State's responsibility for surface maintenance within the City limits is 12.28 lane miles. Pursuant to Sections 1a, 8a, 8d of the Agreement and to Attachment "C" made part of this Agreement through reference, the State agrees to pay to the City the sum of $2,100.00 per lane mile for performing the surface maintenance on those lanes listed on Attachment "C".

Amount due the City for surface maintenance:

10.56 lane miles x $2,100.00 per lane mile = $22,176.00.

☐ Snow Removal

From Attachment "A", it is determined that snow removal within City limits is the responsibility of the City. Pursuant to Section 8d of the Agreement and to Attachment "C" made part of this Agreement through reference, the City agrees to pay to the State the sum of $ per lane mile for performing snow removal on those lanes listed on Attachment "C".

Amount due the State for snow removal:

Lane miles x $ per lane mile = $

☒ Other (Explain)

In order to maximize the City and State snow removal activities the City and State will exchange areas in lieu of payment on Highway 30 and Highway 77. The exchanged areas will be, the State will perform snow removal operations from Hwy 30, County Road 20 1/4 to 23rd Street. The City will perform snow removal operations on Highway 77 outside the City limits from Highway 77, Carlstrom Street to Judy Avenue.

NDOT Form 504, August 17
## Responsibility for Surface Maintenance of Municipal Extensions


<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>HWY NO.</th>
<th>REF FROM</th>
<th>POST TO</th>
<th>LENGTH IN MILES</th>
<th>TOTAL DRIVING LANES</th>
<th>TOTAL LANE MILES</th>
<th>RESPONSIBILITY STATE</th>
<th>RESPONSIBILITY CITY</th>
</tr>
</thead>
<tbody>
<tr>
<td>South City Limits (Cloverly Ave.) to 8th Street</td>
<td>77</td>
<td>112.89</td>
<td>114.15</td>
<td>1.26</td>
<td>4</td>
<td>5.04</td>
<td>5.04</td>
<td></td>
</tr>
<tr>
<td>8th Street to 23rd Street</td>
<td>77</td>
<td>114.15</td>
<td>115.09</td>
<td>0.94</td>
<td>2</td>
<td>1.88</td>
<td>1.88</td>
<td></td>
</tr>
<tr>
<td>23rd Street to North City Limits</td>
<td>77</td>
<td>115.09</td>
<td>116.00</td>
<td>0.91</td>
<td>4</td>
<td>3.64</td>
<td>3.64</td>
<td></td>
</tr>
<tr>
<td>County Road 20 1/4 to 1690' West of 23rd St.</td>
<td>30</td>
<td>423.37</td>
<td>423.80</td>
<td>0.43</td>
<td>4</td>
<td>*1.72</td>
<td>*1.72</td>
<td></td>
</tr>
</tbody>
</table>

| Total Lane Miles | 12.28 | 12.28 |

* State maintained area
City Maintained area for payment. 1.72
City Maintained area for payment. 10.56
RESOLUTION NO. 2019-235

A Resolution of the City Council of the City of Fremont, Nebraska, to approve the renewal of Maintenance Agreement No. 11, and all related documents, with the Nebraska Department of Roads.

NOW THEREFORE BE IT RESOLVED: That the Mayor and City Clerk are hereby authorized to execute the renewal of Maintenance Agreement No. 11, and all related documents, with the Nebraska Department of Roads.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
Recommendation: Move to approve Resolution recommending approval of Class I liquor license application of Chuy’s Mexican Restaurant, LLC dba Chuy’s Mexican Restaurant.

Background: After holding a public hearing, Council will need to make a recommendation to the Nebraska Liquor Control Commission regarding the application. The City has not received any protests to the License.

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.

The Fremont Municipal Code provides the following:

Sec. 10-105.- Alcoholic beverages; retail liquor licensing standards and evaluation criteria.

The City Council shall consider the following standards and criteria in evaluation of retail liquor license applications for the purpose of formulating a recommendation for the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

1. The adequacy of existing law enforcement resources and services in the area and any recommendation made by the Police Department and/or other law enforcement agency.
2. Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises and parking requirements.
4. The sanitation or sanitary conditions on or about the proposed licensed premises.
The existence of a citizen's protest and any other evidence in support of or opposition to the application.

That the type of business or activity proposed to be operated in conjunction with the proposed license is or will be consistent with the public interest.

That the nature of the neighborhood where the proposed premise is located is suitable and applicable for placement of a liquor establishment.

That the type of business or activity proposed to be operated in conjunction with the proposed license is or will be consistent with the public interest.

That the applicant must ensure that every precaution has been taken to protect against the possibility of shoplifting of alcoholic beverages.

That the application is for a business, the sole purpose for which is the sale or dispensing of liquor, or the sale or dispensing of liquor is a substantial integral part of the business, and not just incidental thereto.

The quality and management ability of the applicant.

Assurances that the applicant will comply with State laws, liquor regulations and City ordinances and regulations.

Assurances that the application will provide an improvement to the neighborhood, a betterment to the City, and meets a true community need.

That the applicant is not prohibited from holding a license by virtue of Neb. R.R.S. § 53-125.

That past performance of the applicant was satisfactory if the applicant previously held a liquor license.

Other information and data that may reasonably be considered pertinent to the issuance of the license.

The aforementioned licensing standards and criteria are not necessarily of equal value that can be computed in a mathematical formula. Rather, they are standards and criteria which can be weighed and cumulated positively and negatively. The burden of proof and persuasion shall be on the party filing the application. Moreover, the City Council shall give an affirmative recommendation to the Nebraska Liquor Control Commission only when the applicant has satisfactorily demonstrated that the issuance of the retail liquor is generally consistent with the preceding standards and criteria is in the best interest of the public.
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

OCT 4 2019

NEBRASKA LIQUOR CONTROL COMMISSION

Hot List: YES NO
New/Replacing #

Class Type
1

123325 Initial BH

Applicant name Chuy's Mexican Restaurant, LLC

Trade name Chuy's Mexican Restaurant

Previous trade name La Antigua Mexican Restaurant, LLC

Contact email address jesuszaragoza@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.
PURCHASE RECEIPT

Nebraska Liquor Control Commission
P.O. Box 95046
Lincoln NE 68509-5046
(402)471-4881
jackie.matulka@nebraska.gov
OTC Local Ref ID: 45074962
10/3/2019 04:36 PM

<table>
<thead>
<tr>
<th>Status:</th>
<th>APPROVED</th>
</tr>
</thead>
<tbody>
<tr>
<td>Customer Name:</td>
<td>Jesus Jose J Zaragoza</td>
</tr>
<tr>
<td>Type:</td>
<td>Visa</td>
</tr>
<tr>
<td>Credit Card Number:</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Items</th>
<th>Quantity</th>
<th>TPE Order ID</th>
<th>Total Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Retail Liquor License</td>
<td>1</td>
<td>43236438</td>
<td>$400.00</td>
</tr>
</tbody>
</table>

Applicant Name: **Chuy's Mexican Restaurant, LLC**
Trade Name: **Chuy's Mexican Restaurant, LLC**
Premises Address: **215 N Main, Suite B**
Premises City: **Fremont**

Total remitted to the Nebraska Liquor Control Commission $400.00
Total Amount Charged $409.96
1. ✗ ✔ 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. N/A If building is owned or being purchased send a copy of the deed or purchase agreement in the name of the applicant.

6. N/A 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. N/A 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

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.llc.nebraska.gov

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

<table>
<thead>
<tr>
<th>RETAIL LICENSE(S)</th>
<th>Application Fee $400 (nonrefundable)</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td>BEER, ON SALE ONLY</td>
</tr>
<tr>
<td>B</td>
<td>BEER, OFF SALE ONLY</td>
</tr>
<tr>
<td>C</td>
<td>BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE</td>
</tr>
<tr>
<td>D</td>
<td>BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY</td>
</tr>
<tr>
<td>I</td>
<td>BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY</td>
</tr>
<tr>
<td>J</td>
<td>LIMITED ALCOHOLIC LIQUOR, OFF SALE – MUST INCLUDE SUPPLEMENTAL FORM 120</td>
</tr>
<tr>
<td>AB</td>
<td>BEER, ON AND OFF SALE</td>
</tr>
<tr>
<td>AD</td>
<td>BEER ON SALE ONLY, BEER, WINE, DISTILLED SPIRITS OFF SALE</td>
</tr>
<tr>
<td>IB</td>
<td>BEER, WINE, DISTILLED SPIRITS ON SALE, BEER OFF SALE ONLY</td>
</tr>
</tbody>
</table>

___ 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: Maureen Freeman-Caddy
Phone number: 402 443 3225

Firm Name: Bronn, Lindahl, Freeman-Caddy & Lausterer
PREMISES INFORMATION

Trade Name (doing business as)  Onuya's Mexican Restaurant

Street Address #1  215 N. Main Street, Suite B

Street Address #2

City  Fremont  County  Dodge  Zip Code 68025

Premises Telephone number  402.727.1655

Business e-mail address

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

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

Name  Jesus Zaragoza

Street Address #1 1315 Shalene Cir

Street Address #2

City  Wahoo  State  NE  Zip Code 68066

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 46  x width 41  in feet

Is there a basement?  Yes  No  X  If yes, length  x width  in feet

Is there an outdoor area?  Yes  No  X  If yes, length  x width  in feet

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

- **YES**
- **NO**

If yes, please explain below or attach a separate page

<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>
<tbody>
<tr>
<td></td>
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<td></td>
</tr>
</tbody>
</table>

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

- **YES**
- **NO**

   **If yes, give name of business and liquor license number**
   
   a) Submit a copy of the sales agreement
   
   b) Include a list of alcohol being purchased, list the name brand, container size and how many
   
   c) 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:**
   
   a) Attach temporary operating permit (TOP) *(Form 125)*
   
   b) 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  X  _____ 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  X  _____ 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  X  _____ 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  X  _____ 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(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  X  _____ 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 State Bank  ____________
   Jesus Zaragoza__________

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.
    Jesus J Zaragoza: Acapulco Mexican Grill (Wahoo 086133) present; El Centenario (David City 121947) Past
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></td>
<td></td>
<td></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>Jesus Zaragoza- Owner</td>
<td>2001-present</td>
<td>Acapulco Mexican Grill- Spring Hill, TN</td>
</tr>
<tr>
<td>Jesus Zaragoza - Owner</td>
<td>2009-present</td>
<td>Acapulco Mexican Grill- Wahoo, NE</td>
</tr>
<tr>
<td>Jesus Zaragoza - Owner</td>
<td>2016-2018</td>
<td>El Centenario Mexican Grill- David City, NE</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 **October 31, 2021**
- **Deed**
- **Purchase Agreement**

14. When do you intend to open for business? **Open currently for food, goal to serve alcohol in November 2019**

15. What will be the main nature of business? **Mexican Restaurant**

16. What are the anticipated hours of operation? **Sunday through Wednesday 11 a.m to 9 p.m, Thursday 11 a.m to 9 30 p.m Fri & Sat 11 a.m - 10 pm**

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

### RESIDENCES FOR THE PAST 10 YEARS, APPLICANT AND SPOUSE MUST COMPLETE

<table>
<thead>
<tr>
<th>APPLICANT CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
<th>SPOUSE CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wahoo, Nebraska</td>
<td>2015</td>
<td>2019</td>
<td>Wahoo, Nebraska</td>
<td>2015</td>
<td>2019</td>
</tr>
</tbody>
</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

________________________
Signature of Applicant

________________________
Signature of Spouse

Jesus Jose G Zaragoza Jr
Print Name

________________________
Print Name

________________________
Signature of Applicant

________________________
Signature of Spouse

________________________
Print Name

________________________
Print Name

ACKNOWLEDGEMENT

State of Nebraska
County of Saunders

10-3-2019

[Signature]
Notary Public signature

The foregoing instrument was acknowledged before me this

by

Jesus Jose G Zaragoza Jr

name of person(s) acknowledged (individual(s) signing)
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)

Jesus Jose G Zaragoza Jr

Name of Registered Agent:

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

Chuy's Mexican Restaurant, LLC

LLC Address: 1315 Shalene Cir

City: Wahoo State: NE Zip Code: 68066

LLC Phone Number: 6154983794 LLC Fax Number:

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

Zaragoza, Jr
Last Name: First Name: Jesus MI: Jose G

Home Address: 1315 Shalene Cir

City: Wahoo State: NE Zip Code: 68066 Home Phone Number:

______________________________
Signature of Managing/Contact Member

ACKNOWLEDGEMENT

State of Nebraska County of Saunders

The foregoing instrument was acknowledged before me this 10-3-2019 by Jesus Jose G Zaragoza Jr

name of person acknowledge

Affix Seal

GENERAL NOTARY - State of Nebraska
MAUREEN FREEMAN-CADDY
My Comm. Exp. March 27, 2022
List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: Zaragoza Jr  First Name: Jesus  MI: J  G
Social Security Number:  Date of Birth:  
Spouse Full Name (indicate N/A if single): Claudia C. Zaragoza  
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
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 __________________________
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: January 1  Ending Date: December 31

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
Nebraska Secretary of State

CHUY'S MEXICAN RESTAURANT, LLC

SOS Account Number
1811020146

Status
Active

Principal Office Address
215 N MAIN ST
FREMONT, NE 68025
USA

Registered Agent and Office Address
JESUS JOSE G ZARAGOZA JR
1315 SHALENE CIR
WAHOO, NE 68066

Designated Office Address
1315 SHALENE CIRCLE
WAHOO, NE 68066

Country
USA

Nature of Business
Not Available

Entity Type
Domestic LLC

Qualifying State: NE

Date Filed
Nov 02 2018

Filed Documents

Filed documents for CHUY'S MEXICAN RESTAURANT, LLC may be available for purchase and downloading by selecting the Purchase Now button. Your Nebraska.gov account will be charged the indicated amount for each item you view. If no Purchase Now button appears, please contact Secretary of State's office to request document(s).

<table>
<thead>
<tr>
<th>Document</th>
<th>Date Filed</th>
<th>Price</th>
<th>Purchase Now</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of Organization</td>
<td>Nov 02 2018</td>
<td>$1.35 = 3 page(s) @ $0.45 per page</td>
<td>Purchase Now</td>
</tr>
<tr>
<td>Proof of Publication</td>
<td>Nov 30 2018</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
<td>Purchase Now</td>
</tr>
<tr>
<td>Proof of Publication</td>
<td>Jan 03 2019</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
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</tr>
<tr>
<td>Record of Determination</td>
<td>Apr 06 2019</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
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<tr>
<td>Biennial Report</td>
<td>May 01 2019</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
<td>Purchase Now</td>
</tr>
<tr>
<td>Amendment</td>
<td>Sep 20 2019</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
<td>Purchase Now</td>
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</table>
MANAGER APPLICATION
INSERT - FORM 3c

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

FORM MUST BE COMPLETELY FILLED OUT IN ORDER FOR APPLICATION TO BE PROCESSED

MANAGER MUST:

- Complete all sections of the application. Be sure it is signed by a member or corporate officer, corporate officer or member must be an individual on file with the Liquor Control Commission

- Fingerprint are required. See form 147 for further information, read form carefully to avoid delays in processing, this form MUST be included with your application.

- Provide a copy of one of the following: US birth certificate, naturalization papers or current US passport (even if you have provided this before)

- Be a registered voter in the State of Nebraska, include a copy of voter card or print document from Secretary of State website with application

Spouse who will not participate in the business, spouse must:

- Complete the Spousal Affidavit of Non Participation Insert (must be notarized). The non-participating spouse completes the top half; the manager completes the bottom half. Be sure to complete both halves of this form.

- Need not answer question #1 of the application

Spouse who will participate in the business, the spouse must:

- Sign the application

- Fingerprint are required. See form 147 for further information, read form carefully to avoid delays in processing, this form MUST be included with your application.

- Provide a copy of one of the following: birth certificate, naturalization papers or current US passport (even if you have provided this before)

- Be a registered voter in the state of Nebraska, include a copy of voter card with application

- Spousal Affidavit of Non Participation Insert not required
MANAGER APPLICATION
INSERT - FORM 3c

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

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

Corporation/LLC information

Name of Corporation/LLC: Chuy's Mexican Restaurant, LLC

Premise information

Liquor License Number: __________________________ Class Type ____________ (if new application leave blank)

Premise Trade Name/DBA: __________________________

Premise Street Address: 215 N. Main St Suite B

City: Fremont County: Dodge Zip Code: 68025

Premise Phone Number: 402.727.1655

Premise Email address: __________________________

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.

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

Last Name: Zaragoza  First Name: Jesus  MI: JG

Home Address: 1315 Shalene Cir

City: Wahoo  County: Saunders  Zip Code: 68066

Home Phone Number:

Driver’s License Number & State:

Social Security Number:

Date Of Birth:  Place Of Birth: Indio, California

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: Zaragoza  First Name: Claudia  MI: C

Social Security Number:

Driver’s License Number & State:

Date Of Birth:  Place Of Birth: Degollado, Mexico

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

<table>
<thead>
<tr>
<th>CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
<th>CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>Wahoo, NE</td>
<td>2015</td>
<td>2019</td>
<td>Wahoo, NE</td>
<td>2015</td>
<td>2019</td>
</tr>
</tbody>
</table>
### Manager's Last Two Employers

<table>
<thead>
<tr>
<th>YEAR FROM</th>
<th>TO</th>
<th>NAME OF EMPLOYER</th>
<th>NAME OF SUPERVISOR</th>
<th>TELEPHONE NUMBER</th>
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<tr>
<td></td>
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<td>Self-employed</td>
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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.

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

   [ ] YES  [ ] NO

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

   ______________________________________________________

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

   [ ] YES  [ ] NO
4. List the alcohol related training and/or experience (when and where) of the person making application.

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

<table>
<thead>
<tr>
<th>Applicant Name</th>
<th>Date (mm/yyyy)</th>
<th>Name of program (attach copy of course completion certificate)</th>
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</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>Jesus Zaragoza/Owner</td>
<td>2001-2019</td>
<td>Acapulco Mexican Grill, Spring Hill TN</td>
</tr>
<tr>
<td>Jesus Zaragoza/Owner</td>
<td>2009-2019</td>
<td>Acapulco Mexican Grill, LLC Wahoo, NE</td>
</tr>
<tr>
<td>Jesus Zaragoza/Owner</td>
<td>2016-2018</td>
<td>El Centenario Mexican Grill, David City, NE</td>
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5. Have you enclosed form 147 regarding fingerprints?

☐ YES  ☐ NO
The above individual(s), being first duly sworn upon oath, deposes and states that the undersigned is the applicant and/or spouse of applicant who makes the above and foregoing application that said application has been read and that the contents thereof and all statements contained therein are true. If any false statement is made in any part of this application, the applicant(s) shall be deemed guilty of perjury and subject to penalties provided by law. (Sec §53-131.01) Nebraska Liquor Control Act.

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

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

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

Signature of Manager Applicant                                          Signature of Spouse

**ACKNOWLEDGEMENT**

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

10-3-2019  

Jesus Jose G Zaragoza JR  
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.
SPOUSAL AFFIDAVIT OF NON PARTICIPATION INSERT

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

☐ 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.

Claudia C. Zaragoza
Print Name

State of Nebraska, County of Saunders

The foregoing instrument was acknowledged before me this 03 10-3-2019 (date)

Claudia C. Zaragoza
Name of person acknowledged (Individual signing document)

Notary Public Signature

Jesus Jose G Zaragoza Jr
Print Name

State of Nebraska, County of Saunders

The foregoing instrument was acknowledged before me this 03-10-2019 (date)

Jesus Jose G Zaragoza Jr
Name of person acknowledged (Individual signing document)

Notary Public Signature

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

• Fingerprint s 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: Chuy’s Mexican Restaurant, LLC

Name of Person Bring Fingerprinted: Jesus Jose G Zaragoza Jr

Date of Birth: __________ Last 4 SSN: _______ Date fingerprints were taken: 9/18/2019

Location where fingerprints were taken: SAunders County Sheriff’s Office, Wahoo, NE

How was payment made to NSP?
□NSP PAYPORT □CASH □CHECK SENT TO NSP CK # __________

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

______________________________
SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

FORM 147
REV MAY 2018
Saunders County, State of Nebraska

Jesus G Zaragoza
1315 Shalene Cir
Wahoo, NE 68066
Chuy’s Mexican Restaurant, LLC

Business Plan

The premises are located at 215 N. Main St, Ste#B Fremont, Nebraska and are rented from Artesan Bread, Inc. and the lease expires October 31, 2021.

The restaurant is a currently operating restaurant. It will operate daily, seven days a week, from 11 a.m. to 9 p.m. Sunday to Wednesday, 11 a.m. to 9:30 p.m. Thursday and 11 a.m. to 10 p.m.m Friday and Saturday. The LLC is owned exclusively by Jesus Jose G Zaragoza, Jr and he will be the manager.

Food and on-sale alcohol will be sold on premises.

The banking institution: First State Bank, located in Fremont. No loans are anticipated for operation currently.

All personal property contents are owned by the LLC

This is a new liquor license application, there has not been a liquor license granted for this location previously, at least based upon applicant’s knowledge.
Amendment of Commercial Lease Agreement between Artesan Bread, Inc. and La Antigua Restaurant, LLC

Now on this 20th day of September, 2019, the Commercial lease dated November 1, 2018 is amended to reflect that the Tenant, La Antigua Restaurant LLC has amended its name to Chuy's Mexican Restaurant, LLC. All terms remain the same and the entity name change is the only amendment hereto.

September 20, 2019

Artesan Bread, Inc. Landlord:

[Signature]

[Signature]

Edna Suarez

Chuy's Mexican Restaurant, LLC, Tenant:

[Signature]

Jesus Zaragoza, Manager/Member
COMMERCIAL LEASE AGREEMENT

between Artesan Bread Inc
and
La Antigua Restaurant LLC

for the property located at
215 N Main St Fremont (Ste # B), Dodge County, Nebraska,

entered into and executed on November 1, 2018.
THIS COMMERCIAL LEASE AGREEMENT ("Lease") is entered into on 11/01/2018, between Artesan Bread Inc, ("Landlord") and La Antigua Restaurant LLC. ("Tenant"). Landlord lease the real property located at 215 N Main St Fremont (Ste #B), Dodge County, Nebraska (the "Property"), and Tenant hereby intends to lease said Property.

1. **LEASED PROPERTY:** Landlord leases to Tenant, and Tenant leases from the Landlord, the Property on the terms and conditions in this Lease.

2. **TERM:** This Lease shall be for Thirty-Six (36) months beginning on November 1, 2018, and ending on October, 2021, unless terminated earlier as provided in this Lease. The Property shall be delivered to Tenant on November 1, 2018. Unless written notice is given by Landlord or Tenant no later than three (6) months before the expiration of the then current term, this Lease shall automatically renew for a term of one (3) years upon the terms and conditions then in force.

3. **USE OF PROPERTY:** The Property is leased to Tenant, and is to be used by Tenant, for the purpose of a Restaurant, consistent with all laws and ordinances applicable to the Property, and for no other purpose. Tenant agrees to use the Property in such a manner as to not interfere with the rights of other neighbors or tenants (if applicable), to comply with all applicable governmental laws, ordinances, and regulations in connection with its use of the Property and operation of a daycare, to keep the Property in a clean and sanitary condition, to keep the Property and all sidewalks and approaches thereto in a safe condition free and clear of all matter which may be dangerous to the public and free of all obstructions, to maintain the Property in such a manner so as to not cause or perpetuate a nuisance, and to us all reasonable precaution to prevent waste, damage, or injury to the Property.

4. Tenant shall use common areas and facilities jointly with Landlord such basement, public restrooms that bakery may need to use, employees of both, tenant and landlord shall respect areas of work, such kitchen, they can only enter at designated employees’ areas only with prior approval of both, tenant and landlord. Bakery employees cannot use Restaurant kitchen and restaurant employees cannot enter bakery designated area of work if its not consent by the Landlord and tenant.

5. **EQUIPMENT:** Landlord provide to the Tenant the equipment as follows:
   1. Stove NSF
   2. Hand Sink in good conditions
   3. 2 Sink compartments in good conditions
   4. Trash containers in good condition
   5. Tables __________
   6. Tables (square) __________
   7. Chairs __________ in new condition
   8. Chairs _____ used condition
   9. Frames with posters in new conditions for decoration in walls _____
   10. Stainless steel in good condition

Tenant shall return all such items at the end of the lease in a good condition as good as the condition of the beginning of the lease term for such deterioration that might result from normal use of furnishing.
Pest Control: Tenant and its sole expense shall engage exterminators to to control vermin and pest control on a regular basis. Such extermination services shall be supplied in all areas where food is prepared, dispensed, or storage an in all areas where trash is collected and deliveries are made.
Janitorial Services: The tenant shall provide regular janitorial services to the leased restaurant and it sole expense removal of snow, sidewalk and removal of trash.
Duties toward to Restaurant: The tenant is responsible for any plumbing or electrical maintenance service in the Restaurant part, building structure is Landlord responsibility.

6. **SECURITY DEPOSIT:** Tenant will pay as a Security Deposit the amount of Two Thousand Dollars ($2,000) payable. By initialing herein, the Landlord acknowledges receipt of the same. (initial). The Security Deposit will be returned to Tenant at the expiration of this Lease pursuant to Nebraska law.

7. **BASE RENT:** The total Base Rent under this Lease is Seventy-Two Thousand Dollars ($72,000), be due and payable in Thirty-Six payments of ($2,000.00) Two Thousand Dollars on the (20) twenty of each month.

8. **OPERATING EXPENSES:** In addition to the Base Rent, Tenant shall pay Operating Expenses for the Property. “Operating Expenses” as follows:
A.) Tenant will pay for his own Commercial General Liability Insurance.
B.) Tenant will pay for any repairs related to the Ste # B Location.
C) Tenant shall be responsible utilities and services incurred in connection with restaurant if they exceed $ 2,100(≥) utility bill is $ 2,100 or less tenant shall not pay anything. If utility bill is $ 2,100.01 or more tenant is responsible for any higher amount.
D) Taxes: Taxes attributable to the restaurant or any use of restaurant shall be located as follows:
Real Estate Taxes: Tenant is not responsible for any Taxes
Personal Taxes: Landlord shall pay all personal taxes and other changes or any taxes attributed to the use of restaurant or any that may be due in connection with the lease payments.
Tenant is responsible for all compliance that satisfied state and local laws requirement for commercial construction that complies with the building codes. Tenant is responsible to comply with ADA, tenant is responsible to fulfill health codes, tenant is responsible to comply with building codes. The compliance duties include smoke detectors appliance, and fire scape area in a place and up to code.
The tenant is responsible for the restaurant free of environmental hazard, such lead paint dust, asbestos, and chemicals contaminants.

9. **PAYMENT:** Tenant agrees to pay the Base Rent, Operating Expenses and all other amounts as required to be paid by Tenant under this Lease. In the event of nonpayment of any amounts due under this Lease, whether or not designated as Rent, Operating Expense or otherwise, Landlord shall have the fullest extent of all rights and remedies provided under law.
Tenant agrees to pay rent to Landlord at 215 N Main St Fremont NE 68025, or at any other place Landlord may designate in writing after execution of this Lease, in lawful money of the United States.

10. **LATE CHARGE:** If the Tenant fails to pay the full amount of Base Rent, Operating Expenses and all other amounts required to be paid by Tenant under this Lease within five (5) days later of twenty day of each calendar month, **Tenant agrees to pay Landlord a late charge of five percent (5%) of the unpaid amount or one hundred fifty dollars ($150.00) whichever is more.**

**ASSIGNMENT OR SUBLEASE:** Tenant shall not assign this Lease or sublet the whole or any part of the Property, transfer this Lease by operation of law or otherwise, or permit any other person except agents, subsidiaries, affiliates and employees of Tenant to occupy the Property, or any part thereof, without the prior written consent of Landlord. Landlord shall not unreasonably withhold such consent. Landlord may consider the following in determining whether to withhold consent: (a) financial responsibility of the new tenant, (b) identity and business character of the new tenant, (c) nature and legality of the proposed use of the Property, and (d) any other criteria Landlord deems appropriate.

11. **TENANT'S IMPROVEMENTS AND FIXTURES:** Tenant shall have the right to place partitions and fixtures and make improvements or other alterations in the interior of the Property at its own expense. Prior to commencing any such work, Tenant shall first obtain the written consent of Landlord for the proposed work. Tenant shall give sufficient security that the improvements shall be paid in full and that the Property will be completed free and clear of liens and in a manner satisfactory to Landlord. Tenant may remove its trade fixtures at the termination of this Lease, but Tenant shall be liable for all repair costs incurred by such removal. Landlord and Tenant specifically acknowledge that the fire panel and system, water fountains, stove, hood and sinks are property of Landlord that shall remain at the expiration of the Lease.

12. **REPAIRS:** Landlord agrees to maintain in good condition, and repair as necessary the foundations, exterior walls excluding any windows or doors, and the roof of the Property. Tenant agrees that it will make, at its own cost and expense, all repairs and replacements to the Property not required to be made by Landlord, including, but not limited to, all interior and exterior doors, door frames, windows, plate glass, and the heating, air conditioning, plumbing and electrical systems servicing the Property. Tenant agrees to do all redecorating, remodeling, alteration, and painting required by it during the term of the Lease at its own cost and expense, including any remodeling required to obtain any license, to pay for any repairs to the Property made necessary by any negligence or carelessness of Tenant or any of its agents or employees or persons permitted on the Real Estate by Tenant, and to maintain the Property in a safe, clean, neat, and sanitary condition. Tenant shall be entitled to no compensation for inconvenience, injury, or loss of business arising from the making of any repairs by Landlord or Tenant to the Property.

13. **CONDITION OF PROPERTY:** Except as provided in this Lease, Tenant agrees that no promises, representations, statements, or warranties have been made on behalf of Landlord to Tenant respecting the condition of the Property or the making of any repairs to the Property. By taking possession of the Property, Tenant acknowledges that the Property is in good and satisfactory condition when possession was taken, and that Tenant shall be responsible
for any alterations, repairs or build out needed for the Tenant’s intended use of the Property. At the termination of this Lease, Tenant shall remove all of Tenant’s property and surrender the Property to Landlord in as good condition as when Tenant took possession, normal wear excepted.

14. **PERSONAL PROPERTY AT RISK OF TENANT:** The loss of damage to any personal property in the Property shall be borne by the Tenant only. Landlord shall not be liable for any damage to any personal property of Tenant or its agents or employees in or on the Property, or for any damage done to Tenant’s property in moving same to or from the Property. Regardless of Tenant’s responsibility to make repairs, the Tenant shall give Landlord, or its agents, prompt written notice of any damage to or defects in the electrical system, sewer system, water pipes, gas, HVAC/warming or cooling apparatus or any other defective condition on the Property.

15. **LANDLORD’S RESERVED RIGHTS:** Prior to the installation of any signage by Tenant, Landlord shall approve all signs, painting, and/or lettering displayed publicly from the Property, which such approval shall not be unreasonably withheld. Further, within one (1) day written notice to Tenant, without liability to Tenant for damage or injury to property, person, or business, and without effecting an eviction of Tenant or a disturbance of Tenant’s use or possession or giving rise to any claim for setoff or abatement, Landlord shall have the right to:
   a. Change the name or street address of the Property;
   b. Within three (3) months of termination of this Lease, install and maintain signs on the Property advertising for potential tenant(s);
   c. At reasonable times, to decorate, and to make, at Landlord’s own expense, repairs, alterations, additions, and improvements, structural or otherwise, in or to the Property or part thereof, and during such operations to reasonably enter into and through the Property or any part thereof to effectuate such acts, and to reasonably and temporarily close or suspend operation of entrances, doors, corridors, elevator, or other facilities to do so;
   d. Show the Property to prospective tenants at reasonable times during the final three (3) months of the lease term; and
   e. Take any and all reasonable measures, including inspections or the making of repairs, alterations, and additions and improvements to the Property or to the Real Estate, which Landlord deems necessary or desirable for the safety, protection, operation, or preservation of the Property or the Real Estate.
   f. Termination upon sale of building: Landlord may terminate this lease upon 180 days written notice that building has been sold.

16. **INSURANCE:** Landlord may, at Landlord’s sole option, obtain insurance for the Property. This shall not affect or modify Tenant’s obligation to maintain insurance for the Property. If Landlord obtains such optional insurance, the Tenant shall not use or occupy the Property in any manner which could invalidate any policies of insurance now or hereafter placed on the Property or increase the risk covered by insurance on the Property or necessitate additional insurance premiums or policies of insurance, even if such use may be in furtherance of Tenant’s legitimate business purposes. In the event any policies of insurance are invalidated by acts or omissions of Tenant, such act shall be a material breach of this Lease. At Landlord’s option, Landlord may charge Tenant for additional insurance premiums required on the Property.
on account of the increased risk caused by Tenant’s use and occupancy of the Property. Each party hereby waives all claims for recovery or subrogation from the other for any loss or damage to any of its property insured under valid and collectible insurance policies to the extent of any recovery collectible under such policies, provided that this waiver shall apply only when permitted by the applicable policy of insurance.

17. **INDEMNITY:** Tenant shall indemnify, hold harmless, and defend Landlord from and against, and Landlord shall not be liable to Tenant on account of, any and all costs, expenses, liabilities, losses, damages, suits, actions, fines, penalties, demands, or claims of any kind, including reasonable attorney’s fees, asserted by or on behalf of any person, entity, or governmental authority arising out of or in any way connected with either (a) a failure by Tenant to perform any of the agreements, terms, or conditions of this Lease required to be performed by Tenant; (b) a failure by Tenant to comply with any laws, statutes, ordinances, regulations or orders of any governmental authority; or (c) any accident, death, or personal injury, or damage to, or loss or theft of property which shall occur on or about the Property, except as the same may be the result of the negligence of Landlord, its employees, or agents.

18. **TENANT’S LIABILITY INSURANCE:** In addition to any other policy of insurance required under this Lease, the Tenant agrees to procure and maintain continuously during the entire term of this Lease, a policy or policies of insurance in a company or companies acceptable to Landlord, at Tenant’s own cost and expense, insuring as co-insureds the Landlord and Tenant from all claims, demands or actions. Such comprehensive insurance shall protect and name the Tenant and Landlord as co-insured and shall provide coverage of at least $1,000,000, for injuries to any one person, $2,000,000 for injuries to persons in any one accident and $1,000,000 for damage to property, made by or on behalf of any person or persons, firm or corporation arising from, related to, or connected with the conduct and operation of Tenant’s business in the Property. All such insurance shall provide that Landlord shall be given a minimum of ten (10) days advance written notice by the insurance company prior to cancellation, termination or change of such insurance. Tenant shall provide Landlord with copies of the policies or certificates evidencing that such insurance is in full force and effect and stating the term and provisions thereof. If Tenant fails to comply with such requirements for insurance, such failure shall be a material breach of this Lease. The Landlord may, but shall not be obligated to, obtain such insurance and keep the same in effect, and Tenant agrees to pay Landlord the premium cost thereof as an addition to Operating Expenses.

19. **DAMAGE BY FIRE OR OTHER CASUALTY:** If, during the term of this Lease, the Property shall be so damaged by fire or any other casualty, except Tenant’s negligent or intentional act, so as to render the Property untenable, the Base Rent and Operating Expense shall abate while the Property remain untenable. In the event of such damage, Landlord shall elect whether to repair the Property or to cancel this Lease, and shall notify Tenant in writing of its election within thirty (30) days after such damage. In the event Landlord elects to repair the Property, the work or repair shall begin promptly and shall be carried on without unnecessary delay. In the event the necessary repairs cannot be completed within seventy-five (75) days of said notice to Tenant, Tenant may elect to terminate this Lease, effective upon the date of damage. In the event Landlord elects not to repair the Property, the Lease shall be deemed canceled as of the date of the damage Tenant shall be liable for no further payments, and any amounts due Tenant shall be refunded. Such damage shall not extend the
Lease term. Under no circumstances shall the Tenant be entitled to any insurance proceeds payable due to any such casualty. If such damage is caused by Tenant's negligent or intentional act, then all obligations for payment of Base Rent and Operating Expenses shall continue uninterrupted. In such an event, Landlord has the option to cancel this Lease at any time.

20. **CONDEMNATION:** If the whole or any part of the Property shall be taken by the power of eminent domain, then the term of this Lease shall cease on that portion of the Property so taken, from the date of possession, and the Base Rent and Operating Expenses and any accrued obligation shall be paid by Tenant to that date. If the portion of the Property taken is such that it prevents the practical use of the Property for Tenant's purposes, then Tenant shall have the right either (a) to terminate this Lease by giving written notice of such termination to Landlord not later than thirty (30) days after the taking; or (b) to continue in possession of the remainder of the Property, except that the rent shall be reduced in proportion to the area of the Property taken. In the event of any taking or condemnation of the Property, in whole or in part, the entire resulting award of damages shall be the exclusive property of the Landlord, including all damages awarded as compensation for diminution in value to the leasehold, without any deduction for the value of any unexpired term of this Lease, or for any other estate or interest in the Property now or hereafter vested in Tenant.

21. **DEFAULT:** In the event of a Default, the Landlord shall have the full rights and remedies provided by Nebraska law. Each of the following events shall constitute a Default of this Lease by Tenant:

a. If Tenant fails to pay Landlord any Base Rent, Operating Expense or other payments when due;

b. If Tenant files a petition in bankruptcy or insolvency or for reorganization under any bankruptcy act, or voluntarily takes advantage of any such act by answer or otherwise, or makes an assignment for the benefit of creditors;

c. If involuntary proceedings under any bankruptcy or insolvency act shall be instituted against Tenant, or if a receiver or trustee shall be appointed of all or substantially all of the property of Tenant, and such proceedings shall not be dismissed or the receivership or trusteeship vacated within thirty (30) days after the institution or appointment; or

d. If Tenant fails to perform or comply with any other term or condition of this Lease.

22. **SURRENDER - HOLDING OVER:** Tenant shall, upon termination of this Lease, whether by lapse of time or otherwise, peaceably and promptly surrender the Property to Landlord. If Tenant remains in possession after the termination of this Lease, Tenant shall be deemed a trespasser. If Tenant pays, and Landlord accepts, rent for a period after termination of this Lease, Tenant shall be deemed to be occupying the Property only as a Tenant from month to month, subject to all the terms, conditions, and agreements of this Lease, except that the Base Rent shall be one and one-half times the Based Rent provided for herein.

23. **SUBORDINATION AND ATTORNEMENT:** Landlord reserves the right to place liens and encumbrances on the Property superior in lien and effect to this Lease. This Lease, and all rights of Tenant hereunder, shall, at the option of Landlord, be subject and subordinate to any liens and encumbrances now or hereafter imposed by Landlord upon the Property or any part thereof, and Tenant agrees to execute, acknowledge, and deliver to
Landlord, upon request, any document(s) that may be necessary or proper to subordinate this Lease and all rights herein to any such lien or encumbrance as may be requested by Landlord. In the event any proceedings are brought for the foreclosure of any mortgage on the Property, Tenant will attorn to the purchaser at the foreclosure sale and recognize such purchaser as the Landlord under this Lease.

24. **NOTICES:** Any notice to be given hereunder shall be given in writing and personally delivered or sent by certified mail to
   a. Landlord at: 215 N Main St Fremont NE 68025.
   b. Tenant at: 215 N Main St Ste #B Fremont NE 68025.

25. **RULES AND REGULATIONS:** Landlord may, in its discretion, provide to Tenant reasonable rules and regulations, and Tenant and/or Tenant’s agents, employees and invitees shall fully comply with all such rules and regulations of the Property. If such rules and regulations are provided, Landlord shall have the right to amend them, as Landlord deems necessary or desirable for the safety, care, cleanliness, or proper operation of the Property. A violation of the rules and regulations shall be deemed a material breach of this Lease.

26. **BINDING ON ASSIGNS:** All terms, conditions, and agreements of this Lease shall be binding upon, apply, and inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

27. **AMENDMENT IN WRITING:** This Lease contains the entire agreement between the Landlord and Tenant and may be amended only by subsequent written agreement.

28. **WAIVER-NONE:** The failure of Landlord to insist upon strict performance of any of the terms, conditions and agreements of this Lease shall not be deemed a waiver of any of its rights or remedies hereunder and shall not be deemed a waiver of any subsequent breach or default of any of such terms, conditions, and agreements. The doing of anything by Landlord which Landlord is not obligated to do hereunder shall not impose any future obligation on Landlord nor otherwise amend any provisions of this Lease.

29. **NO SURRENDER:** No surrender of the Property by Tenant shall be effectuated by Landlord’s acceptance of the keys to the Property or of the rent due hereunder, or by any other means whatsoever, without Landlord’s written acknowledgment that such acceptance constitutes a surrender of the Property.

30. **CAPTIONS:** The captions of the various paragraphs in this Lease are for convenience only and do not define, limit, describe, or construe the contents of such paragraphs.

31. **APPLICABLE LAW:** This Lease shall be governed by and construed in accordance with the laws of the State of Nebraska.

32. **NO CONSTRUCTION FOR OR AGAINST:** Landlord and Tenant have been provided with adequate time for mature consideration of the terms herein, and as such, this Lease or any judicially determined ambiguity shall not be construed for or against either party to it.

33. **AUTHORITY:** The signatories to this Lease personally represent that he or she has the specific authority to enter into this Lease and to bind the Landlord or Tenant. Faxed and copied signatures shall be treated as original signatures, and this Lease may be signed in counterparts.

34. **SEVERANCE:** If any provision of this Lease is declared or determined to be illegal or invalid by any court of competent jurisdiction, the validity of the remaining parts, terms or provisions shall not be affected thereby, and said illegal or invalid part, term or provision shall
be deemed not to be a part of this Lease. Rather, a replacement term, to the extent deemed valid and relating to the same topic as the invalid term, shall substitute the invalidated term, and such replacement term shall be deemed to be part of this Lease from the date of execution.

SIGNATURE PAGE Follows

IN WITNESS WHEREOF, the undersigned have signed this Commercial Lease Agreement on the date(s) noted below.

Raul Moreno  
( Artesan Bread Inc )

Date 11/1/18

Edna Suarez

Jesus Zaragoza  
( La Antigua Restaurant LLC )

Date 11/1/18

Fremont, Dodge County, Nebraska
AMENDED CERTIFICATE OF ORGANIZATION
LIMITED LIABILITY COMPANY
Submit in Duplicate

Robert B. Evnen, Secretary of State
P.O. Box 94608
Lincoln, NE 68509
(402) 471-4079
www.sos.ne.gov

Name of Limited Liability Company La Antigua Restaurant, LLC

Date Certificate of Organization was filed November 2, 2018

Please mark the changes this amendment makes to the certificate as most recently amended or restated and provide the appropriate changes.

✓ Name of Limited Liability Company Chuy's Mexican Restaurant, LLC

✓ Professional Service being rendered by the Limited Liability Company

✓ Street and mailing address of the Designated Office
1315 Shalene Circle, Wahoo, NE 68066

✓ Name of Registered Agent

✓ Street, mailing address and post office box (if any) of Registered Agent
1315 Shalene Circle, Wahoo, NE 68066

✓ Any other changes to the certificate of organization
Removal of Diego R. Gutierrez effective 03.15.19 as Member

(attach additional pages if needed)

Effective date if other than the date filed

Signature of Authorized Representative Jesus Jose G Zaragoza Jr 09.19.19
Printed Name of Authorized Representative Date

FILING FEE: $15.00 plus $5.00 per additional page
Revised 01 10 2019

Neb. Rev. Stat. §21-118
CERTIFICATE OF ORGANIZATION
LIMITED LIABILITY COMPANY

Name of Limited Liability Company: LA ANTIGUA RESTAURANT LLC

Period of Duration: PERPETUAL

Purpose for which the limited liability company is organized:
The company will be formed primarily for the purposes of engaging in the Fast Food Restaurant, however, nothing contained herein shall prohibit the Company from pursuing such other business purposes as may be allowed by law.

Principal place of initial designated office:
215 N MAIN ST FREMONT NE 68025

Name and address of registered agent in Nebraska:
Registered Agent: JESUS JOSE G ZARAGOZA JR
Address: 216 N MAIN ST FREMONT NE 68025

The total amount of cash contributed to stated capital of the LLC is:
$1,000 One Thousand Dollars in cash.

Total additional contributions agreed to be made by all members and the times at which, or events upon the happening of which such contributions shall be made:

Upon the approval of the Board of Directors, any member may make additional Capital Contributions to the Company. Upon receipt of the additional Capital Contribution by the Company, the manager shall provide written Notice to all other Member of the Capital Contribution, which Notice shall also state, each Member’s new Percentage Interest.

Members are as follows:

JESUS JOSE G ZARAGOZA JR 1315 SHALENE CIR Wahoo NE 68066
DIEGO R GUTIERREZ 215 N MAIN ST FREMONT NE 68025
The listed member will be sharing contributions and profits & losses as follows:

Jesus Jose G Zaragoza JR:

Initial Contribution: 50% Initial Contribution as follows:

$500.00 Five Hundred Dollars in cash.
Profit / Losses 50%

Diego R Gutierrez:

Initial Contribution: 60% Initial Contribution as follows:

$600.00 Five Hundred Dollars in cash.
Profit / Losses 50%

If additional members are allowed the terms and conditions of admission:

A new Member may be admitted to the Company upon the consent and approval of the listed members.

Members listed has the right to admit additional members with the approval of one hundred percent (100%) of the votes by the total of members and unanimously.

The new Member shall contribute such capital to the Company as determined by the current members or Board of Directors.

None Member may be admitted unless the new Member makes a capital contribution, and executes a counterpart of this Agreement as a party hereto, agreeing to be bound but this Agreement.

The company will be managed by the agent, the name and address of the agent:

Name
Address

JESUS JOSE G ZARAGOZA JR  216 N MAIN ST FREMONT NE 68025

Any other provisions, not inconsistent with law, which the members elect to set out in the certificate of organization for the limited liability company:
The Members intend the Company to be a Limited Liability Company under the Act No Member shall take any action inconsistent with the express intent of the parties to this Agreement.

This agreement constitutes the whole and entire agreement of the parties with respects to the subject matter of this agreement, and it shall not be modified or amended in any respects except by writing instrument executed by all parties.

Signature
Jesus Jose G Zaragoza Jr

Signature
Diego R Gutierrez

October 25, 2018

Fremont — Nebraska-U.S.A.
Licensing

Please contact our office to make an appointment if you would like to have your completed application reviewed. Please do not walk in with your application without an appointment. Appointments are made between the hours of 9:00 am - 3:00 pm. Plan on approximately 45 minutes for the review your application. Please call Brenda at 402-471-2573 or Tracy at 402-471-2896 to schedule your appointment; or you can fax your application to 402-471-2814 or email to lcc.frontdesk@nebraska.gov. No photos of applications pages will be accepted.

Nebraska Liquor Control Commission
301 Centennial Mall South
PO Box 95046
Lincoln, Nebraska 68509-5046
Phone: (402) 471-2571
Fax: (402) 471-2814
Liquor application report

Planning Report

Date: October 21, 2019  Due Date: November 4, 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: Chuy’s Mexican Restaurant

Location: 215 N Main

Requested License or Action: Class I beer, wine and spirits on sale only

Existing Zoning: DC, Downtown Commercial

Existing Land Use: Bakery and former restaurant

Adjacent Land Use and Zoning:

North: DC, Downtown Commercial with commercial buildings

South: GI zoning with industrial uses

East: DC zoning with commercial uses

West: DC zoning with commercial uses

General Neighborhood / Area Land Uses: The subject property is located in a commercial district and is surrounded by commercial uses.

Analysis of Neighborhood Effects: The proposed use is consistent with the uses in surrounding area.

Signed:

[Signature]

Jennifer L. Dam, AICP; Director of Planning
Name of Business: Chuy’s Mexican Restaurant (LLC)
Business Address: 215 N. Main St. Fremont, NE 68025
Business Phone #: 402-727-1655
Business Owner(s): Jesus Jose G. Zaragoza

Business Owner’s Address(s): 1315 Shalene Cir. Wahoo, NE 68066
Owner’s Daytime Phone Number: (615) 498-3794

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

2. Type of License:  
   Class - 1

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

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

5. Financial Information: (Estimation)  
   Previous Years Gross Sales  
   $ N/A Estimated Annual Payroll  
   $ 200,000 Estimated Gross Income  
   80 % Food, 20 % Liquor

6. Premise Information:  
   X Commercial  ___ Industrial  ___ Residential

   Estimated Seating Capacity: 70  Estimated # of Customers per day - 70
   Premise days of operation: DAYS/WEEK – 7 days a week
   Premise hours of operation: Sun-Wed (1100-2100), Thurs (1100-2130)  
   Fri-Sat. (1100-2200)
7. Type of Food Service:  ____Microwave  ____Grill  X Kitchen  
    Fresh cooked food in kitchen

8. Employees:              # 2 Full Time           # 4 Part Time

Are any of the employees under 21 years of age?  Yes, servers are 20 years of age.

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

9. Manager Information:   Name: Jesus Jose G. Zaragoza  
    Address: 1315 Shalene Cir. Wahoo, NE 68066  
    Phone # (615) 498-3794  
    Driver's License # H13752454  State: NE  
    Length of time as owner: 9 months

Is anyone other than the manager responsible for the daily operation of the business?  
NO

10. Number of Licenses within competitive distance: 6

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.  XNONE

15. Is anyone other than those individuals previously listed, drawing a percentage of the profits of this establishment?  XNO

16. Please enclose copy of lease agreement.
Date received by Fremont Police Department  10-21-19
Date of Completed Investigation  10-25-19
Signature of Investigating Officer  [Signature]
Date of Hearing by Governing Body  
Governing Body Recommendation:


Signature of Applicant  [Signature] Date  10-25-19
Printed Name of Applicant  Jesus Jose G. Zaccura
Notary  [Signature]

Falsification of any part of this application may result in criminal and civil penalties.
RESOLUTION NO. 2019-236


WHEREAS, an application was filed by Chuy’s Mexican Restaurant, LLC dba Chuy’s Mexican Restaurant, for property located at 215 N. Main St., Suite B, 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 October 31, 2019; and,

WHEREAS, a public hearing was held on November 12, 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 12th DAY OF NOVEMBER 2019.

___________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Tyler Ficken, City Clerk
DATE: November 12, 2019
SUBJECT: Class C Liquor License Downtown Dugout Bar, LLC dba Dugout Bar

Recommendation: Move to approve Resolution recommending approval of Class C liquor license application of Dugout Bar, 239 E. 6th 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 City has not received any protests to the License.

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.

The Fremont Municipal Code provides the following:

Sec. 10-105. - Alcoholic beverages; retail liquor licensing standards and evaluation criteria.

The City Council shall consider the following standards and criteria in evaluation of retail liquor license applications for the purpose of formulating a recommendation for the Nebraska Liquor Control Commission in accordance with the Nebraska Liquor Control Act:

(1) The adequacy of existing law enforcement resources and services in the area and any recommendation made by the Police Department and/or other law enforcement agency.

(2) Existing motor vehicle and pedestrian traffic flow in the vicinity of the proposed licensed premises and parking requirements.

(3) Zoning restrictions.

(4) The sanitation or sanitary conditions on or about the proposed licensed premises.
(5) The existence of a citizen’s protest and any other evidence in support of or opposition to the application.

(6) That the type of business or activity proposed to be operated in conjunction with the proposed license is or will be consistent with the public interest.

(7) That the nature of the neighborhood where the proposed premise is located is suitable and applicable for placement of a liquor establishment.

(8) That the type of business or activity proposed to be operated in conjunction with the proposed license is or will be consistent with the public interest.

(9) That the applicant must ensure that every precaution has been taken to protect against the possibility of shoplifting of alcoholic beverages.

(10) That the application is for a business, the sole purpose for which is the sale or dispensing of liquor, or the sale or dispensing of liquor is a substantial integral part of the business, and not just incidental thereto.

(11) The quality and management ability of the applicant.

(12) Assurances that the applicant will comply with State laws, liquor regulations and City ordinances and regulations.

(13) Assurances that the application will provide an improvement to the neighborhood, a betterment to the City, and meets a true community need.

(14) That the applicant is not prohibited from holding a license by virtue of Neb. R.R.S. § 53-125.

(15) That past performance of the applicant was satisfactory if the applicant previously held a liquor license.

(16) Other information and data that may reasonably be considered pertinent to the issuance of the license.

The aforementioned licensing standards and criteria are not necessarily of equal value that can be computed in a mathematical formula. Rather, they are standards and criteria which can be weighed and cumulated positively and negatively. The burden of proof and persuasion shall be on the party filing the application. Moreover, the City Council shall give an affirmative recommendation to the Nebraska Liquor Control Commission only when the applicant has satisfactorily demonstrated that the issuance of the retail liquor is generally consistent with the preceding standards and criteria is in the best interest of the public.
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

10/17/2019

NEBRASKA LIQUOR
CONTROL COMMISSION

Hot List: YES NO New/Replacing # 105095 123335 Initial BH

Applicant name Downtown Dugout Bar, LLC

Trade name Dugout Bar

Previous trade name n/a

Contact email address mitch@s2rolloffs.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.

Office use only
PAYMENT TYPE CK 36260
AMOUNT: 400
Received: ___
1. ✔ Fingerprint 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. N/A 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. N/A 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: ____________________________

Date: 10/15/19
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

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RETAIL LICENSE(S)  

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

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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  Spencer Wilson  
Phone number:  402-721-6160

Firm Name  Yost Law Firm
Trade Name (doing business as) Ungout Bar
Street Address #1 239 E 6th
Street Address #2
City Fremont County Dodge Zip Code 68025
Premises Telephone number 721-5868
Business e-mail address
Is this location inside the city/village corporate limits: YES ☑ NO
Mailing address (where you want to receive mail from the Commission)
Name Mitch Sawyer
Street Address #1 1737 Fredrik sen street
Street Address #2
City Fremont State NE Zip Code 68025

DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED

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 60 x width 22 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

Please see attached.
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.

[ ] YES [ ] NO

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

<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>
<tbody>
<tr>
<td>Bridget Sawyer</td>
<td>07/2000</td>
<td>Fremont, NE</td>
<td>MIP</td>
<td>$250 fine</td>
</tr>
<tr>
<td></td>
<td>12/2007</td>
<td>Omaha, NE</td>
<td>OUI</td>
<td>$400 fine</td>
</tr>
<tr>
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<td>6 month probation</td>
</tr>
</tbody>
</table>

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

[ ] YES [ ] NO

If yes, give name of business and liquor license number **Robin Drews 105095**

a) Submit a copy of the sales agreement
b) Include a list of alcohol being purchased, list the name brand, container size and how many
c) 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 **Robin Drews 105095**

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

[ ] YES [ ] NO

If yes:
a) Attach temporary operating permit (TOP) (Form 125)
b) 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)

First National Bank

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 National Bank – Mitch and Bridger Sawyer

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.

Mitch and Bridger Sawyer  CK099140

Whig's Endzone Lounge
845 S Broad St., Fremont, NE 68025
843 S Broad St., Fremont, NE 68025
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>Bridges Sawyer</td>
<td>09/2019</td>
<td>Nebraska on-premises responsible server 11</td>
</tr>
<tr>
<td>Mitch Sawyer</td>
<td>09/2019</td>
<td></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>
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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 ____________________________
     - [ ] Deed
     - [ ] Purchase Agreement

14. When do you intend to open for business? ____________

15. What will be the main nature of business? ________

16. What are the anticipated hours of operation? ______

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

<table>
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<tr>
<th>RESIDENCES FOR THE PAST 10 YEARS, APPLICANT AND SPOUSE MUST COMPLETE</th>
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<tbody>
<tr>
<td><strong>APPLICANT: CITY &amp; STATE</strong></td>
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<tr>
<td><strong>YEAR FROM</strong></td>
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<tr>
<td>1737 Frederiksen St.</td>
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<td>Fremont, NE 68025</td>
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<tr>
<td>1920 N Main St.</td>
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<td>Fremont, NE 68025</td>
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<tr>
<td>5027 Ventura Dr.</td>
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<td>Fremont, NE 68025</td>
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</tbody>
</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

**Signature of Applicant**

**Signature of Spouse**

**Print Name**

**Print Name**

**Signature of Applicant**

**Signature of Spouse**

**Print Name**

**Print Name**

**ACKNOWLEDGEMENT**

State of Nebraska  
County of **Dodge**

10/15/19  
**date**

by **Mitchell Sawyer**  
name of person(s) acknowledged (individual(s) signing)

**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.
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: Mitch Sawyer

Name of Limited Liability Company that will hold license as listed on the Articles of Organization
Downtown Oungut Bar, LLC

LLC Address: 550 N Main St.
City: Fremont State: NE Zip Code: 68025

LLC Phone Number: 402-306-2531 LLC Fax Number

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

Last Name: Sawyer First Name: Mitch MI: E
Home Address: 1737 Fredriksen City: Fremont
State: NE Zip Code: 68025 Home Phone Number:

Signature of Managing/Contact Member

ACKNOWLEDGEMENT

State of Nebraska
County of Dodge

The foregoing instrument was acknowledged before me this
by Mitch Sawyer

Date

Affix Seal

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

Last Name: Sawyer  First Name: Mitch  MI: E

Social Security Number: __________________________ Date of Birth: __________
Spouse Full Name (indicate N/A if single): Bridget K Sawyer
Spouse Social Security Number: __________________________ Date of Birth: __________
Percentage of member ownership: 100%

Last Name: Sawyer  First Name: Bridget  MI: K

Social Security Number: __________________________ Date of Birth: __________
Spouse Full Name (indicate N/A if single): Mitch E Sawyer
Spouse Social Security Number: __________________________ Date of Birth: __________
Percentage of member ownership: 0%

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: __________________________
List names of all members and their spouses (even if a spousal affidavit has been submitted)

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<th>First Name:</th>
<th>MI:</th>
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<td>Spouse Full Name (indicate N/A if single):</td>
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<td>Percentage of member ownership</td>
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<td>Percentage of member ownership</td>
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<td>Spouse Full Name (indicate N/A if single):</td>
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<td>Spouse Social Security Number:</td>
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<tr>
<td>Percentage of member ownership</td>
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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: January Ending Date: December

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.
DOWNTOWN DUGOUT BAR LLC

SOS Account Number

Status
Active

Principal Office Address
No address on file

Registered Agent and Office Address
MITCH E. SAWYER
550 N MAIN STREET
FREMONT, NE 68025

Designated Office Address
550 NORTH MAIN STREET
FREMONT, NE 68025

Nature of Business
Not Available

Entity Type
Domestic LLC
Qualifying State: NE

Date Filed
Sep 12 2019

Filed Documents
Filed documents for DOWNTOWN DUGOUT BAR LLC may be available for purchase and downloading by selecting the Purchase Now button. Your Nebraska.gov account will be charged the indicated amount for each item you view. If no Purchase Now button appears, please contact Secretary of State's office to request document(s).

<table>
<thead>
<tr>
<th>Document</th>
<th>Date Filed</th>
<th>Price</th>
<th>Purchase Now</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certificate of Organization</td>
<td>Sep 12 2019</td>
<td>$1.35 = 3 page(s) @ $0.45 per page</td>
<td></td>
</tr>
<tr>
<td>Proof of Publication</td>
<td>Oct 09 2019</td>
<td>$0.45 = 1 page(s) @ $0.45 per page</td>
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Good Standing Documents

- If you need your Certificate of Good Standing Apostilled or Authenticated for use in another country, you must contact the Nebraska Secretary of State’s office directly for information and instructions. Documents obtained from this site cannot be Apostilled or Authenticated.

Online Certificate of Good Standing with Electronic Validation
$6.50
This certificate is available for immediate viewing/printing from your desktop. A Verification ID is provided on the certificate to validate authenticity online at the Secretary of State’s website.
FORM MUST BE COMpletely FILLED OUT IN ORDER FOR APPLICATION TO BE PROCESSED

MANAGER MUST:

- Complete all sections of the application. Be sure it is signed by a member or corporate officer, corporate officer or member must be an individual on file with the Liquor Control Commission

- Fingerprints are required. See form 147 for further information, read form carefully to avoid delays in processing, this form MUST be included with your application.

- Provide a copy of one of the following: US birth certificate, naturalization papers or current US passport (even if you have provided this before)

- Be a registered voter in the State of Nebraska, include a copy of voter card or print document from Secretary of State website with application

Spouse who will not participate in the business, spouse must:

- Complete the Spousal Affidavit of Non Participation Insert (must be notarized). The non-participating spouse completes the top half; the manager completes the bottom half. Be sure to complete both halves of this form.

- Need not answer question #1 of the application

Spouse who will participate in the business, the spouse must:

- Sign the application

- Fingerprints are required. See form 147 for further information, read form carefully to avoid delays in processing, this form MUST be included with your application.

- Provide a copy of one of the following: birth certificate, naturalization papers or current US passport (even if you have provided this before)

- Be a registered voter in the state of Nebraska, include a copy of voter card with application

- Spousal Affidavit of Non Participation Insert not required
MANAGER APPLICATION
INSERT - FORM 3c

NEBRASKA LIQUOR CONTROL COMMISSION
301 CENTENNIAL MALL SOUTH
PO BOX 95046
LINCOLN, NE 68509-5046
PHONE: (402) 471-2371
FAX: (402) 471-2814
Website: www.lcc.nebraska.gov

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

Corporation/LLC Information:
Name of Corporation/LLC: **Downtown Outage Bar, LLC**

Premise Information:
Liquor License Number: __________________________ Class Type _________ (if new application leave blank)
Premise Trade Name/DBA: **Outage Bar**
Premise Street Address: 550 N Main St
City: **Fremont** County: **Osho** Zip Code: **68025**
Premise Phone Number: **402-721-5868**
Premise Email address: **mitch@52rolloffs.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.

[Signature]

SIGNATURE REQUIRED BY CORPORATE OFFICER / MANAGING MEMBER
(Faxed signatures are acceptable)
Last Name: Sawyer       First Name: Mitch       MI: E
Home Address: 1737 Fredrikson
City: Fremont       County: Dodge       Zip Code: 68025
Home Phone Number: 
Driver's License Number & State: 
Social Security Number: 
Date Of Birth: 
Place Of Birth: Fremont, NE
Email address: mitch@520hoff5.com

Are you required to complete spouse information on the form? (Use "YES" or "NO")

☑ YES   ☐ NO

Spouses Last Name: Sawyer       First Name: Bridget       MI: K
Social Security Number: 
Driver's License Number & State: 
Date Of Birth: 
Place Of Birth: Fremont, NE

<table>
<thead>
<tr>
<th>CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
<th>CITY &amp; STATE</th>
<th>YEAR FROM</th>
<th>YEAR TO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1737 Fredrikson St</td>
<td>2012</td>
<td>Current</td>
<td>5027 Ventura Dr</td>
<td>1990</td>
<td>2009</td>
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<td>Fremont, NE</td>
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<td>Fremont, NE</td>
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<td></td>
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<tr>
<td>1820 N Main St</td>
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<td>2012</td>
<td>Fremont, NE</td>
<td></td>
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<tr>
<td>YEAR FROM</td>
<td>TO</td>
<td>NAME OF EMPLOYER</td>
<td>NAME OF SUPERVISOR</td>
<td>TELEPHONE NUMBER</td>
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<td></td>
</tr>
<tr>
<td>2007</td>
<td>Current</td>
<td>S2 Roll Offs</td>
<td>self-employed</td>
<td>402-727-6806</td>
<td></td>
</tr>
</tbody>
</table>

1. **READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.**
   Must be completed by both applicant and spouse, unless spouse has filed an affidavit of non-participation.

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

   ✔ YES ☐ NO

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

<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>
<tbody>
<tr>
<td>Bridget Sawyer</td>
<td>07/2000</td>
<td>Fremont, NE</td>
<td>MIP</td>
<td>$250 fine</td>
</tr>
<tr>
<td>Bridget Sawyer</td>
<td>12/2007</td>
<td>Omaha, NE</td>
<td>DUI</td>
<td>$400 fine, 60 day license, revocation with interlock device</td>
</tr>
</tbody>
</table>

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

   ✔ YES ☐ NO

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

   **Whis’s End Zone Lounge**

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

   ✔ YES ☐ NO
List the alcohol related training and/or experience (when and where) of the person making application.

*NLCC Training Certificate Issued: 09-25-2019
Name on Certificate: Mitch Sawyer

<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>Mitch Sawyer</td>
<td>09/2019</td>
<td>Nebraska on-premise responsible serving</td>
</tr>
<tr>
<td>Bridget Sawyer</td>
<td>09/2019</td>
<td></td>
</tr>
</tbody>
</table>

*For list of NLCC Certified Training Programs see training

Experience:

<table>
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<tr>
<th>Applicant Name / Job Title</th>
<th>Date of Employment:</th>
<th>Name &amp; Location of Business:</th>
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</table>

5. Have you enclosed form 147 regarding fingerprints?

[ ] YES  [ ] NO
The above individual(s), being first duly sworn upon oath, deposes and states that the undersigned is the applicant and/or spouse of applicant who makes the above and foregoing application that said application has been read and that the contents thereof and all statements contained therein are true. If any false statement is made in any part of this application, the applicant(s) shall be deemed guilty of perjury and subject to penalties provided by law. (Sec §53-131.01) Nebraska Liquor Control Act.

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

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

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

[Signatures of Manager Applicant and Spouse]

**ACKNOWLEDGEMENT**

State of Nebraska  
County of ____________

The foregoing instrument was acknowledged before me this__________

[Signature of Notary Public]

[Affix Seal: GENERAL NOTARY - State of Nebraska  
SPENCER WILSON  
My Comm. Exp. April 19, 2021]

In compliance with the ADA, this application is available in other formats for persons with disabilities. A ten day advance period is required in writing to produce the alternate format.
PRIVACY ACT STATEMENT/
SUBMISSION OF FINGERPRINTS /
PAYMENT OF FEES TO NSP-CID

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

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

DIRECTIONS FOR SUBMITTING FINGERPRINTS AND FEE PAYMENTS:
• FAILURE TO FILE FINGERPRINT CARDS AND PAY THE REQUIRED FEE TO THE
  NEBRASKA STATE PATROL WILL DELAY THE ISSUANCE OF YOUR LIQUOR LICENSE
• Fee payment of $45.25 per person MUST be made DIRECTLY to the Nebraska State Patrol;
  It is recommended to make payment through the NSP PayPort online system at www.ne.gov/go/nsp
  Or a check made payable to NSP can be mailed directly to the following address:
  ***Please indicate on your payment who the payment is for (the name of the person being
  fingerprinted) and the payment is for a Liquor License***
    The Nebraska State Patrol – CID Division
    3800 NW 12th Street
    Lincoln, NE  68521

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

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

Trade Name: Dragoon Bar
Name of Person Bring Fingerprinted: Mitch Sawyer
Date of Birth: ________ Last 4 SSN: ________ Date fingerprints were taken: Oct. 2019
Location where fingerprints were taken: Omaha NSP

How was payment made to NSP?
X 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
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
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  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

  • Fingerprint cards should be submitted with the application.

• Fingerprints taken at NSP LIVESCAN locations will be forwarded to NSP – CID
  Applicant(s) will not have cards to include with license application.
• 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: Outout Bar
Name of Person Being Fingerprinted: Bridget Sawyer
Date of Birth:_______ Last 4 SSN:_______ Date fingerprints were taken: Oct 2019
Location where fingerprints were taken: Omaha NSP
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
Nebraska On-Premises Responsible Serving

This certificate confirms that

Bridget Sawyer

has successfully passed the Professional Server Certification Corporation (PSCC) course of study and has demonstrated the skill level and knowledge necessary to act as a responsible alcohol server.

Certificate #: PSCC10000422644
Award Date: 09-26-2019
Expiration Date: 09-25-2022

Robert Graham, President/CEO

To verify this certificate, go to Rserving.com.
Nebraska On-Premises Responsible Serving

This certificate confirms that

Mitch Sawyer

has successfully passed the Professional Server Certification Corporation (PSCC) course of study and has demonstrated the skill level and knowledge necessary to act as a responsible alcohol server.

Certificate #: PSCC10000422459
Award Date: 09-25-2019
Expiration Date: 09-24-2022

[Signature]
Robert Graham, President/CEO

To verify this certificate, go to Rserving.com.
DUGOUT BAR
550 North Main Street
Fremont NE 68025

Business Plan

Executive Summary

The Dugout Bar is an existing bar business serving the Fremont, Nebraska community. The Dugout Bar will continue operating the same way it has in the past while also working to attract more business to grow in the future.

Management

The Dugout Bar is or will be owned by Downtown Dugout Bar LLC, a Nebraska limited liability company (Mitch E. Sawyer, Member) and operated by Mitch E. Sawyer. He has several years of owning and operating a bar in the Fremont community.

Products and Services

The Dugout Bar provides liquor and beer at a fair price to the community. It hosts golf outings and sponsors different sports in the community.

Company Summary

The Dugout Bar has been a successful business under the previous ownership and the plan is to continue to run the business as well as it has been run and to expand and grow the customer base for even more success in the future.
BUSINESS PURCHASE AGREEMENT

This Agreement made and entered into this 12th day of October 2019, by and between Robin Drews and Gregory G. Kocour (hereinafter “Sellers”), and Downtown Dugout Bar LLC, a Nebraska Limited Liability Company (hereinafter “Purchaser”), under the following terms and conditions:

RECITALS:

A. Sellers own and operates a bar business under the name “Dugout Bar” at 239 East 6th Street, Fremont, Nebraska, and desires to sell all assets owned by Sellers used in the operation of the Sellers’ business.

B. Sellers own the real estate upon which said bar business is operated.

C. Sellers desire to sell and Purchaser desires to purchase the bar business from the Sellers upon the terms and conditions stated herein.

D. This contract is expressly contingent and subject to the Purchaser’s ability to obtain a liquor license of the same class which is currently held by the Sellers.

AGREEMENT:

NOW, THEREFORE, in consideration of the mutual promises and covenants of the parties hereto, it is agreed as follows:

1. Sale of Business. Sellers hereby agree to sell and Purchaser hereby agrees to purchase the business herein described on the terms and conditions herein set forth. If Purchaser shall perform the covenants herein on the part of the Purchaser to be made and performed, Sellers shall furnish Purchaser with good and sufficient warranty bill of sale and will convey, warrant and assure unto Purchaser, title in fee simple, clear of all liens and encumbrances to all of the assets of the business known as the “Dugout Bar”, the following described property:

   Personal Property:

   a. All items of equipment, trade fixtures, furniture and other assets relating to Sellers’ bar business;

   b. All right, title and interest in and to the trade name “Dugout Bar” and any derivative thereof, including a covenant not to compete as more particularly described herein; and,

   c. All liquor and beer inventory of Sellers used in said business;

Sellers agree to sell to Purchaser the Personal Property set forth above and elsewhere in this Purchase Agreement. The parties shall close based upon standard commercial practices and procedures.
2. **Purchase Price and Allocation.** The total purchase price for the business and all personal property, plus inventory, referred to in Paragraph 1 shall be Fifty-Seven Thousand Dollars ($57,000), which amount is allocated as follows:

   a. Equipment, trade fixtures, furniture, and bar and personal property (except inventory) ............................................................$15,000
   c. Goodwill ..............................................................................$35,000
   d. Covenant Not to Compete .....................................................$5,000
   e. Inventory .............................................................................$2,000

   Total $57,000

3. **Conditions of Agreement.** This agreement is expressly conditioned and contingent upon the Purchaser’s ability to obtain a Class C liquor license for the operation of said business. Purchaser shall promptly make application to the Nebraska Liquor Control Commission for such temporary and permanent liquor license.

   In the event Purchaser is unable to obtain said licenses, this Purchase Agreement shall be null and void and all payments made hereunder shall be returned to Purchaser.

   This Agreement is further expressly conditioned and contingent upon Purchasers ability to obtain a conventional bank loan at reasonable rates and upon reasonable terms for the purchase of the business and the Real Property having a satisfactory appraised value, in sole discretion of the Purchaser. Purchaser shall exert its best effort to obtain said loan.

   In the event Purchaser is unable to obtain said loan for said business and for said real estate purchase satisfactory to Purchaser, this Purchase Agreement shall be null and void and all payments made hereunder shall be returned to Purchaser.

4. **Inventory.** The parties have agreed the inventory shall be considered to be Two Thousand Dollars ($2,000) and that no inventory shall be taken at either the initial or the final closing. Sellers agree to in good faith have roughly and approximately Two Thousand Dollars ($2,000) worth of inventory as mutually agreed to by the parties.

5. **Payment of Purchase Price.** The purchase price, hereunder, shall be paid by the Purchaser as follows:

   a. One Thousand Dollars ($1,000) down payment check after the execution of this Purchase Agreement by Sellers and Purchaser at Initial Closing, to be held and deposited by Nicholas J. Lamme, attorney, in his trust account, as escrow agent until the Final Closing herein (Paragraph 9).

   b. Fifty-Six Thousand Dollars ($56,000) in the form of a certified check from Purchaser’s lender delivered at final closing.
6. **Property Excepted.** Sellers retain all right, title and interest in and to all accounts receivable, and cash on hand as of date of the Initial Closing.

7. **Covenant Not To Compete.** The Sellers shall refrain, directly or indirectly, from carrying on a bar business similar to that involved in this transaction in Fremont, Nebraska, including a radius of twenty-five (25) miles surrounding the Fremont, Nebraska city limits, for a period of two (2) years from the date of closing.

8. **Initial Closing.** The Initial Closing of this transaction shall take place at the office of Yost, Schafersman, Lamme, Hillis, Mitchell, Schulz & Hartmann, P.C., Fremont, Nebraska, within ten days of the issuance of the temporary Class C liquor license by the Nebraska Liquor Control Commission to Purchaser, on a date and time as mutually agreed by the Sellers and Purchaser. At the time of the Initial Closing:

   a. The Warranty Bill of Sale and any other instruments as may be necessary to transfer the property to Purchaser, shall be executed by Sellers and held by the escrow agent until Final Closing.

   b. Possession of the property shall be delivered to Purchaser and Purchaser shall then begin operating the business as Purchaser's business and under Purchaser's temporary license issued by the Nebraska Liquor Control Commission. Purchaser shall retain all revenue and profits as its own. Purchaser shall be responsible to account for revenues and expenses from date Purchaser begins operating the business under its temporary license until such time that Purchaser receives notice that the Nebraska Liquor Control Commission either issued or declined to issue the permanent Class C license to Purchaser. In the event such permanent license is not issued then Purchaser shall be responsible to reimburse Sellers for the inventory Purchaser used and to return possession of the property to Sellers at which time this agreement shall be null and void and all other monies returned to Purchaser.

9. **Final Closing.** The Final Closing of this transaction shall take place at the office of Yost, Schafersman, Lamme, Hillis, Mitchell, Schulz & Hartmann, P.C., within ten (10) business days of the issuance of the permanent Class C Liquor License by the Nebraska Liquor Control Commission to Purchaser, on a date and time as mutually agreed by the Sellers and Purchaser. At the time of the Final Closing:

   a. The Warranty Bill of Sale and any other instruments as may be necessary to transfer the property to Purchaser, shall be delivered to Purchaser. The cost of filing the Bill of Sale shall be paid by Purchaser.

   b. Purchaser shall deliver in the form of a certified check from Purchaser's lender the balance of the total purchase price and costs due under this Purchase Agreement into the Yost Law Firm trust account.
c. All other documents shall be signed by either the Sellers or the Purchaser as may be reasonably and customarily necessary to close this transaction in a manner contemplated by this contract.

d. Proration of personal property taxes and any other proration or adjustment contemplated herein.

e. Except as otherwise provided in this agreement, closing costs shall be paid by Sellers paying their own attorney, CPA or other advisor and by Purchaser paying its own attorney, CPA or other advisor.

10. **Tax Claims.** At the closing specified in this agreement, Sellers shall deliver to Purchaser an affidavit satisfactory to Purchaser's attorney, demonstrating that no taxes are outstanding against the business or assets. For this purpose taxes shall include Sellers' personal income tax, all business related taxes, including, but not limited to, sales tax, state and federal employee income tax withholding, Federal Social Security Tax (FICA) withholding, employment taxes and business or license fees.

11. **Personal Property Taxes.** Prior to and as of the date of Final Closing, Sellers shall pay all personal property taxes and, thereafter, the same shall be paid by Purchaser.

12. **Non-assumption of Liabilities.** The liabilities and obligations of Sellers are not being assumed by Purchaser but continue as liabilities and obligations of Sellers solely and shall be paid by Sellers solely. Purchaser shall have no liability or obligation for any claim, transaction, event, or other matter which existed or occurred on or prior to the initial closing without exception, reservation, or qualification, and all such liability or obligation, whatever its origin or nature, shall continue as a liability or obligation of the Sellers solely. Sellers shall indemnify and hold Purchaser harmless from all such claims, liabilities and obligations of Sellers. Purchaser is liable only for claims, transactions, events or other matters that occur after the initial closing of this sale and give rise to claim, liability, or obligation after the closing.

13. **Representations by Sellers.**

   a. The Sellers are the owner of the personal property and has good marketable title to the business and property referred to above, free of all debts, liens, security interests and encumbrances;

   b. There are no judgments, liens, actions, or proceedings pending or threatened against Sellers anywhere;

   c. There are no known violations of any kind pending or threatened against the business and property referred to in this Business Purchase Agreement;

   d. Sellers have complied with all laws, rules and regulations relating to the business and property referred to in this Business Purchase Agreement;

   e. Sellers have paid in full, or will arrange for the payment in full at the time of closing, all
state and federal employee income tax withholding, Federal Social Security Tax (FICA) withholding, employment taxes, unemployment insurance, sales and use taxes, business or license fees, or any other business-related taxes or governmental charges;

f. Sellers have not established nor participated in any pension or retirement plan or program for the benefit of any present or former employees of the business to be transferred to Purchaser.

g. Sellers have no employment contracts or leases or any other type of contracts which would bind the Purchaser.

14. **Risk of Loss.** Except as provided herein, Sellers assume all risk of loss due to fire or other casualty prior to Final Closing (Paragraph 9).

15. **Utilities.** From and after Initial Closing and possession by Purchaser, the Purchaser, in its own name, shall contract for all utilities utilized on said property and shall be responsible for the payment of the same. Sellers shall be responsible for and should hold Purchaser absolutely harmless on any and all utility expenses or bills or services incurred prior to possession by Purchaser.

16. **Additional Licenses.** Purchaser must, at its own expense, obtain any music, pool table, tobacco, food or other licenses which may be required by the State or Federal government.

17. **Entire Agreement.** This agreement sets forth the entire understanding of the parties and shall not be changed except by a written document signed by all parties.

18. **Binding Effect.** This agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

19. **Nebraska Law.** This contract shall be construed under the laws of the State of Nebraska.

20. **Time is of the Essence.** Time is of the essence of this Agreement.

21. **Survive Closing.** The representations set forth herein shall survive closing.

IN WITNESS WHEREOF, the parties have hereunto set their hands on the date and year written above.

Downtown Dugout Bar LLC, a Nebraska limited liability company, Purchaser

By: [Signature]

Mitch E. Sawyer, Authorized Member

[Signature]

Robin Drees, Seller

[Signature]

Gregory G. Kobour, Seller
State of Nebraska  
County of Dodge  
) ss.

The foregoing instrument was acknowledged before me this __________ day of October 2019, by, Robin Drews, Seller.

[Signature]
Notary Public

State of Nebraska  
County of Dodge  
) ss.

The foregoing instrument was acknowledged before me this __________ day of October 2019, by, Gregory G. Kocour, Seller.

[Signature]
Notary Public

State of Nebraska  
County of Dodge  
) ss.

The foregoing instrument was acknowledged before me this __________ day of October 2019, by Mitch E. Sawyer, Authorized Member of Downtown Dugout Bar LLC, Purchaser.

[Signature]
Notary Public
Acceptance of Escrow Agent

Nicholas J. Lamme, of Yost, Schaferman, Lamme, Hillis, Mitchell, Schulz & Hartmann, P.C., does hereby consent to serve as escrow agent pursuant to the terms of this Agreement.

Dated this 12th day of October 2019.

[Nicholas J. Lamme, #12368]
Dugout Liquor Inventory

7. Captain Morgan
6. Winbar Black Cherry
5. Clan McGregor Scotch
4. Barton Vodka
3. Jim Beam
2. Malibu Rum
1. Absolute Vodka
4. UV Vodka Blue
2. Jack Daniel's Whiskey
1. Johnnie Walker Red
3. Windsor Whiskey
2. Tanqueray Gin
1. Bacardi Limon
2. Barton Gin
2. Phillips Peach
2. Captain Morgan White
8. Assorted Smirnoff Vodka
1. Four Loko
1. Runchacha
2. Jim Beam
1. Phillips Triple Sec
3. Bailey's
3. Ciroc Coconut
3. Cherry McGillinie
2. Grape McGillinie
1. Phillips Creme de Menthe
3. Phillips Creme de Cacao
2. UV Cherry
1. Bacardi Black
3. Tequila Rose
2. Dekuyper Apple
1. Dekuyper Cointreau
1. Phillips Silver Vodka
1. Phillips Orange Vodka
2. Phillips Sloe Gin
6. Phillips Apricot Brandy
3. Dekuyper Pucker
1. Quozi
1. Captain Morgan Cino
1. Jose Cuervo Gold
1. Jose Cuervo White
1. So Comfort
1. Phillips Amaretto
1. Bacardi Tropicals
1. Phillips Blackberry
1. Shady Fruit
2. Crown Royal Apple
1. Crown Royal
1. Kettle One Vodka
1. Patron
1. Kolsch
1. Dark Creme de Cacao
1. Dekuyper Peppermint
1. Phillips Cinnamon
1. Dekuyper
1. Sake Rye
1. Dekuyper Sour Apple
1. Phillips Lemonade
1. Mart
1. Dekuyper Blueberry
6. Apple Pie
8. Assorted Schnapps
Dugout Bar – Equipment List

10 barstools
8 round tables
8 square tables
One 8 foot long table
23 chairs
Freezer
Ice machine
Bottle cooler
Upright beer cooler
Tapper
Walk-in freezer
30 – 6 oz glasses
34 – 9 oz pilsners
21 – 16 oz glasses
18 – rock glasses
40 – shot glasses
Microwave
5 – TVs
2 – Keno TVs
CERTIFICATE OF ORGANIZATION
OF
DOWNTOWN DUGOUT BAR LLC

The undersigned, desiring to form a limited liability company for the purposes hereinafter set forth under and in conformity with the laws of the State of Nebraska do hereby make this written certificate in duplicate and hereby verify:

1. **Name.** The name of the company shall be Downtown Dugout Bar LLC.

2. **Duration.** The period of duration of the company shall be perpetual from the date this Certificate of Organization is filed with the Secretary of State of the State of Nebraska.

3. **Purpose.** The company is organized to engage in any lawful act concerning any and all lawful business, other than banking or insurance, for which a limited liability company may be organized under the laws of Nebraska.

4. **Initial Place of Business - Registered Agent.** The address of the initial designated office of the company in Nebraska is:

   Mitch E. Sawyer  
   550 North Main Street  
   Fremont, NE 68025

The name and address of the company's registered agent in Nebraska is:

   Mitch E. Sawyer  
   550 North Main Street  
   Fremont, NE 68025

5. **Property Contributed.** The total amount of cash and property other than cash contributed by the organizational members as capital is described on Exhibit "A" hereto. The agreed value of the property, other than cash, contributed to the company is also set forth on Exhibit "A".

6. **Additional Contribution.** The total additional contributions agreed to be made by all members and the times at which or events upon the happening of which they shall be made shall be determined by the Operating Agreement of the Limited Liability Company.

7. **Additional Members.** The members of the company have the right to admit additional members from time to time, upon unanimous approval and upon additional terms and conditions of admission as may be determined by the members at the time of admission. Except as provided in the Operating Agreement, the interests of the members in the company may not be transferred or assigned.

8. **Right to Continue Business.** In the event of the death, retirement, resignation, expulsion, bankruptcy or dissolution of a member or the occurrence of any other event which terminates the continued membership of a member in the limited liability company, then by unanimous consent the remaining members of the company have the right to continue the business of the company, at their election and option.
9. Management. Management of the company shall be vested in its members in proportion to their contribution to the capital of the company, as adjusted from time to time, to reflect additional contributions or withdrawals by the members. The names and addresses of the members are:

<table>
<thead>
<tr>
<th>Member's Name</th>
<th>Address</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mitch E. Sawyer</td>
<td>550 North Main Street</td>
</tr>
<tr>
<td></td>
<td>Fremont, NE 68025</td>
</tr>
</tbody>
</table>

10. Internal Affairs. The regulations of the internal affairs of the company are set forth in the Operating Agreement of the company and shall govern the operation of the business and the members accordingly.

EXECUTED in duplicate original counterparts by the undersigned members on the 4th day of September 2019.

Mitch E. Sawyer

State of Nebraska )
County of Dodge ) ss.

On this 4th day of September 2019, before me, a Notary Public in and for said County, personally appeared Mitch E. Sawyer, who being by me first duly sworn, declared that he is the person who signed the foregoing Certificate of Organization, as organizational member, and he further verified that the statements contained therein are true to the best of his knowledge and belief.

Witness my hand and official seal.

Notary Public
### Exhibit "A"

<table>
<thead>
<tr>
<th>Property Contributed</th>
<th>By Who</th>
<th>% Interest</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cash</td>
<td>Mitch E. Sawyer</td>
<td>100%</td>
</tr>
</tbody>
</table>
STATE OF NEBRASKA

United States of America, } ss. 
State of Nebraska } 

Secretary of State 
State Capitol 
Lincoln, Nebraska 

I, Robert B. Evnen, Secretary of State of the State of Nebraska, do hereby certify that

DOWNTOWN DUBOUT BAR LLC


I further certify that attached is a true and correct copy of the above mentioned Certificate of Organization.

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

September 13, 2019

Robert Evnen
Secretary of State
LIQUOR APPLICATION REPORT

PLANNING REPORT

DATE: October 24, 2019     DUE DATE: November 5, 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: Mitch Sawyer, Downtown Dugout Bar

LOCATION: 239 E. 6th

REQUESTED LICENSE OR ACTION: Class C beer, wine and spirits on- and off-sale

EXISTING ZONING: DC, Downtown Commercial

EXISTING LAND USE: Bar

ADJACENT LAND USE AND ZONING:

NORTH: DC, Downtown Commercial with parking lot

SOUTH: DC zoning with commercial uses

EAST: DC zoning with commercial uses

WEST: DC zoning with commercial uses

GENERAL NEIGHBORHOOD / AREA LAND USES: The subject property is located in a commercial district and is surrounded by commercial uses. It is currently being operated as a bar.

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

SIGNED: __________________________

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

Name of Business: Dugout Bar (LLC)
Business Address: 239 E. 6 St. Fremont, NE 68025
Business Phone #: 402-721-5868
Business Owner (s): Mitch E. Sawyer & Bridget K. Sawyer
Business Owner's Address (s): 1737 Frederiksen Fremont, NE 68025
Owner's Daytime Phone Number: 402-306-2531

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 - C

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

4. Type of Ownership:  ___ Corporation (LLC)
   ___ Partnership
   ___ Individual
   _X_ Limited Liability Company (LLC)

5. Financial Information:
   Previous Years Gross Sales
   (Estimation) $ 40,000  Estimated Annual Payroll
   $ 100,000  Estimated Gross Income
   1% Food (Bagged Chips, peanuts) 99 % Liquor

6. Premise Information:  _X_ Commercial  ___ Industrial  ___ Residential
   Estimated Seating Capacity: 25  Estimated # of Customers per day - 10
   Premise days of operation: DAYS/WEEK –  Monday - Saturday
   Premise hours of operation: 1300 - 0100

7. Type of Food Service:  NA Microwave  NA Grill  NA Kitchen
8. Employees:  # 2  Full Time  # 5  Part Time

Are any of the employees 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: Mitch E. Sawyer
Address: 1737 Frederiksen Fremont, NE 68025
Phone # 402-306-2531
Driver's License

Length of time as owner: 6 days

Is anyone other than the manager responsible for the daily operation of the business?  Yes, Spouse- Bridget K. Sawyer

10. Number of Licenses within competitive distance:  5

11. Does the establishment have gaming?  KENO & Slot Machine

12. Does the establishment sell tobacco products?  Yes, cigarettes

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.  None

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: 11-06-19

Date of Completed Investigation: 11-07-19

Signature of Investigating Officer: [Signature]

Date of Hearing by Governing Body: 

Governing Body Recommendation: 

Signature of Applicant: [Signature] Date: 11/7/19

Printed Name of Applicant: Mitch Sauser

Notary: Aliva M. Hajek

Nov. 7th, 2019 Dodge Co. Fremont, NE

Falsification of any part of this application may result in criminal and civil penalties.
RESOLUTION NO. 2019-237


WHEREAS, an application was filed by Downtown Dugout Bar, LLC dba Dugout Bar, for property located at 239 E. 6th St., Fremont, NE 68025 for a Class C liquor license; and,

WHEREAS, a public hearing notice was published in the Fremont Tribune as required by state law on October 31, 2019; and,

WHEREAS, a public hearing was held on November 12, 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 12th DAY OF NOVEMBER 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: November 12, 2019
SUBJECT: Request for a Conditional Use Permit to expand Deerfield Clubhouse Apartments by adding a 44 unit building.

RECOMMENDATION: Conditional Approval of Resolution #2019-227 with the condition that Ordinance #5507 is approved.

Background:

The applicant is requesting a Conditional Use Permit to allow the expansion of the Deerfield Clubhouse Apartments by adding a 44 unit building.

There are 122 existing units. The expansion would bring the total to 166 units. The gross land area is 11.706 acres yielding a proposed density of 14 units per acre. This is below the density of 24 units per acre specified in table 11-602.01.

The property is zoned UR, Urban Residential. The area to the immediate north is zoned UR, Urban Residential and R, Rural is developed with acreage housing. The area northeast is zoned LI, Light Industrial and is undeveloped. The area to the east is zoned UR, Urban residential and is undeveloped. The area south of the apartment complex is zoned LI, Light Industrial and is developed with industrial uses. The area to the southeast of the apartment complex is zoned AR, Auto Urban Residential and is undeveloped.

The proposed addition will have 67% impervious coverage which is less than the maximum 70% allowed in Table 11-602.02.02.

The developer has provided a drainage study which was reviewed by the Assistant City Administrator for Utilities. He found the study and the proposed rain garden detention cell to be satisfactory provided the cell does not drain into the Morningside Rd. ditch.

The Fire Chief requested an emergency entrance off Morningside Rd. The developer has provided an emergency entrance on the site plan. The Assistant City Administrator for Utilities requests that this be for emergency use only, consistent with the findings and recommendations of the traffic study.

The Assistant City Administrator for Utilities requested that fire hydrants be placed as needed.

The Assistant City Administrator for Utilities requested that if the emergency entrance off of Morningside is used as a construction entrance that the developer ensure that the road is cleaned daily.

11-504.01 B.1 states that multi-family dwellings must be 300 feet from a R, MH, BP, GI, LI, AV or PO district unless separated by a type B bufferyard or collector or arterial roadway.
Finding: This site is approximately 200 feet from the corner of a LI district but is separated by an arterial roadway.

11-504.01 B.2 states that multi-family dwellings are permitted if “they are located more than 300 feet from any other multiple family development, as measured from the boundary lines nearest each other.

Finding: The proposed development is not adjacent to another apartment complex.

11-504.01.B.3 states that there are no more than 12 units per acre.

Finding: The proposed addition brings the complex to a density of 14 units per acre. However, the underlying UR zoning district allows a density of 24 units per acre for multi-family developments. Proposed Ordinance #5507 rectifies this discrepancy.

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 use does 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 proposed multi-family units will be compatible with the surrounding area.

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 an alternative location within 1,000 feet.

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 use will not discourage permitted uses as the surrounding area is built up. This is infill development.

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 use will not create man made hazards. Off street parking is provided for each unit.
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 a disproportionate share of public services.

**Staff Recommendation:** Approval with the condition that Ordinance #5507 is approved by the City Council.
Generalized area of apartment complex and area of proposed expansion (blue)
RESOLUTION NO. 2019-227

A Resolution of the City Council of the City of Fremont, Nebraska, to approve a Conditional Use Permit to expand the Deerfield Clubhouse Apartments by 44 units on property legally described as Lot 1, Deerfield Second Addition, Fremont, Nebraska.

WHEREAS, Gerald Kelly has submitted an application for a Conditional Use Permit to expand the Deerfield Clubhouse Apartments by 44 units for a total of 166 units in the complex; and,

WHEREAS, the proposed addition is below the density specified by table 11-602.01 of the UDC; and,

WHEREAS, the proposed addition covers less than the maximum impervious area specified in Table 11-602.02.02; and,

WHEREAS, the proposed drainage study is satisfactory to the Assistant City Administrator for Utilities; and,

WHEREAS, the emergency entrance off of Morningside Rd. was requested by the Fire Chief and is consistent with the traffic study provided by the developer,

WHEREAS, the proposal meets the requirements of 11-316 of the UDC,

WHEREAS, proposed ordinance #5507 removes inconsistencies in the UDC.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont approves a Conditional Use Permit to add 44 units to the Deerfield Clubhouse Apartments for a maximum of 166 units provided that the City Council also approves Ordinance #5507 and that the developer locates fire hydrants to the satisfaction of the State Fire Marshall and the Fire Chief.

PASSED AND APPROVED THIS 12TH DAY OF NOVEMBER, 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: November 12, 2019
SUBJECT: Request for a Conditional Use Permit for Storage Units

RECOMMENDATION: Approval of Resolution 2019-226

Background:

The applicant is requesting a Conditional Use Permit to allow self-storage units on a 3.83 acre parcel located at 460 W. 52nd Street.

The property is zoned LI, Light Industrial. It is adjacent to the Highway 77 and Highway 275-30 Interchange.

The area to the north, east and south is zoned LI, Light Industrial. The area to the west is zoned R, Rural.

The site plan shows that landscaping that meets the requirements of the UDC.

Section 11-504.04 M of the UDC has the following criteria:

M. Self-Service Storage Facilities are permitted if it is demonstrated that:

1. They are located greater than 300 feet from any residential, SC, DC, BP, CU, or PO district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a type C bufferyard or a collector or arterial roadway;

   Finding: The property is more than 300 feet from a residential district.

2. Primary access to the site is from a collector or arterial roadway;

   Finding: 52nd Street acts as a collector in that area.

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 property abuts a highway interchange and is in an industrial area. The impact should be minimal.

4. The minimum size of a self-storage facility is one acre;

   Finding: The site is over one acre.

5. Activities within the facility are limited to the rental of storage cubicles or garages and the administration and maintenance of the facility;
Finding: This facility will be fenced and used for storage. The construction office is outside of the fenced area to be used as a storage facility.

6. All storage is wholly within fully enclosed buildings and does not include the storage of hazardous materials;
Finding: This provision is met.

7. No storage buildings open into required front or street yards;
Finding: This provision is met

8. All driveways and interior drive aisles are constructed of concrete; all other vehicular use and maneuvering areas within the facility are provided with an all-weather surface approved by the zoning administrator; and
Finding: This provision will be met.

9. Any outdoor storage of vehicles is on a coarse aggregate or other all-weather surface approved by the zoning administrator, provided that the storage area is fully screened and/or enclosed with an opaque fence or wall (see Subsection 11-615.02., Fences and Walls) to a minimum height of six feet.
Finding: This provision will be met.

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: This 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 proposed use 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 not an alternate location where this is permitted by right within 1,000 feet.

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: There will not be a critical mass of similar uses.

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 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 disproportionally use public services.

**Staff Recommendation:** Approval
General area of proposed storage facility
RESOLUTION NO. 2019-226

A RESOLUTION OF THE CITY OF FREMONT, NEBRASKA, AUTHORIZING A CONDITIONAL USE PERMIT FOR SELF STORAGE UNITS.

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, Dan Martinez, on behalf of Country Builders, has submitted a request for approval of a Conditional Use Permit for self-storage units on property described as: Lot 1, KM Subdivision located in Section 2, Township 17 North, Range 8 East of the 6th P.M., Dodge County, Nebraska; and,

WHEREAS, the City has determined that the subject property is currently zoned LI Light Industrial; and,

WHEREAS, Self-storage uses in the LI Light Industrial 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 October 21, 2019, and subsequently by the City Council on November 12, 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.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Fremont, approves a Conditional Use Permit for Self Storage Units.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019.

________________________________________
Scott Getzschman, Mayor

ATTEST:

______________________________________
Tyler Ficken, City Clerk
Recommendation: Conditional Approval of Resolution 2019-224 with the conditions that no bright strobe lighting is allowed, that a landscaped bufferyard is installed and that this Conditional Use Permit expires on December 15, 2022 unless renewed.

Background:
The Planning Commission held a public hearing on this item on October 21, 2019. They voted to recommend conditional approval of the request with the conditions that no bright strobe lighting be allowed and that a landscaped bufferyard be installed surrounding the base of the facility.

An easement was granted in 2001 and subsequently amended in 2009 and 2015. The initial agreement had a term that expired December 15, 2017. The easement agreement approved in 2015 extended that so that there are two 5 year renewal terms. The first of the two terms expires December 15, 2022 and the final renewal term expires on December 15, 2027. The lease also expires in 2027.

Megan Flowers with Crown Castle USA, Inc. is requesting a modification to a conditional use permit for a communications tower located in a corner of Memorial Field, generally located north of 1600 E. Military Ave.

The applicant proposes to remove the existing tower and replace it with a 129’ tower at the east end of the compound.

The tower is located at the corner of a parking lot and the parcel containing the track.

The original tower was approved by the Planning Commission and City Council in April of 2002.

According to the minutes of the meeting, it was approved to be 73’ tall. It was placed in this location at the request of the residents to the east.

The proposed replacement tower will allow the co-location of at least three other sets of antennae.

The existing tower blends well with the existing lights surrounding the football field and in the parking lot. The proposed tower would be considerably taller, and would be somewhat more visible. However, placement in an area with existing tall lights will help make it less noticeable.

Co-location is encouraged by section 11-504.01.DD.4 of the UDC.

11-504.01.DD 1.c requires towers to be set back by 100 percent of the height of the tower. The proposed tower is in the interior of the Memorial Field/YMCA complex, at the corner of the track. A 130’ buffer image is shown below. If the tower were to fall, it would not impact any buildings. The landscape bufferyard for the facility was waived in 2012. Adding shrubs to the base could interfere with the use of the area as a field. The Planning Commission voted in 2019 to recommend
that a landscape buffer yard be placed at the base of the facility. They did not believe it would interfere with the field.

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 proposal 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 use is compatible and blends with the existing towers in the area.

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: This is an amendment of an existing permit.

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 of similar uses.

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 public health and safety is protected, an adequate fall zone is provided.

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: This will not use a disproportionate share of public services.

Fiscal Impact: N/A.
EXHIBIT A

Legal Description of the Total Property

LEGAL DESCRIPTION PARENT PARCEL:

A part of Tax Lot 119, located in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6th Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska.

PID (Property Identification Number): Tax-exempt government owned property.

Also known as: Memorial Field, 1600 E. Military Avenue, Fremont, Nebraska 68025
EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this "Agreement") is made this 9th day of August, 2001 (the "Effective Date") by City of Fremont, Nebraska, a municipal corporation, whose address is 400 E. Military Avenue, Fremont, Nebraska 68025, ("Grantor") for the benefit of Qwest Wireless, L.L.C., a Delaware limited liability company, whose address is 1860 Lincoln St., Fourteenth Floor, Denver, Colorado, 80295, and to its affiliates, parent corporations, subsidiaries, successors, assigns, licensees and agents ("Qwest").

RECITALS

A. Grantor is the fee owner of certain real property located in the City of Fremont, Dodge County, State of Nebraska, as more particularly described on Exhibit A attached hereto and incorporated herein by reference (the "Total Property").

B. Qwest has requested, and Grantor has agreed to grant and convey to Qwest, an easement over, across, under and through a portion of the Total Property more particularly described on Exhibit B attached hereto (the "Easement Tract"), together with access thereto, for the installation, construction, operation, maintenance, repair, replacement, or removal of telecommunications equipment, including, without limitation, poles, towers, cables, antennas, wires, switching equipment, and other telecommunications equipment of any nature, including any necessary appurtenances and electric and telephone utility service.

WITNESSETH:

NOW, THEREFORE, in consideration of the mutual promises hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Grant of Easement. Grantor hereby grants and conveys to Qwest an easement over, across, under, and through the Easement Tract, together with a non-exclusive easement and right of way over, across, under, and through those portions of the Total Property as are reasonably necessary for Qwest to access the Easement Tract (the "Access Route"), for the installation, construction, operation, maintenance, repair, reconstruction, replacement, or removal of telecommunications equipment, including, without limitation, poles, towers, cables, antennas, wires, switching equipment, and other telecommunications equipment of any nature, including any necessary appurtenances and electric and telephone utility service (collectively, the "Easement"). The Access Route is shown on Exhibit B attached hereto.
2. **Term.** The Easement will be effective for a period of fifteen (15) years commencing on the date this Agreement is recorded and expiring on the date that is fifteen (15) full calendar years after the date this Agreement is recorded.

3. **Removal of Vegetation.** Qwest has the right to cut, remove, dispose of and clear and keep cleared all trees, shrubs and other vegetation and obstructions on the Easement Tract or the Total Property that interferes with the operation of Qwest’s equipment.

4. **Measurable Interference.** Grantor acknowledges that Qwest’s use of the Easement Tract for its operation of telecommunications equipment requires no measurable electronic interference (“Measurable Interference”) by third parties in the vicinity. Accordingly, Grantor will not construct or install nor permit the construction or installation by third parties of improvements or equipment on the Total Property or other land owned by Grantor located in the vicinity of the Easement Tract that interferes with the operation of Qwest’s equipment. If Qwest discovers a Measurable Interference that affects the Easement granted herein, Qwest will give written notice to Grantor and Grantor will use its best efforts to cure the Measurable Interference. If Grantor fails to cure the Measurable Interference within 30 business days, Qwest may, at its option, terminate this Agreement, and hold Grantor responsible for all damages, including but not limited to relocation costs. If Qwest terminates this Agreement as set forth herein, then Grantor shall reimburse Qwest a proportionate amount of any prepaid consideration; such amount shall be determined by multiplying the total amount of consideration Qwest paid to Grantor by a fraction (the numerator of which is the number of months remaining in the term of this Agreement and the denominator of which is the total term of this Agreement, as expressed in months.)

5. **Maintenance of Access Route.** Grantor shall, at its sole cost and expense, maintain the Access Route in good condition and repair, including but not limited to paving, resurfacing, striping, snow removal, repair and maintenance of drainage from the Access Route, and the costs of any permits required by state, federal, or local laws or regulations to use and maintain the Access Route.

6. **Grantor’s Indemnity.** Grantor shall indemnify, defend, and hold Qwest harmless from and against any and all claims, damages, costs or expenses arising out of or related to (i) the use of the Easement Tract and/or the Total Property by Grantor, its agents, employees, contractors, licensees, and invitees; (ii) Grantor’s interference with Qwest’s use and enjoyment of the Easement Tract and/or the Access Route; (iii) the maintenance or repair of the Access Route; (iv) any negligent or willful act or omission of Grantor; or (v) the failure of Grantor to comply with the terms of this Agreement.

7. **Limitation on Liability.** Notwithstanding anything to the contrary in this agreement, neither Grantor nor Qwest shall be liable to any person or entity for indirect, consequential or punitive damages for any matter arising hereunder.

8. **Grantor’s Retained Rights.** Grantor reserves the right of ownership, use, and occupancy of the Easement Tract insofar as said ownership, use, and occupancy does not impair the rights granted to Qwest in this Agreement. However, Grantor shall not use or occupy the Easement Tract, the Access Route or the Total Property in any manner that impairs the rights granted to Qwest in this Agreement. Without limiting the foregoing, it is understood and agreed by Grantor that no building, structure, or other improvements of any kind may be placed by Grantor on the Easement Tract or the Access Route; provided, however, that Grantor may install asphalt paving and curbing, cement surface sidewalks and curbs, sod, and other landscaping on the Easement Tract or the Access Route (the "Improvements"), so long as the same do not interfere with Qwest’s use of the Easement Tract or the Access Route. Any such Improvements on the Easement Tract or the Access Route shall not be installed until Grantor has obtained Grantee’s prior written consent, which consent shall not be unreasonably withheld or delayed.

9. **Ownership.** Grantor warrants that it is the fee simple owner of the Easement Tract and that it has the right to grant the Easement herein and will warrant and defend title to the property against all claims.

10. **Binding Effect.** The rights, obligations, conditions and provisions of this Agreement will inure to the benefit of and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties hereto. The Easement will run with the land as to all property benefited or burdened, including any division or partition of such property.
11. **End of Term.** Upon termination of this Agreement, Qwest shall, at its sole expense and upon written request from Grantor given within five days after the expiration of this Agreement, remove all of Qwest's telecommunications equipment and restore the Easement Tract to substantially its original condition. Notwithstanding the foregoing, Qwest may, at its option, remove any telecommunications equipment from the Easement Tract at any time prior to the termination of this Agreement.

12. **Assignment.** Qwest may assign, apportion, sell, convey or otherwise transfer all or any part of this Agreement and the Easement granted herein to any Affiliate (as defined below), without Grantor's approval. As used herein, "Affiliate" means any corporation or entity which controls, is controlled by, or is under common control with, Qwest, or any corporation or entity which results from a merger or consolidation with Qwest or with any entity that controls Qwest. No transfer or assignment of stock of Qwest, or any controlling interest in Qwest, whether by sale, merger, exchange or other means, shall constitute an assignment of this.

13. **Dispute.** Any claim, controversy or dispute between the parties will be resolved by binding arbitration in accordance with the Federal Arbitration Act, 9 U.S.C. Sections 1-16, not state law. The arbitration will be conducted by a retired judge or practicing attorney under the rules of the American Arbitration Association. The arbitrator's decision will be final and may be entered in any court having jurisdiction. Each party is responsible for its own costs. The arbitration will be conducted in the county where the Easement Tract is located.

14. **FCC Rules.** Grantor acknowledges that Qwest, as a licensee under the rules and regulations of the Federal Communications Commission, is subject to certain federal requirements. Grantor will cooperate in good faith with Qwest in its efforts to comply with applicable federal requirements.

15. **Renunciation.** In the event that Qwest, in its sole discretion, determines that QWEST no longer needs the Easement, Qwest may terminate this Agreement upon written notice to Grantor. Upon termination of this Agreement, the parties will be released from all duties, obligations, liabilities and responsibilities under this Agreement, except for those obligations which, by their terms, survive the termination of this Agreement.

16. **Applicable Law.** This Agreement shall be interpreted and enforced according to the laws of the state in which the Easement Tract is located.

17. **Environmental.** Grantor warrants and represents that, to its actual knowledge, neither the Total Property nor the Easement Tract contains any Hazardous Materials in any quantity that violates environmental law. Grantor will not use or conduct operations on or at the Easement Tract or the Total Property, or manufacture, store, sell, use, dispose of, release, or discharge Hazardous Materials on or at the Easement Tract or the Total Property, in any manner which violates environmental law or which causes there to be any liability under environmental law. Grantor will indemnify and hold Qwest harmless from and against any and all liability, claims, suits, actions, proceedings, damages, costs, and expenses, including, without limitation, attorneys' fees and costs, imposed upon or incurred by Qwest arising out of or in connection with a misrepresentation by Grantor of Grantor's representation set forth in this section, or a breach of the provisions of this section. "Hazardous Materials" means asbestos or any hazardous substance, waste or materials defined in any federal, state or local environmental or safety law or regulation including, but not limited to, CERCLA. Qwest will be solely responsible for and will defend, indemnify and hold Grantor, its agents and employees harmless from and against any and all direct claims, costs and liabilities, including reasonable attorneys' fees and costs, arising out of or in connection with the cleanup or restoration of the Easement Tract or the Total Property associated with Qwest's use of Hazardous Materials on, at or under the Easement Tract or the Total Property. The obligations of this Section will survive the termination of this Agreement.

18. **Condemnation.** In the event of any exercise of eminent domain or condemnation with respect to the Easement Tract or the access route thereto, Grantor shall be entitled to receive the total award paid or payable as a result of such taking attributable to the value of the portion of the Easement Tract or the Total Property so taken. Notwithstanding the foregoing, Qwest shall be entitled to any separate award paid or payable to Qwest that is attributable to the value of the Easement, the value of the unexpired term of this Agreement, and moving expenses incurred as a result of such taking.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date first above set forth.

GRANTOR:

City of Fremont, Nebraska
a municipal corporation

By: __________________________
Name: Donald B. Edwards
Its: Mayor

Tax ID: 97-600-6192

STATE OF Nebraska
COUNTY OF Dodge

The foregoing instrument was acknowledged before me this 27th day of June, 2001, by
Donald B. Edwards as the Mayor of City of Fremont, NE

WITNESS my hand and official seal.

My commission expires: 5-30-02

[Signature]
Notary Public

GENERAL NOTARY State of Nebraska
LYNNIE M. MINTZER

SITE # 103G
EASEMENT AGREEMENT (Rev. 8/10/00)
EXHIBIT A

Legal Description of the Total Property

LEGAL DESCRIPTION PARENT PARCEL:

A part of Tax Lot 119, located in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6th Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska.

PID (Property Identification Number): Tax- exempt government owned property.

Also known as: Memorial Field, 1600 E. Military Avenue, Fremont, Nebraska 68025
Exhibit B

Site Description

Legal Description Lease Site (Easement Tract):

That part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, being more particularly described as follows:

Referring to a point of intersection of the centerline of Lincoln Avenue and 9th Street, a PK nail found; thence southerly S 00°11'47" W, on the centerline of Lincoln Avenue, 129.00 feet; thence easterly N 89°58'59" E, 691.54 feet; thence southerly S 00°01'01" E, 58.12 feet to the Point of Beginning for the described Lease Site; thence easterly S 81°34'08" E, 20.00 feet; thence southerly S 08°25'52" W, 15.00 feet; thence westerly N 81°34'08" W, 20.00 feet; thence northerly N 08°25'52" E, 15.00 feet, to the Point of Beginning for the described Lease Site.

Containing a total calculated area of 300 sq. ft., more or less.

Legal Description Access Easement:

An Access Easement 12 feet in width, located in that part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6th Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, and the Southeast Quarter of the Southwest Quarter of Section 13, Township 17 North, Range 8 East of the 6th Principal Meridian, Dodge County, Nebraska, the centerline being more particularly described as follows:

Referring to the Northeast corner of said Lease Site; thence easterly S 81°34'08" E, 6.00 feet, to the Point of Beginning for the centerline of the described easement; thence northerly N 09°28'42" E, 34.44 feet; thence westerly N 80°40'07" W, 678.89 feet, to a point on the easterly Right-of-Way line of Lincoln Avenue, said point being the Point of Termination for the centerline of the described easement.

Legal Description Utility Easement:

Two Utility Easements 8 feet in width, located in that part of Tax Lot 119, in the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East, of the 6th Principal Meridian, as recorded in Deed Book 139, at Page 307, in the City of Fremont, Dodge County, Nebraska, and the Southeast Quarter of the Southwest Quarter of Section 13, Township 17 North Range 8 East of the 6th Principal Meridian, Dodge County, Nebraska, the centerline being more particularly described as follows:

Beginning at the Northwest corner of said lease Site; thence northwesterly N 41°11'48" W, 128.68 feet, to the Point of Termination for the centerline of the described easement,

and

Referring to the Southeast corner of said Lease Site; thence westerly N 81°34'08" W, 8.28 feet to the Point of Beginning for the centerline of the described easement; thence southerly S 08°25'52" W, 8.31 feet to the Point of Termination for the centerline of the described easement.
ADDENDUM TO EASEMENT AGREEMENT

THE ATTACHED EASEMENT AGREEMENT ("Agreement") made and entered into this 9th day of August, 2001 by and between City of Fremont, a Nebraska municipal corporation ("Grantor") and Qwest Wireless, L.L.C., a Delaware limited liability company, ("Grantee") of which this Addendum is made a part, is hereby amended and supplemented as follows:

1. Paragraph 3, Removal of Vegetation. Delete the words "or the Total Property" after the words "Easement Tract."

2. Paragraph 6(i), Grantor's Indemnity. Delete the words "and/or the Total Property" after the words "Easement Tract"; delete the word "invitees" after the word "licensee."

3. Paragraph 17, Environmental. shall be modified by inserting the following after the fourth sentence of the paragraph:

"Grantee shall obtain, at its expense, a phase one Environmental Assessment of the Easement Tract. A copy of the subsequent report shall be provided to Grantor."

The execution of this Addendum by the parties hereto incorporates herein said addendum as part of the Easement Agreement.

Grantor:
City of Fremont, a Nebraska municipal corporation
By: [Signature]
Its: [Signature]
Federal Tax ID or Social Security Number: 97-6006192

Grantee:
Qwest Wireless, L.L.C., a Delaware limited liability company
By: [Signature]
Its: [Signature]

STATE OF NEBRASKA )
COUNTY OF Dodge ) ss.

The foregoing instrument was acknowledged before me this 27th day of June, 2001, by

Donald Edwards as the Mayor of City of Fremont, NE

WITNESS my hand and official seal.

GENERAL NOTARY-State of Nebraska
LYNNE M. McINTOSH My Comm. Exp. May 30, 2002
Notary Public
My commission expires: 5-30-02

STATE OF COLORADO )
COUNTY OF Arapahoe ) ss.

The foregoing instrument was acknowledged before me this 9th day of August, 2001, by

Stephen W. Morgan as the Senior V.P. Operations, Qwest Wireless, L.L.C.

WITNESS my hand and official seal.

GENERAL NOTARY-State of Colorado
Nadine T. Smigels My Comm. Exp. June 18, 2005
Notary Public
My commission expires: June 18, 2005

EASEMENT AGREEMENT (Rev. 8/10/00)
MEMORANDUM OF FIRST AMENDMENT TO EASEMENT AGREEMENT

THIS MEMORANDUM OF FIRST AMENDMENT TO EASEMENT AGREEMENT evidences that a First Amendment to Easement Agreement was entered into as of 3/16/09, 2008 (the "Amendment"), by and between The City of Fremont, Nebraska ("Grantor"), with a principal address located at 400 E. Military Avenue, Fremont, Nebraska 68025, and Verizon Wireless (VAW) LLC d/b/a Verizon Wireless ("Grantee"), with offices located at 180 Washington Valley Road, Bedminster, New Jersey 07921, Attention: Network Real Estate. Grantor and Grantee originally entered into an Easement Agreement dated August 9, 2001, recorded December 19, 2002 in Book 2002, at Page 10039, within the property of Grantor which is described in Exhibit "A" attached hereto ("Grantor's Property"), together with a right of access to and install and maintain utilities. The "Easement Tract" conveyed pursuant to the Easement Agreement is expanded pursuant to the Amendment as described in Exhibit "B" attached hereto.

IN WITNESS WHEREOF, Grantor and Grantee have duly executed this Memorandum of First Amendment to Easement Agreement as of the day and year first above written.

Grantor:

City of Fremont, Nebraska

By: Donald B. Edwards
Mayor

Date: 12-11-08

Grantee:

Verizon Wireless (VAW) LLC d/b/a Verizon Wireless

By: Beth Ann DeWitt
Area Vice President Network

Date: 3/16/09
STATE OF Nebraska )
COUNTY OF Dodge )

On Dec. 11, 2008, before me, Sheila Pettit, notary public, personally appeared
Donald B. Edwards, the Mayor of the City of Fremont, Nebraska, personally known to me (or
proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within
instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that
by his/her signature on the instrument the entity upon behalf of which the person acted, executed the
instrument.

WITNESS my hand and official seal.

Signature Sheila M. Pettit (Seal)

GENERAL NOTARY - State of Nebraska
SHEILA M. PETTIT
My Comm. Exp. March 5, 2010

STATE OF ILLINOIS )
COUNTY OF COOK )

On 3/16/2008 before me, Cynthia Nava, notary public,
personally appeared Beth Ann Drohan, Area Vice President - Network, personally known to me
(or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the
within instrument and acknowledged to me that she executed the same in her authorized capacity, and that
by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed
the instrument.

WITNESS my hand and official seal.

Signature Cynthia Nava (Seal)

OFFICIAL SEAL
CYNTHIA NAVA
Notary Public - State of Illinois
My Commission Expires Jan 06, 2013
EXHIBIT "A"

Legal Description of Grantor's Property

A tract of land consisting of part of the NE ¼ NW ¼ of Section 24-17-8C of the 6th P.M., lying North of Military Avenue, East of the East margin of Lincoln Avenue and West of the West margin of Clarimar Avenue together with the South 20 feet of the East 160 feet of the West 358 feet of the SE ¼ SW ¼ in Section 13-17-8E of the 6th P.M., all in Fremont, Dodge County, Nebraska. EXCEPTING the following described parcel: Commencing at the intersection of the North margin of said Section 24 and the centerline of Lincoln Avenue thence N90°00'00"E (bearing assumed and all other bearings are relative thereto) a distance of 33 feet along the North line of said Section 24 to the point of beginning;

Thence S00°00'00"W a distance of 389 feet along the East line of Lincoln Avenue;
Thence S90°00'00"E a distance of 203.19 feet;
Thence S00°10'16"E a distance of 144.41 feet;
Thence N90°49'44"E a distance of 106.00 feet;
Thence S90°10'16"E a distance of 94.10 feet;
Thence N89°49'44"E a distance of 172.00 feet;
Thence N00°10'16"W a distance of 134.67 feet;
Thence S90°00'00"E a distance of 84.23 feet;
Thence N08°29'40"E a distance of 196.48 feet;
Thence S81°08'34"E a distance of 27.74 feet;
Thence N08°27'39"E a distance of 111.28 feet;
Thence S90°00'00"W a distance of 105.54 feet;
Thence N00°00'00"W a distance of 156.88 feet;
Thence S90°00'00"W a distance of 208.00 feet;
Thence N00°00'00"W a distance of 45.00 feet;
Thence S90°00'00"W a distance of 160.00 feet;
Thence S00°00'00"W a distance of 20.00 feet;
Thence S90°00'00"W a distance of 165.00 feet to the point of beginning.

NOTE: State Assessor for Dodge County refers to said tract as Tax Lot 134 in said Section.

AND

A tract of land consisting of that part of the Southeast Quarter Southwest Quarter of Section 13, Township 17 North, Range 8, East of the 6th P.M., in Dodge County, Nebraska, lying East of the East right of way of Lincoln Avenue, South of the South line of Block 4, Parkview Addition and West of a line 30 feet West of and parallel to the West right of way of Clarimar Avenue, EXCEPT the following described tracts: (1) Beginning at a point 170 feet North and 33 feet East of the Southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 13;
Thence North a distance of 375 feet;
Thence East a distance of 375 feet;
Thence South a distance of 375 feet;
Thence West a distance of 375 feet to the point of beginning (aka Tax Lot 33) and (2) Commencing at the Southwest corner of the Southeast Quarter of the Southwest Quarter of said Section 13;
Thence N90°00'00"E (assumed bearing) 198.00 feet to the point of beginning;
Thence N00°00'00"E, 20 feet;
Thence N90°00'00"E, 160 feet;
Thence S00°00'00"W, 20 feet;
Thence S90°00'00"W, 60 feet to the point of beginning (aka Tax Lot 73).

NOTE: State Assessor for Dodge County refers to said tract as Tax Lot 74 in Said Section.
Exhibit "B"

Expanded Easement Tract

Easement Tract Description:
A fifteen foot (15') by thirty one foot (31') lease over that part of Tax Lot 134 of the Northeast Quarter of the Northwest Quarter of Section 24, Township 17 North, Range 8 East of the 6th P.M., Dodge County, Nebraska, described as follows:
Commencing at a 5/8" rebar at the southwes t corner of Tax Lot 106 of said Section 24;
Thence North 02°21'-01" West (assumed bearing) for 311.55 feet along the east right of way of North Lincoln Street;
Thence North 87°38'-59" East for 657.68 feet to the TRUE POINT OF BEGINNING;
Thence North 06°19'-43" East for 15.00 feet;
Thence South 83°40'-17" East for 31.00 feet;
Thence South 06°19'-43" West for 15.00 feet;
Thence North 83°40'-17" West for 31.00 feet to the Point of Beginning.
Contains 465 square feet
Note: All lease corners are monumented with a 5/8" rebar with 1 1/4" yellow plastic cap stamped LS 620.

Access Route
A permanent 12.00' wide easement for ingress and egress and utilities over that part of Tax Lot 134 of the Northeast Quarter of the Northwest Quarter, Section 24, and that part of Tax Lot 74 of the Southeast Quarter of the Southwest Quarter, Section 13, all in Township 17 North, Range 8 East of the 6th P.M., Dodge County, Nebraska, the centerline of which is described as follows:
Commencing at the northwest corner of the above described Land Space;
Thence South 83°40'-17" East (assumed bearing) for 16.00 feet along the north line of said Land Space to the TRUE POINT OF BEGINNING;
Thence North 06°55'-54" East for 34.44 feet;
Thence North 83°12'-55" West for 690.07 feet to the east right of way of North Lincoln Avenue and the Point of Terminus;
Said Point of Terminus lies North 02°21'-01" West for 467.51 feet from a 5/8" rebar at the southwest corner of Tax Lot 106.
Contains 3994 sq. ft.

Site Plan: See Attached

Memorandum of First Amendment – OMAC Memorial Park

Exhibit "B"
Page 1 of 3
MEMORANDUM OF SECOND AMENDMENT TO EASEMENT AGREEMENT

This Memorandum of Second Amendment to Easement Agreement is made effective this ___ day of October, 2015, by and between the CITY OF FREMONT, NEBRASKA, a municipal corporation ("Grantor") and NCWPCS MPL 30 - YEAR SITES TOWER HOLDINGS LLC, a Delaware limited liability company, by and through CCATT LLC, a Delaware limited liability company, its attorney in fact ("Grantee").

1. Grantor and Qwest Wireless, L.L.C. ("Original Grantee") entered into an Easement Agreement dated August 9, 2001 (the "Agreement") whereby Grantor granted Original Grantee an easement over, across, under and through a portion of certain real property, together with access and utility easements, located in Dodge County, Nebraska (the "Easement Tract"), all located within certain real property owned by Grantor (the "Total Property"). The Total Property, of which the Easement Tract is a part, is more particularly described on Exhibit "A" attached hereto.

2. The Agreement was amended by that certain Amendment No. 1 to Easement Agreement dated March 16, 2009 (the "First Amendment").

3. NCWPCS MPL 30 - Year Sites Tower Holdings LLC is currently the Grantee under the Agreement as ultimate successor in interest to the Original Grantee.
4. The Easement Tract may be used for the purpose of constructing, maintaining and operating a communications facility, including tower structures, equipment shelters, cabinets, meter boards, utilities, antennas, equipment, any related improvements and structures and uses incidental thereto.

5. The Agreement had an initial term that commenced on December 16, 2002, and expires on December 15, 2017.

6. Grantor and Grantee have entered into a Second Amendment to Easement Agreement (the "Second Amendment"), of which this is a Memorandum, providing for two (2) Renewal Terms of five (5) years each. Pursuant to the Second Amendment, the final Renewal Term expires on December 15, 2027.

7. If requested by Grantee, Grantor will execute, at Grantee's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the Easement Tract, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Grantee in Grantee's absolute discretion to utilize the Easement Tract for the purpose of constructing, maintaining and operating communications facilities, including without limitation, tower structures, antenna support structures, cabinets, meter boards, buildings, antennas, cables, equipment and uses incidental thereto. Grantor agrees to be named applicant if requested by Grantee.

8. The terms, covenants and provisions of the Second Amendment shall extend to and be binding upon the respective executors, administrators, heirs, successors and assigns of Grantor and Grantee.

9. This Memorandum does not contain the social security number of any person.

10. A copy of the Second Amendment is on file with Grantor and Grantee.

[Execution pages follow]
IN WITNESS WHEREOF, hereunto and to duplicates hereof, Grantor has caused this Memorandum to be duly executed on the day and year first written above.

GRANTOR:
CITY OF FREMONT, NEBRASKA,
a municipal corporation

By: [Signature]
Print Name: Scott Getzschman
Title: Mayor

[Acknowledgment appears on following page]
ALL PURPOSE ACKNOWLEDGMENT

STATE OF NE  

COUNTY OF DODGE  

On this 16th day of September, 2015 before me, ROBIN E. WHITE (notary public), personally appeared ROBERT G. SCHMIDT, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of NE that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature ROBIN E. WHITE (notary public)

(NOTARY SEAL)

ATTENTION NOTARY: Although the information requested below is OPTIONAL, it could prevent fraudulent attachment of this certificate to another document.

THIS CERTIFICATE MUST BE ATTACHED TO THE DOCUMENT DESCRIBED BELOW.

Title of Document Type: Memorandum of Second Amendment to Easement Agreement  
Number of Pages  
Date of Document 11/16/15

[Grantee execution page follows]
IN WITNESS WHEREOF, hereunto and to duplicates hereof, Grantee has caused this
Memorandum to be duly executed on the day and year first written above.

GRANTEE:
NCWPCS MPL 30 - YEAR SITES TOWER HOLDINGS LLC,
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company
Its: Attorney In Fact

By: ________________
Print Name: __________
Title: ________________

State of Texas

County of __________

Before me, ____________, a Notary Public, on this day personally appeared
Matthew Norwood, ________ of CCATT LLC, a
Delaware limited liability company, as Attorney in Fact for NCWPCS MPL 30 - YEAR SITES
TOWER HOLDINGS LLC, known to me (or proved to me on the oath of __________ or
through driver's license, state id card, resident id card, military id card, or passport) to be the
person whose name is subscribed to the foregoing instrument and acknowledged to me that
she/he executed the same for the purposes and consideration therein expressed.

Given under my hand and seal of office this __________ day of __________, 2015.

(Personalized Seal) Notary Public's Signature

Site Name: ZOD_VZW_PCS__NE_MEMORIAL_PARK
Business Unit #: 857789
EXHIBIT A

Legal Description of the Total Property

A PARCEL OF LAND LOCATED IN THE STATE OF NEBRASKA, COUNTY OF DODGE, CURRENTLY OWNED BY CITY OF FREMONT HAVING A TAX ASSESSOR NUMBER OF 270136190 AND BEING THE SAME PROPERTY MORE FULLY DESCRIBED AS TL 134 13.03A 24 17 8.
April 9, 2015

City of Fremont
Attention: Dale Shotkoski
400 E. Military Ave.
Fremont, NE 68025

RE: Business Unit # 857789
Site Name ZVZ - MEMORIAL PARK

Dear Mr. Shotkoski:

This letter agreement ("Letter Agreement") sets forth the terms of the agreement that is to be memorialized between NCWPCS MPL 30 - Year Sites Tower Holdings LLC, a Delaware limited liability company, by CCATT LLC, a Delaware limited liability company, its Attorney in Fact ("Lessor"), and City of Fremont, Nebraska, a municipal corporation ("Lessor"), to modify, among other things, the length of the term in the lease agreement between the Lessor and Lessee dated August 9, 2001, as may be amended ("Lease") for property located in Fremont, Dodge County, NE ("Property").

For and in consideration of Fifty Dollars ($50.00) to be paid by Lessee to Lessor within 30 days after full execution of this Letter Agreement, the parties agree as follows:

1. Lessor and Lessee will enter into an amendment to the Lease ("Lease Amendment") wherein the term of the Lease will be modified. The Lease currently provides, in section 2, that there are no remaining renewal terms. That Lease section will be amended to provide that the remaining term of the Lease will be two (2) renewal terms of five (5) years each. The new final Lease expiration date will be December 15, 2027.

2. In addition to the modification described above, the Lease Amendment will further modify the Lease as follows:

2a. The Lease Amendment shall include a provision stating that Lessee will pay to Lessor a one-time amount of One Thousand Five Hundred and No/100 Dollars ($1,500.00) for the full execution of the Lease Amendment within 60 days of the full execution of the Lease Amendment ("Conditional Lease Amendment Signing Bonus"). In the event that the Lease Amendment (and any applicable memorandum of lease and/or amendment) is not fully executed by both Lessor and Lessee for any reason, Lessee shall have no obligation to pay the Conditional Lease Amendment Signing Bonus to Lessor, however all other terms of this Letter Agreement shall remain in full force and effect.

2b. On July 1, 2015 rent shall increase to Five Hundred Ninety-Five and No/100 Dollars ($595.00) per month. Following such increase, the monthly rent shall continue to adjust pursuant to the terms of the Lease.

3. Furthermore, the Lease Amendment will modify the Lease to provide that if requested by Lessee, Lessor will execute, at Lessee's sole cost and expense, all documents required by any governmental authority in connection with any development of, or construction on, the Property, including documents necessary to petition the appropriate public bodies for certificates, permits, licenses and other approvals deemed necessary by Lessee to utilize the Property for the purpose of constructing, maintaining and operating communications facilities. Lessor will agree to be named applicant if requested by Lessee.

4. Lessor shall cooperate in all ways, including but not limited to providing information, signing documents and seeking execution by third parties of documents that will remove, subordinate or satisfy any mortgages, deeds of trusts, liens or other encumbrances affecting the Property.
5. Upon receipt of this Letter Agreement evidencing Lessor's acceptance of the terms herein, Lessee shall submit this Letter Agreement to its property committee. If the Letter Agreement is approved by the property committee, Lessee shall prepare a Lease Amendment that incorporates the terms and conditions described in this Letter Agreement. In connection therewith, the parties acknowledge and agree that this Letter Agreement is intended to summarize the terms and conditions to be included in the Lease Amendment. Upon receipt of the Lease Amendment, Lessor hereby agrees to execute the Lease Amendment without any unreasonable delay.

6. Irrespective of whether the transaction contemplated by this Letter Agreement is consummated, Lessor and Lessee each will pay its own out-of-pocket expenses.

7. Notwithstanding anything to the contrary contained herein, Lessee has the complete right to terminate this Letter Agreement for any or no reason at any time prior to full execution of the Lease Amendment, without damages.

8. Lessor represents and warrants that Lessor is duly authorized and has the full power, right and authority to enter into this Letter Agreement and to perform all of its obligations under this Letter Agreement and to execute and deliver all documents, including but not limited to the Lease Amendment, required by this Letter Agreement. From the date of this Letter Agreement through the date that Lessor executes the Lease Amendment, Lessor shall use its best efforts to ensure that the foregoing representations and warranties shall remain true and correct and Lessor shall promptly notify Lessee if any representation or warranty is or possibly may not be true or correct. Lessor's representations, warranties and covenants shall survive following the full execution of the Lease Amendment.

If this Letter Agreement accurately sets forth our understanding regarding the foregoing, please so indicate by signing and returning to the undersigned the enclosed copy of this letter.

Lessor:
City of Fremont, Nebraska, a municipal corporation

By: Scott Geideschman
Name: Scott Geideschman
Title: Mayor
Date: 5-18-2015

Lessee:
NCWPCS MPL 30 - Year Sites Tower Holdings LLC,
a Delaware limited liability company

By: CCATT LLC,
a Delaware limited liability company,
its Attorney in Fact

By: Mark Peterson
Name: Mark Peterson
Title: Land Acquisition Manager
Crown Castle
Date: 5-14-15

APPROVED AS TO FORM
RESOLUTION NO. 2019-224

A Resolution of the City Council of the City of Fremont, Nebraska, to allow a modification to an existing Conditional Use Permit to allow the removal of a 73’ cell tower and replace it with a 129’ cell tower.

WHEREAS, The City Council approved a Conditional Use Permit for a 73’ cell tower in 2002; and,

WHEREAS, Crown Castle USA has requested a modification to allow a 129’ cell tower; and,

WHEREAS, the City has determined that the subject property is currently zoned PD, Planned Development; and,

WHEREAS, a public hearing on the proposed amendment to the Conditional Use Permit was held by the Planning Commission on October 21, 2019, and subsequently by the City Council on November 12, 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, Crown Castle USA has a lease with the City of Fremont that expires on December 15, 2022 with the option to be renewed for a five year term expiring on December 15, 2027; and,

WHEREAS, the Planning Commission recommended approval with the conditions that a landscape buffer be installed at the base and that no strobe lighting be allowed.

NOW, THEREFORE BE IT RESOLVED the City Council of the City of Fremont approves the amendment to a conditional use permit to allow the removal of a 73’ cell tower to be replaced by a 129’ cell tower with the conditions that a Type C landscape buffer be installed around the base of the lease area and that no strobe lights are allowed on the tower. This Conditional Use Permit expires on December 15, 2022 unless it and the lease are renewed.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 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: November 12, 2019

SUBJECT: Request for an amendment to a pre-existing conditional use permit to reduce the area within the conditional use permit

RECOMMENDATION: Approval of Resolution #2019-228 provided that Tax Lot 38 is subdivided via an administrative plat.

Background:
This is a request by the Presbyterian Church of Fremont to amend its pre-existing conditional use permit by modifying its boundary and selling the green space south of the parking lot.

The church is considered to be a “Public Assembly” land use. It is a conditional use in the SR district and a limited use in the UR district.

The church itself is on property zoned SR, Suburban Residential. The parking lot and green space across the street to the south is zoned UR, Urban Residential.

11-504.02.I indicates that public assembly uses are permitted if they are greater than 300 feet from an AV or GI district, take primary access from a collector or arterial roadway; have taken adequate precautions so as not to create a burden due to parking, traffic or noise, and; operate in accordance with all applicable laws and regulations.

The church meets the above requirements. The operations of the use are not changing.

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 existing church 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 existing church is compatible with the existing land 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: The church is existing.

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: There is not a mass of churches in this area

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: There are no health hazards.

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 church will not use a disproportionate share of public services.

**Staff Recommendation:** Approval of Resolution #2019-228 provided that Tax Lot 38 is subdivided via an administrative plat.
Proposed boundary of church property

Area of proposed tri-plexes
General area of proposed church boundaries

General Area of proposed tri-plexes
A Resolution of the City Council of the City of Fremont, Nebraska, Approving an Amendment to a Pre-existing Conditional Use Permit to reduce the Area included in such Permit on property legally described as the Tax Lot 37 Located in S15, T17N, R8E and Tax Lot 52 Located in S14, T17N, R8E and the North 90 Feet of Tax Lot 38 Located in S15, T17N, R8E all in Fremont, Nebraska.

WHEREAS, Stan Darling on behalf of The Presbyterian Church of Fremont has requested an amendment to a pre-existing Conditional Use Permit to reduce the area included in such permit; and,

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

WHEREAS, Public Assembly Uses (including churches) in the UR and SR zoning district require a Conditional Use Permit; and,

WHEREAS, A public hearing on the proposed Conditional Use Permit was held by the Planning Commission on October 21, 2019, and subsequently by the City Council on November 12, 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,

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont approves an amendment to alter the area of the Conditional Use Permit for the Presbyterian Church of Fremont located on property described as the Tax Lot 37 Located in S15, T17N, R8E and Tax Lot 52 Located in S14, T17N, R8E and the North 90 Feet of Tax Lot 38 Located in S15, T17N, R8E all in Fremont, Nebraska, provided that Tax Lot 38 is subdivided via an administrative subdivision.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 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: November 12, 2019
SUBJECT: Request for a Conditional Use Permit for 4 triplex units

RECOMMENDATION: Approval of Resolution #2019-229 conditioned upon approval of Ordinance #5507

Background:
The applicant is requesting a Conditional Use Permit to allow 4 triplexes on a parcel of ground consisting of the south 142 feet of Tax Lot 38.

The parking lot at the north end will remain in the area of the conditional use permit for the Presbyterian Church.

The property is zoned UR, Urban Residential. The area to the immediate north is zoned UR, Urban Residential and is developed with a parking lot. The area farther north, across the street, is zoned SR, Suburban Residential and is developed with a church and single family dwellings.

The area to the east, south and west are zoned UR, Urban Residential. The area to the east is developed with single family houses. The area south is developed with an apartment complex. The area southwest is developed with single family residential. The area west is developed with an elementary school.

The proposed development has less impervious coverage and building than the maximum allowed in Table 11-602.02.02.

11-504.01 B.1 states that multi-family dwellings must be 300 feet from a R, MH, BP, GI, LI, AV or PO district unless separated by a type B bufferyard or collector or arterial roadway.

Finding: This site is more than 300 feet from any of the abovementioned districts.

11-504.01 B.2 states that multi-family dwellings are permitted if “they are located more than 300 feet from any other multiple family development, as measured from the boundary lines nearest each other.”

Finding: The proposed development is adjacent to an existing apartment building. However, Ordinance # 5507 proposes that this be changed to only apply to the SR and AR zoning districts. Ordinance #5507 received unanimous approval from the Planning Commission. It had first reading and a public hearing.
in front of the City Council on October 8, 2019. It will have second reading on October 29 and third and final reading on November 12, 2019.

11-504.01.B.3 states that there are no more than 12 units per acre.

Finding. The four proposed triplexes are on what will become a lot containing approximately 40,009 square feet or about .92 acre. This equates to 13 units per acre. However, the underlying UR zoning district allows a density of 24 units per acre for multi-family developments. Proposed Ordinance #5507 rectifies this discrepancy.

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 use does 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 proposed multi-family units will be compatible with the surrounding area.

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 an alternative location within 1,000 feet.

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 use will not discourage permitted uses as the surrounding area is built up. This is infill development.

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 use will not create man made hazards. Off street parking is provided for each unit.

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 a disproportionate share of public services.

Staff Recommendation: Approval of Resolution 2019-229 conditioned upon Ordinance #5507 being approved by the City Council
General area of proposed church boundaries

General Area of proposed tri-plexes
November 6, 2019

City Council Members,

Thank you for notification of the four triplex residential buildings to be built on K. Street.

I live at 1115 North K. Street south of the proposed project. My concern with the project is the already high density of cars parked along the street. K Street is more narrow than typical residential streets in Fremont.

The house directly north of me was built as a single family home but is presently being used as a rehab house for young women. This has increased the need for parking on the street.

Linden Terrace apartments has cars regularly parked on K. Street. The new triplex apartments driveway will eliminate four to six parking stalls that are now being used for residents.

After a snowfall, many of the residents never move their cars so that snow plows can't do an efficient job of clearing the snow.

The amount of traffic between Linden Terrace apartments and the proposed apartments will be a high density area. I am concerned this will be a safety hazard for children for living there and walking to Linden school.

I appreciate your consideration for this potential problem.

Sincerely,

Karen Simms
1115 N. K st.
Fremont, NE.
402-727-9328
SITE PLAN

SCALE: 1" = 30'

COMBINED LOTS INFORMATION:
SITE AREA: 68538 SF at 231.4 FT x 281.75 FT
IMPERVIOUS AREA: 44,081 SF = 67%
GREEN AREA: 33%

LIFE HOUSE LOT INFORMATION:
SITE AREA: 40,004 SF at 281.75 FT x 142.0 FT
IMPERVIOUS AREA: 20,038 SF = 50%
GREEN AREA: 50%

SETBACKS REQ:
FRONT: 25 FT.
REAR: 15 FT.
SIDE: 5 FT.
CORNER: N.A.
LOT SF PER UNIT: 9315 SF.
PARKING: 24 SPACES = 2 PER UNIT

UNITs: 8 2-BR UNITS
4 3-BR UNITS

LANDSCAPE LEGEND

TREE: ☑ BLAZE MAPLE, 6'-7'
MATURE HEIGHT 40'-50'
MATURE WIDTH 30'-40'

SHRUB: ○ LILAC
PRIVACY/BUFFER SHRUB ON PROPERTY LINE
SPACINGS # 20" O.C.
RESOLUTION NO.  2019-229

A Resolution of the City Council of the City of Fremont, Nebraska, approving a Conditional Use Permit for Four Triplex Dwelling Units on property generally located at Linden and K Streets.

WHEREAS, The City has received an application for a Conditional Use Permit for four triplex dwelling units on property legally described as the South 142 feet of Tax Lot 38 located in Section 15, Township 17N, R8E, Fremont, Nebraska; and,

WHEREAS, The City has determined that the subject property is currently zoned UR Urban Residential; and,

WHEREAS, Multi-family dwellings in the UR, Urban Residential zoning district require a Conditional Use Permit; and,

WHEREAS, the proposed addition is below the density specified by table 11-602.01 of the UDC; and,

WHEREAS, A public hearing on the proposed Conditional Use Permit was held by the Planning Commission on October 21, 2019, and subsequently by the City Council on November 12, 2019; and,

WHEREAS, the proposal meets the requirements of 11-316 of the UDC,

WHEREAS, proposed ordinance #5507 removes inconsistencies in the UDC.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Fremont approves a Conditional Use Permit to allow 4 triplex units for a maximum of 12 units provided that the City Council also approves Ordinance #5507.

________________________________
Scott Getzschman, Mayor

ATTEST:

________________________
Tyler Ficken, City Clerk
Staff Report

TO: Honorable Mayor and City Council
FROM: Jennifer L. Dam, Planning Director
DATE: November 12, 2019
SUBJECT: Voluntary Annexation

Recommendation: Hold first reading of the Ordinance No. 5516

Background:

A Voluntary Annexation Petition has been received for all of Lot 8 Poultry Complex Addition except the east 251.76 feet and consisting of approximately 2.82 acres. The property is generally situated on the south side of Cloverly Rd., approximately 195 feet east of S. Main Street and is located in Sections 25, 26 and 36 all in T17N, R8E, Dodge County Nebraska.

A portion of Lot 8 has been detached from the Village of Inglewood. The east portion of the lot is located in the City of Fremont. The engineer did not provide an accurate depiction of the parcel and the jurisdiction it was located in at the time of annexation.

Lincoln Premium Poultry intends to construct a testing laboratory on this site.

None of Lot 8, Poultry Complex is eligible for tax increment financing, because the lot was not included in the Blight and Substandard area.

The City of Fremont will detach a portion of ground further south so as to create a straight boundary line between the two communities. The Village of Inglewood will annex such property.

The proposed annexation is contiguous to the City.

This request is consistent with the Comprehensive plan and with State Statutes.
Area of Proposed Annexation:
LEGAL DESCRIPTION


ALL OF SAID LOT 8, POULTRY COMPLEX EXCEPT THE EAST 251.76 FEET.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 122,878.42 SQUARE FEET OR 2.821 ACRES MORE OR LESS.
TRACT #1
LEGAL DESCRIPTION

A TRACT OF LAND BEING A PORTION OF LOT 1, POULTRY COMPLEX REPLAT ONE, A PLATTED AND RECORDED SUBDIVISION IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE, SAID CORNER ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD, ON AN ASSUMED BEARING OF N86°26'21"W, 351.95 FEET; THENCE N02°17'57"W, 584.96 FEET TO THE NORTHEAST CORNER OF LOT 15B, EAST INGLEWOOD SUBDIVISION, A PLATTED AND RECORDED SUBDIVISION IN SAID DODGE COUNTY, NEBRASKA; THENCE ON THE NORTH LINE OF SAID LOT 15B, S87°42'03"W, 192.76 FEET; THENCE ON THE WEST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE FOR THE FOLLOWING TWO (2) DESCRIBED COURSES: (1) N01°54'24"W, 33.00 FEET; (2) N02°12'03"W, 564.80 FEET; THENCE N87°42'03"E, 545.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE; THENCE ON SAID EAST LINE OF LOT 1, POULTRY COMPLEX REPLAT ONE, S02°07'09"E, 1218.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 537,546.00 SQUARE FEET OR 12.340 ACRES MORE OR LESS.

TRACT #2
LEGAL DESCRIPTION


ALL OF SAID LOT 8, POULTRY COMPLEX EXCEPT THE EAST 251.76 FEET.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 122878.42 SQUARE FEET OR 2.821 ACRES MORE OR LESS.
ORDINANCE NO. 5516

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, ANNEXING BY VOLUNTARY PETITION 2.821 ACRES of PROPERTY DESCRIBED AS A TRACT OF LAND BEING A PORTION OF LOT 8, POULTRY COMPLEX ADDITION, A PLATTED AND RECORDED SUBDIVISION IN PART OF THE SOUTHEAST QUARTER, THE NORTHWEST QUARTER, AND THE SOUTHWEST QUARTER OF SECTION 25, TOGETHER WITH A PART OF SECTION 26, AND A PART OF THE NORTH HALF OF SECTION 36, ALL IN TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, AND EXTENDING THE CORPORATE LIMITS TO INCLUDE SAID REAL ESTATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a voluntary petition for annexation 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 contiguous with the corporate limits, and is urban or suburban in character and not rural in character; and

WHEREAS, the City has determined that it is able to provide certain essential services, such as utilities, police and fire protection, for the subject property so that the inhabitants of said territory shall receive substantially the same services as other inhabitants of the City; and

WHEREAS, a public hearing on the proposed annexation was held by the Planning Commission on October 21, 2019, at which time the Commission unanimously recommended in favor of the proposed annexation; and

WHEREAS, the City has determined that it is in compliance with pertinent annexation requirements of Neb. Rev. Stat. § 16-117;

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

SECTION I: ANNEXATION. That the following described real estate, contiguous and adjacent to the City of Fremont, Nebraska, urban or suburban in character and not rural in character, receiving material benefits and advantages from annexation to said City, to-wit:


ALL OF SAID LOT 8, POULTRY COMPLEX EXCEPT THE EAST 251.76 FEET. SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 122,878.42 SQUARE FEET OR 2.821 ACRES MORE OR LESS.
SECTION 2. REPEALER. All ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 3. 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 4. 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 10th DAY OF DECEMBER, 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: November 12, 2019
SUBJECT: Detach 12.34 acres from the City of Fremont

Recommendation: Hold First Reading of the Ordinance No. 5515

Background:

The City Council approved a conditional annexation of approximately 417 acres in July 2016 for Lincoln Premium Poultry. However, there have been issues since that time determining the boundary between the City of Fremont and the Village of Inglewood. A portion of the property that was annexed in 2016 was actually in the Village of Inglewood. That property was detached.

Staff from Fremont, Inglewood and the Dodge County Assessor's office as well as representatives from Lincoln Premium Poultry met recently to discuss the boundaries between the two jurisdictions. The group agreed that the portion of Lot 8 in Inglewood would be disconnected by the village and annexed by Fremont. The group concluded that the disconnection of approximately 12.34 acres from the City of Fremont and annexed into the Village of Inglewood would establish a straight boundary between the two jurisdictions. A straight boundary line will be beneficial to the Dodge County Assessor's office as well as the two jurisdictions.

This proposal is to detach an additional 12.34 acres from the City of Fremont so as to create a straight boundary line between the two communities. The Village of Inglewood will annex the property.

The Poultry Complex plat included Lot 8, a portion of which is in the Village of Inglewood and a portion of which is in the City of Fremont. The annexation of the western portion of that parcel is associated with this request.

The City of Fremont Community Development Agency will also need to disconnect the property from the area that was declared blighted and substandard.

An administrative plat will create lots that are in the City of Fremont and in the Village of Inglewood. The lots will be consistent with the area annexed by Inglewood and disconnected from the City of Fremont. This will clarify the boundaries and legal descriptions of the properties between the two jurisdictions.

This request is consistent with the Comprehensive plan and with State Statutes.
Area of Proposed Disconnection:
LEGAL DESCRIPTION

A TRACT OF LAND BEING A PORTION OF LOT 1, POULTRY COMPLEX REPLAT ONE, A PLATTED AND RECORDED SUBDIVISION IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE, SAID CORNER ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD, ON AN ASSUMED BEARING OF N86°26'21"W, 351.95 FEET; THENCE N02°17'57"W, 584.96 FEET TO THE NORTHEAST CORNER OF LOT 15B, EAST INGLEWOOD SUBDIVISION, A PLATTED AND RECORDED SUBDIVISION IN SAID DODGE COUNTY, NEBRASKA; THENCE ON THE NORTH LINE OF SAID LOT 15B, S87°42'03"W, 192.76 FEET; THENCE ON THE WEST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE FOR THE FOLLOWING TWO (2) DESCRIBED COURSES: (1) N01°54'24"W, 33.00 FEET; (2) N02°12'03"W, 564.80 FEET; THENCE N87°42'03"E, 545.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE; THENCE ON SAID EAST LINE OF LOT 1, POULTRY COMPLEX REPLAT ONE, S02°07'09"E, 1218.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 537,546.00 SQUARE FEET OR 12.340 ACRES MORE OR LESS.
TRACT #1
LEGAL DESCRIPTION

A TRACT OF LAND BEING A PORTION OF LOT 1, POULTRY COMPLEX REPLAT ONE, A PLATTED AND RECORDED SUBDIVISION IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE, SAID CORNER ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD, ON AN ASSUMED BEARING OF N86°26'21"W, 351.95 FEET; THENCE N02°17'57"W, 584.96 FEET TO THE NORTHEAST CORNER OF LOT 15B, EAST INGLEWOOD SUBDIVISION, A PLATTED AND RECORDED SUBDIVISION IN SAID DODGE COUNTY, NEBRASKA; THENCE ON THE NORTH LINE OF SAID LOT 15B, S87°42'03"W, 192.76 FEET; THENCE ON THE WEST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE FOR THE FOLLOWING TWO (2) DESCRIBED COURSES: (1) N01°54'24"W, 33.00 FEET; (2) N02°12'03"W, 564.80 FEET; THENCE N87°42'03"E, 545.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE; THENCE ON SAID EAST LINE OF LOT 1, POULTRY COMPLEX REPLAT ONE, S02°07'09"E, 1218.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 537,546.00 SQUARE FEET OR 12.340 ACRES MORE OR LESS.

TRACT #2
LEGAL DESCRIPTION


ALL OF SAID LOT 8, POULTRY COMPLEX EXCEPT THE EAST 251.76 FEET.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 122878.42 SQUARE FEET OR 2.821 ACRES MORE OR LESS.
ORDINANCE NO. 5515

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, DETACHING PROPERTY LOCATED IN SECTION 26, TOWNSHIP 17 NORTH, RANGE 8 EAST DODGE COUNTY, NEBRASKA, AND ALTERING THE CORPORATE LIMITS TO REMOVE SAID REAL ESTATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a request to detach property was filed with the offices of the Department of Planning, City of Fremont (City); and

WHEREAS, the City has determined that the removing subject property from the corporate limits will benefit the City; and

WHEREAS, a public hearing on the proposed annexation was held by the Planning Commission on October 21, 2019, at which time the Commission unanimously recommended in favor of the proposed disconnection; and

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

SECTION 1: DETACH. That the following described real estate will be disconnected from the City of Fremont:

A TRACT OF LAND BEING A PORTION OF LOT 1, POULTRY COMPLEX REPLAT ONE, A PLATTED AND RECORDED SUBDIVISION IN THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER AND THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 26, TOWNSHIP 17 NORTH, RANGE 8 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE, SAID CORNER ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD; THENCE ON SAID NORTH RIGHT-OF-WAY LINE OF HILLS FARM ROAD, ON AN ASSUMED BEARING OF N86°26'21"W, 351.95 FEET; THENCE N02°17'57"W, 584.96 FEET TO THE NORTHEAST CORNER OF LOT 15B, EAST INGLEWOOD SUBDIVISION, A PLATTED AND RECORDED SUBDIVISION IN SAID DODGE COUNTY, NEBRASKA; THENCE ON THE NORTH LINE OF SAID LOT 15B, S87°42'03"W, 192.76 FEET; THENCE ON THE WEST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE FOR THE FOLLOWING TWO (2) DESCRIBED COURSES: (1) N01°54'24"W, 33.00 FEET; (2) N02°12'03"W, 564.80 FEET; THENCE N87°42'03"E, 545.50 FEET TO A POINT ON THE EAST LINE OF SAID LOT 1, POULTRY COMPLEX REPLAT ONE; THENCE ON SAID EAST LINE OF LOT 1, POULTRY COMPLEX REPLAT ONE, S02°07'09"E, 1218.70 FEET TO THE POINT OF BEGINNING.

SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 537,546.00 SQUARE FEET OR 12.340 ACRES MORE OR LESS.

SECTION 2. REPEALER. All ordinances made in conflict with this Ordinance are hereby repealed.
SECTION 3. 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 4. 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 10th DAY OF DECEMBER, 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: November 12, 2019
SUBJECT: Change of Zone from R, Rural to SR, Suburban Residential

Recommendation: Hold first reading on Ordinance No. 5513

Background:

This request is for a change of zone from R, Rural to SR, Suburban Residential.

This is associated with a request for the Brooks Hollow Second Addition final plat and with a request for a voluntary annexation.

The zoning to the east, south and west is SR, Suburban Residential. The zoning to the north is R, Rural. The zoning further north is also SR, Residential.

This area is a portion of an “island” of R, Rural zoned property that is included in the approved preliminary plat and will be developed in the future. It is anticipated that SR, Suburban Residential zoning will be requested for the remaining property as it incrementally develops in the future.

The Future Land Use map shows the area for residential development.
Brooks Hollow Second Addition: Enlarged
Zoning surrounding proposed area of development
Aerial photograph showing generalized area of development:
Preliminary Plat showing area of proposed Brooks Hollow Second Addition
ORDINANCE NO. 5513

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING ORDINANCE NO. 5427 AS IT PERTAINS TO THE ZONING MAP, TO REZONE THE PROPERTY GENERALLY DESCRIBED HEREIN AS GENERALLY LOCATED AT ABERDEEN STREET AND PETERSON AVENUE, FREMONT, NEBRASKA, FROM R RURAL TO SR SUBURBAN RESIDENTIAL, PROVIDING FOR REPEAL OF ORDINANCES 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 Zoning Change 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 zoned R Rural; and

WHEREAS, the owner desires zoning district designation of SR Suburban Residential; and

WHEREAS, a public hearing on the proposed Zoning Change was held by the Planning Commission on October 21, 2019, and subsequently by the City Council on November 12, 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. ZONING. That paragraph “b” of Article 406 of Ordinance No. 5427 as it pertains to the Official Zoning Map is changed to rezone the following described real estate, from R Rural to SR Suburban Residential: A PARCEL OF LAND LOCATED IN THE SW1/4 SW1/4 OF SECTION 18, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 11, BLOCK 3, BROOKS HOLLOW ADDITION; THENCE N69°58'19"W ALONG THE NORTH LINE OF SAID LOT 11 A DISTANCE OF 124.62 FEET TO THE SOUTHEAST CORNER OF LOT 18 IN SAID BLOCK 3; THENCE N26°02'42"E ALONG THE EAST LINE OF SAID LOT 18 A DISTANCE OF 98.57 FEET; THENCE N07°56'01"W ALONG THE EAST LINES OF LOT 18 AND 19 IN SAID BLOCK 3 A DISTANCE OF 100.70 FEET; THENCE THE FOLLOWING COURSES AND DISTANCES: N69°08'30"E A DISTANCE OF 105.89 FEET; N86°51'02"E A DISTANCE OF 58.33 FEET; 65°30'32"E A DISTANCE OF 110.61 FEET; S39°20'22"E A DISTANCE OF 63.66 FEET; 54°42'42"E A DISTANCE OF 63.57 FEET; S81°29'38"E A DISTANCE OF 66.22 FEET; 79°53'28"E A DISTANCE OF 73.53 FEET; N60°39'44"E A DISTANCE OF 95.47 FEET; S11°40'39"E A DISTANCE OF 32.94 FEET; N87°02'01"E A DISTANCE OF 126.62 FEET; N82°21'14"E A DISTANCE OF 55.18 FEET; N87°02'01"E A DISTANCE OF 118.99 FEET TO A POINT ON THE WEST LINE OF LOT 1, BLOCK 6, DAY ACRES EAST FIRST ADDITION; THENCE S00°14’11"W ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 95.19...
FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE CONTINUING S00°14'11"W ALONG THE SOUTHERLY EXTENSION OF SAID WEST LINE A DISTANCE OF 55.00 FEET TO THE NORTHWEST CORNER OF LOT 5, BLOCK 5 OF SAID DAY ACRES EAST FIRST ADDITION; THENCE CONTINUING S00°14'11"W ALONG THE WEST LINE OF LOTS 5 AND 4 IN SAID BLOCK 5 A DISTANCE OF 115.50 FEET TO THE NORTHEAST CORNER OF LOT 17, BLOCK 4, BROOKS HOLLOW FIRST ADDITION; THENCE THE FOLLOWING COURSES AND DISTANCES ALONG THE NORTH LINE OF SAID BLOCK 4; S87°33'13"W A DISTANCE OF 91.68 FEET; S85°44'02"W A DISTANCE OF 78.82 FEET; S81°40'11"W A DISTANCE OF 52.22 FEET; S75°19'40"W A DISTANCE OF 153.81 FEET; S82°16'15"W A DISTANCE OF 69.10 FEET; N89°22'37"W A DISTANCE OF 150.01 FEET; N75°01'34"W A DISTANCE OF 154.02 FEET TO THE NORTHWEST CORNER OF LOT 9 IN SAID BLOCK 4; THENCE N68°15'13"W A DISTANCE OF 55.03 FEET TO THE POINT OF BEGINNING; CONTAINING 5.76 ACRES, MORE OR LESS.

SECTION 2. REPEALER. That part of the official zoning map referred to in Paragraph "b" of Article 406 of Ordinance No. 5427 or any other section of said ordinance in conflict with this ordinance is hereby repealed.

SECTION 3. 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 4. 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 10th DAY OF DECEMBER, 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: November 12, 2019
SUBJECT: Brooks Hollow Second Addition Final Plat

Recommendation: Continue until December 10, 2019 for approval of Resolution 2019-225 at the same time as final reading for the associated Change of Zone and Conditional Annexation

Background: This is a request for a final plat of 18 lots.

The Brooks Hollow preliminary plat was approved in July, 2014.

Brooks Hollow Addition final plat was approved in August, 2014.

Brooks Hollow First Addition final plat was approved in April, 2017.

This request for the Brooks Hollow Second Addition final plat is associated with a request for a change of zone from R, Rural to SR, Suburban Residential and with a request for a voluntary annexation.

The proposed final plat is consistent with the approved preliminary plat.

The Future Land Use map shows the area for residential development.

The Public Works Director indicated in an email to the developer’s engineer that the grading and drainage looked okay.

The Assistant City Administrator for Utilities had the following comments:

1. Verify sanitary service to Lot 1 was constructed with previous phase.
2. Consider Sanitary Service for Lots north of Lot 3 and Lot 6
3. Install End of Road Signs / barricades at north end of Heatherwood and Aberdeen Streets
4. Approval Letter from NDEE for Sanitary Sewer prior to construction
5. NOI from NDEE and development of SWPPP prior to grading

The Developer’s Engineer is providing the requested easements as shown on the attached drawing.

The following conditions are recommended for approval: that sanitary sewer service to lot 1 was provided in a previous phase; consideration be given for sanitary service north of Lot 3 and Lot 6; barricades and “end of road” signs be installed by the developer at the north end of Heatherwood and Aberdeen Streets; an approval letter must be received from the Nebraska Department of Environment & Energy for Sanitary Sewer prior to construction; approval of Notice of Intent and development of a SWPPP is received from the Nebraska Department of Environment & Energy prior to grading.
Brooks Hollow Second Addition: Enlarged
Zoning surrounding proposed area of development
Aerial photograph showing generalized area of development:
Preliminary Plat showing area of proposed Brooks Hollow Second Addition
ADDITIONAL UTILITY EASEMENTS 9/18/19
RESOLUTION NO. 2019-225

A Resolution of the City Council of the City of Fremont, Nebraska, to approve the Brooks Hollow Second Addition Final Plat on property legally described as:

A PARCEL OF LAND LOCATED IN THE SW1/4 SW1/4 OF SECTION 18, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 11, BLOCK 3, BROOKS HOLLOW ADDITION; THENCE N69°58'19"W ALONG THE NORTH LINE OF SAID LOT 11 A DISTANCE OF 124.62 FEET TO THE SOUTHEAST CORNER OF LOT 18 IN SAID BLOCK 3; THENCE N26°02'42"E ALONG THE EAST LINE OF SAID LOT 18 A DISTANCE OF 98.57 FEET; THENCE N07°56'01"W ALONG THE EAST LINES OF LOT 18 AND 19 IN SAID BLOCK 3 A DISTANCE OF 100.70 FEET; THENCE THE FOLLOWING COURSES AND DISTANCES: N69°08'30"E A DISTANCE OF 105.89 FEET; N86°51'02"E A DISTANCE OF 58.33 FEET; 65°30'32"E A DISTANCE OF 110.61 FEET; S39°20'22"E A DISTANCE OF 63.66 FEET; 54°42'42"E A DISTANCE OF 63.57 FEET; S81°29'38"E A DISTANCE OF 66.22 FEET; 79°53'28"E A DISTANCE OF 73.53 FEET; N60°39'44"E A DISTANCE OF 95.47 FEET; S11°40'39"E A DISTANCE OF 32.94 FEET; N87°02'01"E A DISTANCE OF 126.62 FEET; N82°21'14"E A DISTANCE OF 55.18 FEET; N87°02'01"E A DISTANCE OF 118.99 FEET TO A POINT ON THE WEST LINE OF LOT 1, BLOCK 6, DAY ACRES EAST FIRST ADDITION; THENCE S00°14'11"W ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 95.19 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE CONTINUING S00°14'11"W ALONG THE SOUTHERLY EXTENSION OF SAID WEST LINE A DISTANCE OF 55.00 FEET TO THE NORTHWEST CORNER OF LOT 5, BLOCK 5 OF SAID DAY ACRES EAST FIRST ADDITION; THENCE CONTINUING S00°14'11"W ALONG THE WEST LINE OF LOTS 5 AND 4 IN SAID BLOCK 5 A DISTANCE OF 115.50 FEET TO THE NORTHEAST CORNER OF LOT 17, BLOCK 4, BROOKS HOLLOW FIRST ADDITION; THENCE THE FOLLOWING COURSES AND DISTANCES ALONG THE NORTH LINE OF SAID BLOCK 4; S87°33'13"W A DISTANCE OF 91.68 FEET; S85°44'02"W A DISTANCE OF 78.82 FEET; S81°40'11"W A DISTANCE OF 52.22 FEET; S75°19'40"W A DISTANCE OF 153.81 FEET; S82°16'15"W A DISTANCE OF 69.10 FEET; N89°22'37"W A DISTANCE OF 150.01 FEET; N75°01'34"W A DISTANCE OF 154.02 FEET TO THE NORTHWEST CORNER OF LOT 9 IN SAID BLOCK 4; THENCE N68°15'13"W A DISTANCE OF 55.03 FEET TO THE POINT OF BEGINNING; CONTAINING 5.76 ACRES, MORE OR LESS.

WHEREAS, Steve Dodd has submitted the Brooks Hollow 2nd Addition Final Plat; and,
WHEREAS, the Final Plat is consistent with the approved Preliminary Plat; and,
WHEREAS, applications for a Change of Zone from R, Rural to SR, Suburban Residential and for a Conditional Annexation accompany this request; and,
WHEREAS, a public hearing on the proposed Final Plat was held by the Planning Commission on October 21, 2019, and subsequently by the City Council on November 12, 2019; and,
WHEREAS, the Planning Commission recommended approval with the conditions that the Change of Zone and Conditional Annexation be approved.

NOW, THEREFORE BE IT RESOLVED the City Council of the City of Fremont approves the Brooks Hollow Second Addition Final Plat with the conditions that sanitary sewer service to lot 1 was provided in a previous phase; consideration be given for sanitary service north of Lot 3 and Lot 6; barricades and “end of road” signs be installed by the developer at the north end of Heatherwood and Aberdeen Streets; an approval letter must be received from the Nebraska Department of Environment & Energy for Sanitary Sewer prior to construction; approval of Notice of Intent and development of a SWPPP is received from the Nebraska Department of Environment & Energy prior to grading.

PASSED AND APPROVED THIS 10th DAY OF DECEMBER, 2019.

__________________________________________
Scott Getzschman, Mayor

ATTEST:

_________________________
Tyler Ficken, City Clerk
Staff Report

TO: Honorable Mayor and City Council

FROM: Jennifer L. Dam, Planning Director

DATE: November 12, 2019

SUBJECT: Voluntary Annexation

Recommendation: Approval conditioned upon the approval of the change of zone and the Brooks Hollow 2nd Addition final plat.

Background:

A Voluntary Annexation Petition has been received for a parcel of land located in the SW1/4 SW1/4 of Section 18, Township 17 North, Range 9 East of the 6th p.m., Dodge County, Nebraska generally located at Aberdeen Street and Peterson Avenue.

This request is associated with requests for a change of zone from R, Rural to SR, Suburban Residential and a final plat named Brooks Hollow Second Addition, all over the same property.

The proposed annexation is contiguous to the City.

The proposed final plat supplemental materials detail the extension of city utilities to serve the proposed lots.

This request is consistent with the Comprehensive plan and with State Statutes.
Brooks Hollow Second Addition: Enlarged
Zoning surrounding proposed area of development

Generalized Area of Development
Aerial photograph showing generalized area of development:
Preliminary Plat showing area of proposed Brooks Hollow Second Addition
ORDINANCE NO. 5514

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, ANNEXING BY VOLUNTARY PETITION PROPERTY GENERALLY DESCRIBED AS A PARCEL OF LAND LOCATED IN THE SW1/4 SW1/4 OF SECTION 18, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY, NEBRASKA AND EXTENDING THE CORPORATE LIMITS TO INCLUDE SAID REAL ESTATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a voluntary petition for annexation 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 contiguous with the corporate limits, and is urban or suburban in character and not rural in character; and

WHEREAS, the City has determined that it is able to provide certain essential services, such as utilities, police and fire protection, for the subject property so that the inhabitants of said territory shall receive substantially the same services as other inhabitants of the City; and

WHEREAS, a public hearing on the proposed annexation was held by the Planning Commission on October 21, 2019, at which time the Commission unanimously recommended in favor of the proposed annexation; and

WHEREAS, the City Council held a public hearing on the proposed annexation on November 12, 2019; and,

WHEREAS, the City has determined that it is in compliance with pertinent annexation requirements of Neb. Rev. Stat. § 16-117;

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

SECTION I: ANNEXATION. That the following described real estate, contiguous and adjacent to the City of Fremont, Nebraska, urban or suburban in character and not rural in character, receiving material benefits and advantages from annexation to said City, to-wit for annexation into the City of Fremont's corporate limits be and the same is hereby included within the boundaries and territory of the City of Fremont, Nebraska and shall be included within the corporate limits of said City and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and be subject to all the laws, ordinances, rules and regulations of said City.

A PARCEL OF LAND LOCATED IN THE SW1/4 SW1/4 OF SECTION 18, TOWNSHIP 17 NORTH, RANGE 9 EAST OF THE 6TH P.M., DODGE COUNTY NEBRASKA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 11, BLOCK 3, BROOKS HOLLOW ADDITION; THENCE N69°58'19"W ALONG THE NORTH LINE OF SAID LOT 11 A DISTANCE OF 124.62 FEET TO THE SOUTHEAST CORNER OF LOT 18 IN SAID BLOCK 3; THENCE N26°02'42"E ALONG THE EAST LINE OF SAID LOT 18 A DISTANCE OF 98.57 FEET; THENCE N07°56'01"W ALONG THE EAST LINES OF LOT 18 AND 19 IN SAID BLOCK 3 A DISTANCE OF 100.70 FEET; THENCE THE FOLLOWING COURSES AND DISTANCES: N69°08'30"E A DISTANCE OF 105.89 FEET; N86°51'02"E A DISTANCE OF 58.33 FEET; 65°30'32"E A DISTANCE OF 110.61
FEET; S39°20'22"E A DISTANCE OF 63.66 FEET; 54°42'42"E A DISTANCE OF 63.57 FEET; S81°29'38"E A DISTANCE OF 66.22 FEET; 79°53'28"E A DISTANCE OF 73.53 FEET; N60°39'44"E A DISTANCE OF 95.47 FEET; S11°40'39"E A DISTANCE OF 32.94 FEET; N87°02'01"E A DISTANCE OF 126.62 FEET; N82°21'14"E A DISTANCE OF 55.18 FEET; N87°02'01"E A DISTANCE OF 118.99 FEET TO A POINT ON THE WEST LINE OF LOT 1, BLOCK 6, DAY ACRES EAST FIRST ADDITION; THENCE S00°14'11"W ALONG THE WEST LINE OF SAID LOT 1 A DISTANCE OF 95.19 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE CONTINUING S00°14'11"W ALONG THE SOUTHERLY EXTENSION OF SAID WEST LINE A DISTANCE OF 55.00 FEET TO THE NORTHWEST CORNER OF LOT 5, BLOCK 5 OF SAID DAY ACRES EAST FIRST ADDITION; THENCE CONTINUING S00°14'11"W ALONG THE WEST LINE OF LOTS 5 AND 4 IN SAID BLOCK 5 A DISTANCE OF 115.50 FEET TO THE NORTHEAST CORNER OF LOT 17, BLOCK 4, BROOKS HOLLOW FIRST ADDITION; THENCE THE FOLLOWING COURSES AND DISTANCES ALONG THE NORTH LINE OF SAID BLOCK 4; S87°33'13"W A DISTANCE OF 91.68 FEET; S85°44'02"W A DISTANCE OF 78.82 FEET; S81°40'11"W A DISTANCE OF 52.22 FEET; S75°19'40"W A DISTANCE OF 153.81 FEET; S82°16'15"W A DISTANCE OF 69.10 FEET; N89°22'37"W A DISTANCE OF 150.01 FEET; N75°01'34"W A DISTANCE OF 154.02 FEET TO THE NORTHWEST CORNER OF LOT 9 IN SAID BLOCK 4; THENCE N68°15'13"W A DISTANCE OF 55.03 FEET TO THE POINT OF BEGINNING; CONTAINING 5.76 ACRES, MORE OR LESS.

SECTION 2. REPEALER. All ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 3. 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 4. 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 10TH DAY OF DECEMBER, 2019.

________________________________________
Scott Getzschman, Mayor

ATTEST:

________________________________________
Tyler Ficken, City Clerk
CITY COUNCIL MEETING
AGENDA POLICY
(Effective and Implemented October, 2019)

City Council meetings, scheduled for the second and last Tuesday of the month per the Fremont Municipal Code, will adhere to the following policy and scheduling deadlines in the development of the Council’s meeting agenda. The agenda deadlines, including the requisite supporting Staff materials, are as follows:

1. Preliminary City Council agendas issues proposed and discussed by the Mayor, City Administration, and City Staff at their weekly Staff meetings shall each be posted by close of day (4:30 PM) on the City’s public website, marked as “DRAFT”.

2. A semi-final City Council agenda shall consist of items proposed by the Mayor, City Administration, City Staff, and any other recommending City Board or Commission. The semi-final agenda shall be accompanied by the requisite supporting agenda materials. The semi-final City Council agenda items and all supporting Staff, Board or Commission materials, are due by end-of-day (4:30 PM), the Wednesday preceding any regularly scheduled City Council meeting. Late filed agenda requests or supporting items submitted after this deadline shall cause the agenda item and supporting materials to be held over and placed on the next regularly scheduled City Council meeting.

The only exceptions to this semi-final agenda release date will be to accommodate the Finance Director’s Claims Report and any last minute requests for trade application permits.

When an update to the semi-final agenda is required to incorporate the Claims Report or last minute authorized trade application permits, the due date for Claims data and trade applications will be no later than 2:00 PM the Friday (three (3) calendar days) preceding the meeting of the City Council.

3. City Council members will have until 2:00 PM, the Friday before the Council meeting, to modify the order of agenda items or to add to the semi-final agenda issues and/or supporting materials before the City Council’s Final Agenda is completed and subsequently published by the City Clerk by end-of-day on the Friday preceding the upcoming City Council Meeting.

4. Agenda items deemed to be of a routine nature, and not requiring the authorization or expenditure of City funds, with the exception of the Claims
Report or any items under $30,000, may be categorized on the Council’s agenda as “Consent Agenda” items. However, such categorization on the Final Agenda is subject to modification or removal, and/or placement on the Council’s Regular Agenda at the request of any City Council member.

If items are subsequently removed from the Consent Agenda by any member of the Council, or by the Public, at the City Council meeting, they will be moved to and placed on the Council’s Regular Agenda, and both the Council and the Public will have an opportunity to address and discuss such matters.

5. All City Council Final agendas, along with requisite supporting documents, will be available to City Council members and to the Public by end of day, no later than three (3) calendar days (or the Friday) in advance of the Council’s scheduled meeting.

6. The Council’s Final agenda described above, may be only be further modified after the Friday agenda release for items deemed to be an emergency1, and only then with the approval and consent of no less than four members of the Council; one member from each Ward.

7. Postings of the Final City Council Agenda, and any updates, shall occur at times as required by this policy and by the Nebraska Open Meetings Act for posting of notices in public places.

The agenda for each, any and all public meetings of the City Council, as well as each, any, or all public meetings of any committees, boards or commissions of the City shall be posted on the public website of the City and will be continuously kept current there and shall contain a statement that the agenda shall be readily available for inspection in the City Clerk’s office. All postings shall occur no later than the times require by the Nebraska Open Meetings Act for posting of notices in public places.

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1 “An emergency is ‘(a)ny event or occasional combination of circumstances which calls for immediate action or remedy; pressing necessity; exigency; a sudden or unexpected happening; an unforeseen occurrence or condition.’”


Effective: October, 2019
RESOLUTION NO. 2019-209

A Resolution of the City Council of the City of Fremont, Nebraska approving the City Council Meeting Agenda Policy.

WHEREAS, the attached policy proposes to accelerate and set deadlines for agenda items and the delivery of agendas to Council and codifies rules for certain agenda-related matters.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council hereby approve the City Council Meeting Agenda Policy.

PASSED AND APPROVED THIS 8th DAY OF OCTOBER 2019

________________________________________
Scott Getzschman, Mayor

ATTEST:

________________________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Troy Schaben, Assistant City Administrator – Utilities
DATE: November 12, 2019
SUBJECT: Sanitary Sewer Connection Fee Policy

Recommendation: Hold second reading of Ordinance 5512 for Connection to Existing Sanitary Sewer System

Background:

The City Council voted on September 10, 2019 to continue discussion to the last meeting in October.

The City does not have a City Council-approved policy on connections to an existing sanitary sewer. The City/Utility practice on connection to an existing sanitary sewer (that was not constructed as part of Connection or Assessment District) has been that all adjacent landowners pay ½ the frontage in feet times the cost of the sewer (approx. $10-12 per foot). Subdivisions that construct an interior sewer system at 100% developers cost, which connect to the existing system, have not paid the connection fee.

Attached is the rate consultant study and the proposed Ordinance for connection to existing sanitary sewer system.

Fiscal Impact:

Impact will be minimal as this is a codification of existing practice.
ORDINANCE NO. 5512

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING CHAPTER 3, Article 2, SECTION 3-230 OF THE FREMONT MUNICIPAL CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING WHEN THE FEES ARE EFFECTIVE; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

SECTION I. That Chapter 3, Article 2, Section 3-230 – Municipal Sewerage System; Change for Connections Outside City, be amended to read as follows:

Sec. 3-230. - Municipal Sewerage System; charge and considerations for connections outside City.

The City shall charge and collect fees for sanitary sewer connections to the public sewer for properties outside the corporate limits of the City:

(1) The owner of the premises from which the connection is to be made shall pay to the City a tap fee (listed in the Master Fee Schedule) for connection of the premises to the sewer system. The owner of the premises from which the connection is to be made shall pay to the City a tap fee (listed in the Master Fee Schedule) for connection of the premises to the sewer system.

(2) If, abutting the property, there is an existing public sewer laid according to the specifications of the City of Fremont and (a) the property has not previously been included within an improvement district created for the purpose of construction of the sewer; (b) no part of the cost of construction of the sewer has been paid by the owner or previous owner(s) of the property (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or sewer charges); and (c) the property is adjacent to, but not within the City’s corporate limits; then no permit shall be issued until the property owner files a petition to voluntarily annex the property into the City and there is paid a fee (listed in the Master Fee Schedule) per running foot of the premises abutting the street or alley in which the sewer is located. This fee shall be in addition to the tap fee set out in paragraph (1) for which the property owner has paid the assessable cost, there will be a connection charge for each connection; if the property owner has not paid the assessable cost, there will be an additional charge for each connection; if the public sewer has been installed by the City at its own expense without
assessment of the property, the connection charge shall be the estimated assessable cost plus an additional fee for each connection.

(3) If there is no public sewer abutting the property the connection charge shall be the estimated assessable cost for installing a public sewer in front of the property plus the tap fee set out in paragraph (1) an additional charge for any connection. and if the property is adjacent to, but not within the City’s corporate limits, the property shall file a petition to voluntarily annex the property into the City. Should a public sewer abutting the property be subsequently installed and costs assessed to the property, the property owner may request and receive credit against the assessable cost for that portion of the connection charge for each connection. Assessable costs shall be determined by the Mayor and City Council upon the recommendation of the City Engineer and the City Administrator.

(4) If a developer proposes to connect four or more services to the City sewer system, the frontage fee in the Master Fee Schedule will be waived if all of the following conditions are met:

   a. The developer constructs all sewer facilities between the City’s existing main and the individual premises in accordance with the City’s construction standards and turns those facilities over to the City upon their completion.
   b. The developer makes a single tap into an existing City sewer main that has adequate capacity to serve the new customers.
   c. The developer pays for the actual cost of tapping the City’s existing main.
   d. If the development is adjacent to, but not within the City’s corporate limits, the developer shall file a petition to voluntarily annex the development into the City.

SECTION II. That all other Ordinances of the City of Fremont, Nebraska, and Sections of the Fremont Municipal Code not amended hereby or in conflict herewith shall remain in full force and effect.

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 ___________ DAY OF __________________, 2019.

ATTEST:

Scott Getzschman, Mayor

Tyler Ficken, City Clerk

(Ord. No. 5401, 5-30-17)
<table>
<thead>
<tr>
<th>Service Call Fees - working day</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restore Service</td>
<td>$55.00</td>
<td>$90.00</td>
</tr>
<tr>
<td>Water Service Blowout Fee</td>
<td>$200.00</td>
<td>Same</td>
</tr>
<tr>
<td>Frozen Meter 5/8&quot;</td>
<td>$40.00</td>
<td>Same</td>
</tr>
<tr>
<td>Frozen Meter 3/4&quot;</td>
<td>$55.00</td>
<td>Same</td>
</tr>
<tr>
<td>Frozen Meter 1&quot;</td>
<td>$90.00</td>
<td>Same</td>
</tr>
<tr>
<td>Frozen Meter 1-1/2&quot; or Larger</td>
<td>at cost</td>
<td>$150.00</td>
</tr>
<tr>
<td>Private Hydrant Check</td>
<td>$94.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>Smoke Test</td>
<td>$10.00</td>
<td>$30.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Service Call Fees - after hours</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Restore Service</td>
<td>$55.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>Water Service Blowout Fee</td>
<td>$200.00</td>
<td>$250.00</td>
</tr>
<tr>
<td>Frozen Meter 5/8&quot;</td>
<td>$40.00</td>
<td>$90.00</td>
</tr>
<tr>
<td>Frozen Meter 3/4&quot;</td>
<td>$55.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>Frozen Meter 1&quot;</td>
<td>$90.00</td>
<td>$140.00</td>
</tr>
<tr>
<td>Frozen Meter 1-1/2&quot; or Larger</td>
<td>at cost</td>
<td>Same</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Fire lines (One Time Charge in Addition to Tap Fee)</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>1-1/2&quot;</td>
<td>$60.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>2&quot;</td>
<td>$60.00</td>
<td>$100.00</td>
</tr>
<tr>
<td>3&quot;</td>
<td>$120.00</td>
<td>$180.00</td>
</tr>
<tr>
<td>4&quot;</td>
<td>$300.00</td>
<td>$450.00</td>
</tr>
<tr>
<td>6&quot;</td>
<td>$600.00</td>
<td>$850.00</td>
</tr>
<tr>
<td>8&quot;</td>
<td>$900.00</td>
<td>$1,100.00</td>
</tr>
<tr>
<td>10&quot;</td>
<td>$1,200.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>12&quot;</td>
<td>$1,600.00</td>
<td>$1,800.00</td>
</tr>
<tr>
<td>Fire Hydrant Flow Test Fee</td>
<td>$225.00</td>
<td>$250.00</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Compost Fee</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pick-Up / Single Axle Trailer</td>
<td>$10.00</td>
<td>Same</td>
</tr>
<tr>
<td>All Other Trucks / Trailers (per bucket load)</td>
<td>$10.00</td>
<td>Same</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Sludge Fee (per 1000 Gallons)</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Septic’s</td>
<td>$25.00</td>
<td>Same</td>
</tr>
<tr>
<td>Other Systems</td>
<td>$25.00</td>
<td>Same</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Natural Gas System</th>
<th>Fremont</th>
<th>Suggested</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gas Department will extend first 75' of Gas Service at no charge</td>
<td>$0.00</td>
<td>Same</td>
</tr>
<tr>
<td>Gas Department will extend first 100' of Gas Main at no charge</td>
<td>$0.00</td>
<td>Same</td>
</tr>
<tr>
<td>Service Line Installation 1/2 to 1&quot; (Over 75')(per ft.)</td>
<td>$15.00</td>
<td>Same</td>
</tr>
<tr>
<td>Service Line Installation over 1&quot; (Over 75')</td>
<td>price quoted upon request</td>
<td></td>
</tr>
<tr>
<td>2&quot; Main Installation (over 100') Labor Only / Does not include cost Materials(per ft.)</td>
<td>$15.00</td>
<td>Same</td>
</tr>
<tr>
<td>4&quot; Main Installation (over 100') Labor Only / Does not include cost Materials(per ft.)</td>
<td>$20.00</td>
<td>Same</td>
</tr>
<tr>
<td>6&quot; Main Installation (over 100') Labor Only / Does not include cost Materials(per ft.)</td>
<td>$25.00</td>
<td>Same</td>
</tr>
</tbody>
</table>
October 15, 2019

Mr. Brian Newton
City Administrator
City of Fremont Department of Utilities
400 East Military Avenue
Fremont, NE 68026

RE: Sewer Line Extension Policy

Dear Brian:

JK Energy Consulting, LLC (JKEC) is pleased to submit this letter report and proposed Sewer Line Extension Policy for the City of Fremont Department of Utilities (Fremont) and its sewer system. The purpose of the Line Extension Policy is to provide guidance to Fremont on the proper level of compensation it should collect from customers who are not connected to the system and who have not paid to connect through some other method, such as implementation of an improvement district.

**Background**

Fremont currently does not have a written policy addressing the compensation required when a customer requests connection to the sewer system. Most new customers pay for required improvements through the establishment of an improvement district or similar mechanism that assesses costs to customers and requires payment of costs, including new facility costs as well as a cost for existing facilities, upon establishment of the district. There are a number of pre-existing customers, particularly in areas outside the corporate limits of the City, that were not connected to the sewer system when it was built. These customers typically have private septic systems.

As existing septic systems need to be replaced, it is not unusual for a property owner to request connection to the existing sewer system. Connecting to the Fremont sewer system is less expensive than replacing a septic system while providing lower long-term operating costs and fewer maintenance issues for the property owner. What is important from the perspective of the sewer system is to ensure that the property owner pays its fair share of existing facility costs as well as incremental connection costs so that existing customers are not subsidizing new customers.
The approach Fremont has been using on an informal basis to connect customers that are not part of an improvement district is to assess the following costs:

1. The customer is required to pay for all costs incurred to construct the sewer line tap through a tap fee.
2. The customer is required to pay a per foot cost based upon property frontage.

The first component of the customer contribution policy protects existing customers from paying incremental costs to subsidize a new customer. The second component compensates existing customers for costs the utility incurred to build a line adjacent to the property.

One key issue with the current practice is that it is based on an unwritten policy that has not been approved by the City Council. While the practice is justified from a cost of service standpoint and represents a fair method for assessing costs to new customers, the fact that it is not written leaves it open to interpretation and may make it more difficult to explain to new customers.

**Purpose and Approach**

The purpose of this project was to:

1. Review the Line Extension Practice for the sewer system.
2. Compare the existing practice to other similarly situated municipalities and determine if there are other appropriate methods that may be better than the existing policy.
3. Ensure the fees included in the Line Extension Practice are adequate.
4. Draft a written policy for approval by the City Council for inclusion in the Fremont municipal code.

Data was collected from the City and other municipalities to complete a review of the existing practice. The current fee per foot of frontage was reviewed to determine if it is adequate to compensate existing customers for the cost incurred by Fremont to build existing lines. A written policy was drafted based on the review of other municipal policies, with updated costs based on the City’s costs of construction. A letter report was prepared and policy language was submitted to the City Council in the form of an updated Ordinance.

**Comparable Municipality Analysis**

JKEC reviewed the existing sewer connection policy of several Nebraska municipalities. The review was focused on connection costs for new customers that are not covered by an improvement district or other similar mechanism. This approach would cover the scenario where a customer not included in an improvement district requests connection to the Fremont sewer system. In an improvement district, sewer connection and extension
costs are addressed and assessed to the property owners in the improvement district, so no additional costs need to be allocated to these customers.

Table 1 compares the sewer connection policies of six Nebraska municipalities. Columbus is listed twice as it has different charges based on whether the property is inside or outside of the corporate limits. This comparison is focused on those connections that are not covered under an improvement district or otherwise compensated through some other mechanism.

<table>
<thead>
<tr>
<th>Municipality</th>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lincoln</td>
<td>Connection Costs + Impact Fee</td>
<td>Actual connection costs + $665 impact fee</td>
</tr>
<tr>
<td>Scottsbluff</td>
<td>Tap Fee + Extension</td>
<td>$210 + $8 per running foot of the premises abutting the street or alley in which the sewer is located. Double this fee outside city.</td>
</tr>
<tr>
<td>Columbus - inside</td>
<td>Connection Fee if never previously assess</td>
<td>$1,650 + $25/ft. of frontage in excess of 66'</td>
</tr>
<tr>
<td>Columbus – outside</td>
<td>Connection Fee if never previously assess</td>
<td>$1,750 + $25/ft. of frontage in excess of 66'</td>
</tr>
<tr>
<td>Norfolk</td>
<td>Connection Fee</td>
<td>$5/ft. of frontage</td>
</tr>
<tr>
<td>York</td>
<td>Connection Fee</td>
<td>$16.67/ft. of frontage, plus adjustment for change in type of use for lot, less credit for previous special assessments</td>
</tr>
<tr>
<td>Keamey</td>
<td>Connection Fee</td>
<td>$62 + “benefits” calculated by Register of Deeds if line abuts property or “the present costs of laying and assessing a sewer main to the property” if the line does not currently abut property</td>
</tr>
<tr>
<td>Fremont</td>
<td>Tap Fee + Extension</td>
<td>Actual costs to tap line + $16/ft. of frontage</td>
</tr>
</tbody>
</table>

Four of the six municipalities charge a connection fee based on property frontage. The fees vary widely, from $5/ft. in Norfolk up to $25/ft. in Columbus. It is unclear from the municipal code of each system what the basis for the frontage fee is, though Fremont staff was planning to discuss the basis for those charges with each municipality.

Lincoln uses an impact fee approach. Under this approach, each lot is assessed the same amount regardless of frontage. Each lot is also responsible for connection costs to tap the sewer line. In Kearney, the fee is based on actual cost to extend the line or a “benefits” test recorded by the Register of Deeds.
The prevalent method used by the municipalities identified is to use the frontage method, and some utilities charge an additional fixed fee. The approach currently used by Fremont is consistent with the prevalent method of these other utilities.

**Cost of Service Analysis**

There are two key considerations in analyzing the cost of service associated with serving a new customer:

1. Ensuring the new customer pays any incremental costs associated with the new connection.
2. Compensating the utility for previous expenditures associated with facilities and infrastructure constructed by the Utility.

Table 2 provides a calculation of the projected monthly margin for a new residential customer. The expenses in the calculation generally include non-labor, non-capital costs that are likely to vary based on either volumes or number of customer bills rendered. Using a five-year net present value calculation, the estimated margin received from a typical residential customer is approximately $536.

**Table 2**

**Projected Monthly Margin**

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Revenue</td>
<td>$ 17.33</td>
</tr>
<tr>
<td>Expenses</td>
<td></td>
</tr>
<tr>
<td>Customer</td>
<td>0.98</td>
</tr>
<tr>
<td>Collection</td>
<td>1.04</td>
</tr>
<tr>
<td>Treatment</td>
<td>5.13</td>
</tr>
<tr>
<td>Total Marginal Expense</td>
<td>$ 7.15</td>
</tr>
<tr>
<td>Monthly Residential Margin</td>
<td>$ 10.18</td>
</tr>
<tr>
<td>Five Year NPV</td>
<td>$ 536</td>
</tr>
</tbody>
</table>

Table 3 (see page 5) is an estimate of the sewage treatment plant costs allocable to a new customer. This calculation is based on the net plant in service related to existing sewage treatment plant in service and excludes new plant expenses that are being funded by the issuance of debt. The estimated value of net plant in service for treatment facilities is $187 for a typical residential customer. The net margins from a new customer are adequate to fund the cost of existing treatment facilities.
The new customer is required to pay for the actual costs of tapping the sewer system, so existing customers do not subsidize costs associated with the new customer tapping the sewer system. Fremont charges a frontage fee of $16/ft., based on the length of the property line where the sewer main was constructed. This cost is comparable to one-half of the construction cost of a new sewer line construction and assumes the line would be tapped by customers with frontage on both sides of the line. Fremont does not track historical construction costs of individual lines, so use of a single frontage fee for the entire system is a reasonable substitute.

Payment of the frontage fee is consistent with cost of service principles. The sewer line would be shorter by the length of the frontage if the customer’s property did not exist. It is reasonable to split the allocable cost between the two properties on either side of the line. The current practice recovers the cost incurred by Fremont to provide the sewer connection and sewer main facilities that would not be constructed but for the presence of the customer, specifically the portion of main abutting the property. The existing practice protects existing customers from subsidizing new customers while charging an appropriate contribution to new customers.

**Multi-Lot Development Waiver**

The existing practice provides for a waiver of the frontage fee for multi-lot developments provided that certain conditions are met. These conditions are as follows:

1. The development must include at least four new services.
2. The developer must build all sewer collection infrastructure from the tap to the customer locations according to Fremont’s construction standards and turn the facilities over to the Utility upon completion.

3. The developer must tap into an existing line with adequate capacity and pay Fremont’s out-of-pocket cost for installing the tap.

Table 4 is a projected margin analysis for multiple-lot developments, based on the margin information developed in Table 2 and the estimated sewage treatment cost calculated in Table 3. Table 4 shows that developments of three or fewer lots are inadequate to provide sufficient margin to cover the embedded cost of existing sewer mains and sewage treatment plant costs. If a development has at least four lots, Fremont can expect to collect sufficient margins to cover its embedded costs, including sewer treatment and the typical frontage cost associated with the sewer main.

<table>
<thead>
<tr>
<th>Number of Lots</th>
<th>Projected Margin ($/lot/month)</th>
<th>Projected Five Year NPV</th>
<th>Marginal Capital Cost (1)</th>
<th>NPV Less Capital Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$10.18</td>
<td>$536.28</td>
<td>$1,243.14</td>
<td>$(706.86)</td>
</tr>
<tr>
<td>2</td>
<td>10.18</td>
<td>1,072.56</td>
<td>1,430.28</td>
<td>(357.73)</td>
</tr>
<tr>
<td>3</td>
<td>10.18</td>
<td>1,608.84</td>
<td>1,617.43</td>
<td>(8.59)</td>
</tr>
<tr>
<td>4</td>
<td>10.18</td>
<td>2,145.12</td>
<td>1,804.57</td>
<td>340.55</td>
</tr>
</tbody>
</table>

(1) Based on $16/ft. frontage construction cost and 66 ft. frontage length, plus $187 per lot for embedded sewer treatment costs as shown in Table 3.

**Written Policy**

Attachment 1 to this letter is proposed language that would amend the Municipal Code to implement the proposed policy. The existing Municipal Code has language addressing sewer connections but does not include the specific costs. Implementing the attached ordinance would reduce the existing practice to written language that is included in the Municipal Code for future reference. The proposed language in Attachment 1 should be reviewed by Fremont’s legal counsel prior to presentation to the City Council.
JKEC appreciates the opportunity to work with the City on this project. We look forward to working with you to implement the proposed policy.

Sincerely yours,

John A. Krajewski, P.E.
JK Energy Consulting, LLC

Attachment
AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING CHAPTER 3, Article 2, SECTION 3-230 OF THE FREMONT MUNICIPAL CODE; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT WITH THIS ORDINANCE; PROVIDING WHEN THE FEES ARE EFFECTIVE; AND PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT.

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

SECTION I. That Chapter 3, Article 2, Section 3-230 – Municipal Sewerage System; Change for Connections Outside City, be amended to read as follows:

Sec. 3-230. – Municipal Sewerage System; charge and considerations for connections

The City shall charge and collect fees for sanitary sewer connections to the public sewer of the City:

(1) The owner of the premises from which the connection is to be made shall pay to the City a tap fee (listed in the Master Fee Schedule) for connection of the premises to the sewer system.

(2) If abutting the property there is an existing public sewer laid according to the specifications of the City of Fremont and (a) the property has not previously been included within an improvement district created for the purpose of construction of the sewer; (b) no part of the cost of construction of the sewer has been paid by the owner or previous owner(s) of the property (the cost of construction shall not include the furnishing of a right-of-way or payment of general taxes or sewer charges); and (c) the property is adjacent to, but not within the City's corporate limits; then no permit shall be issued until the property owner files a petition to voluntarily annex the property into the City and there is paid a fee (listed in the Master Fee Schedule) per running foot of the premises abutting the street or alley in which the sewer is located. This fee shall be in addition to the tap fee set out in paragraph (1).

(3) If there is no public sewer abutting the property, the connection charge shall be the estimated assessable cost for installing a public sewer in front of the property plus the tap fee set out in paragraph (1) and if the property is adjacent to, but not within the City’s corporate limits, the property shall file a petition to voluntarily annex the property into the City. Assessable costs shall be determined by the Mayor and City Council upon the recommendation of the City Engineer and the City Administrator.

(4) If a developer proposes to connect four or more services to the City sewer system, the frontage fee in the Master Fee Schedule will be waived if all of the following conditions are met:
a. The developer constructs all sewer facilities between the City’s existing main and the individual premises in accordance with the City’s construction standards and turns those facilities over to the City upon their completion.

b. The developer makes a single tap into an existing City sewer main that has adequate capacity to serve the new customers.

c. The developer pays for the actual cost of tapping the City’s existing main.

d. If the development is adjacent to, but not within the City’s corporate limits, the developer shall file a petition to voluntarily annex the development into the City.

SECTION II. That all other Ordinances of the City of Fremont, Nebraska, and Sections of the Fremont Municipal Code not amended hereby or in conflict herewith shall remain in full force and effect.

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 ____ DAY OF __________________, 2019.

________________________________________
Scott Getzschman, Mayor

ATTEST:

________________________________________
Tyler Ficken, City Clerk
Staff Report

TO: Honorable Mayor and City Council
FROM: Jennifer L. Dam, Planning Director
DATE: November 12, 2019
SUBJECT: Voluntary Annexation North 220’ Lot 1, Fountain Springs 4th Subdivision

Recommendation: Approval and hold second reading of Ordinance 5506

Background:

A Voluntary Annexation Petition has been received for the North 220’ of Lot 1, Fountain Springs 4th Subdivision.

This property request is associated with a previously approved Conditional Use Permit for apartments and annexation of another portion of the project area.

The original annexation request from the developer did not include the portion of this lot in the legal description that was provided. The developer thought that only Lot 2, Fountain Springs 4th Subdivision was outside the city limits.

It is not clear why half of Lot 1, Fountain Springs 4th Subdivision is in the City limits and half of it is out of the City limits.

The proposed annexation is contiguous to the City.

The City Council has approved a redevelopment plan and TIF financing that includes the portion of this parcel that is outside of the city limits.

This request is consistent with the Comprehensive plan and with State Statutes.
ORDINANCE NO. 5506

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, ANNEXING BY VOLUNTARY PETITION PROPERTY DESCRIBED AS THE NORTH 220’ OF LOT 1 FOUNTAIN SPRINGS 4TH SUBDIVISION LOCATED IN SECTION 11, TOWNSHIP 17 NORTH, RANGE 8 EAST DODGE COUNTY, NEBRASKA, AND EXTENDING THE CORPORATE LIMITS TO INCLUDE SAID REAL ESTATE; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a voluntary petition for annexation 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 contiguous with the corporate limits, and is urban or suburban in character and not rural in character; and

WHEREAS, the City has determined that it is able to provide certain essential services, such as utilities, police and fire protection, for the subject property so that the inhabitants of said territory shall receive substantially the same services as other inhabitants of the City; and

WHEREAS, a public hearing on the proposed annexation was held by the Planning Commission on September 16, 2019, at which time the Commission unanimously recommended in favor of the proposed annexation; and

WHEREAS, the City has determined that it is in compliance with pertinent annexation requirements of Neb. Rev. Stat. § 16-117;

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

SECTION I: ANNEXATION. That the following described real estate, contiguous and adjacent to the City of Fremont, Nebraska, urban or suburban in character and not rural in character, receiving material benefits and advantages from annexation to said City, to-wit

The north 220 feet of Lot 1, Fountain Springs 4th Subdivision for annexation into the City of Fremont’s corporate limits be and the same is hereby included within the boundaries and territory of the City of Fremont, Nebraska and shall be included within the corporate limits of said City and become a part of said City for all purposes whatsoever, and the inhabitants of such addition shall be entitled to all the rights and privileges and be subject to all the laws, ordinances, rules and regulations of said City, conditioned on the purchase of the property by Fremont Enterprises, LLC.

SECTION 2. REPEALER. All ordinances made in conflict with this Ordinance are hereby repealed.

SECTION 3. 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 4. 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 12\textsuperscript{TH} DAY OF NOVEMBER, 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: November 12, 2019
SUBJECT: Request for change to Section 11-504.01(B) of the UDC

Recommendation: Move to amend Ordinance 5507 by removing paragraph 504.01(B) (3) from proposed Ordinance 5507, hold third reading of the amended ordinance

Background:

Councilman Yerger recommended a change to this proposal at the October 29, 2019 City Council meeting. The recommendation was to strike paragraph 504.01(B)3 instead of adding language to it. That suggestion is an elegant solution which minimizes the need for multiple changes should the density in table 11.602.01 change in the future. The proposed ordinance has been revised to reflect this change, however, a motion should be made to remove this paragraph from the ordinance.

Multi-family dwellings require a Conditional Use Permit in the SR, Suburban Residential; AR, Auto-urban Residential, and; UR, Urban Residential zoning districts. At the time the UDC was adopted, the Conditional Use Permit was required only in the SR and AR districts. Multi-family dwellings were a permitted use in the UR district.

The requirement to make multi-family dwellings a conditional use in the UR district occurred between the tenure of the prior planning director and that of the current director. The staff report does not specify the reason for the change.

The change led to inconsistency in portions of the UDC regarding the total number of units permitted per acre and in the distance from other multi-family developments.

Table 11-602.01 allows a maximum gross density of 6 multi-family units per acre in the SR district; 12 units per acre in the AR district; and, 24 units per acre in the UR district.

Section 11-504.01(B)(3) currently states that multifamily dwellings are permitted if “There are no more than 12 units per acre.”

The prior zoning code distinguished between multi-family developments of 12 units or less and those with 12 units or more. Multi-Family developments with 12 unit or less were allowed in the R-3 district with a Conditional Use Permit. Multi-family developments of any size were allowed in the R-4 district. This seems to be where the “12 units per acre” stipulation originated.

This proposal establishes consistency between the number of multi-family units per acre allowed in Table 11-602.01 and in the Conditional Use requirements in Section 11.504.01(B)3.

Section 11-504.01(B)2 states that multifamily developments should be greater than 300 feet from any other multi-family development. The SR and AR districts are lower density districts so a distance between multi-family districts is reasonable. The UR district is designed to be a higher density district, so the distance requirement between developments does not make
sense. This proposal is to require a distance between multi-family developments only in the SR and AR districts.
The proposed language is redlined below:

Sec. 11-504.01. - Residential and commercial use of the home standards.

The standards of this section apply to residential and commercial use of the home that are specified in Table 11-504.01., Residential and Commercial Use of the Home, as limited ("L") or conditional ("C").

B. Multifamily Dwellings are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either R, MH, BP, LI, GI, AV or PO district boundaries, 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;

2. If located in the SR or AR district, the proposed multifamily dwellings shall be located greater than 300 feet from any other multiple family development, as measured from the boundary lines nearest each other;

3. There are no more than 6 units per acre in the SR district, 12 units per acre in the AR district and 24 units per acre in the UR district;

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.
ORDINANCE NO. 5507

AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING EXHIBIT B OF ORDINANCE 5427, SPECIFICALLY PORTIONS OF THE UDC, CHAPTER 11, ZONING, SUBDIVISION AND SITE DEVELOPMENT EXHIBIT B; PROVIDING FOR REPEAL OF ORDINANCES 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 amendments to Exhibit B of Ordinance 5427 was filed with the offices of the Department of Planning, City of Fremont (City); and

WHEREAS, the City has determined that the changes are necessary; and

WHEREAS, a public hearing on the proposed amendment to Exhibit B of Ordinance 5427 was held by the Planning Commission on September 16, 2019 and subsequently by the City Council on October 8, 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 1. Amendments to Chapter 11 of the Fremont Municipal Code pertaining to subdivision and site development regulations, hereinafter referred to as the Unified Development Code of the City of Fremont (“UDC”), particularly amendments to Sections 11-504.01 is hereby amended and replaced as shown below, incorporated by reference herein:

Sec. 11-504.01. - Residential and commercial use of the home standards.
The standards of this section apply to residential and commercial use of the home that are specified in Table 11-504.01., Residential and Commercial Use of the Home, as limited (“L”) or conditional (“C”).

B. Multifamily Dwellings are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either R, MH, BP, LI, GI, AV or PO district boundaries, 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;

2. If located in the SR or AR district, the proposed multifamily dwellings shall be located greater than 300 feet from any other multiple family development, as measured from the boundary lines nearest each other;

3. There are no more than 12 units per acre;

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.
SECTION 2. REPEALER. That any other section of said ordinance in conflict with this ordinance is hereby repealed.

SECTION 3. 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 4. 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 12th DAY OF NOVEMBER, 2019

________________________________________
Scott Getzschman, Mayor

ATTEST:

________________________________________
Tyler Ficken, City Clerk
TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Glen Ellis - Ward 2 - City Council Member

DATE: November 6, 2019

SUBJECT: Reconsideration of Resolution 2019-188 for a conditional use permit to allow agricultural crops planted and cultivated in residential zoning inside the City limits at SunRidge Place, generally located at between Military Avenue, Jack Sutton Drive, Luther Road & Johnson Drive.

RECOMMENDATION: Motion to approve reconsideration of Resolution 2019-188 for a conditional use permit to allow agricultural crops planted and cultivated in residential zoning inside the City limits at SunRidge Place, generally located at between Military Avenue, Jack Sutton Drive, Luther Road & Johnson Drive.

Background: At the September 24, 2019 meeting of the City Council, the Council approved Resolution 2019-188 for a Conditional Use Permit to farm in a residentially zoned area.

Per Fremont Municipal Code, Chapter 2, Section 2-108 para. (10), Motions to reconsider may only be made by a Council Member who voted with the majority, but such motion to reconsider must be made before the expiration of the third (3rd) regular meeting after the consideration of the same question.

This is the (3rd) regular meeting since the original vote was taken on this resolution and I initially voted in favor of approving this permit. However, I have found that I now have some unresolved questions regarding this matter and I seek the opportunity to revisit and discuss those issues and the Resolution’s approved language.

Fiscal Impact: None
Staff Report

TO: Honorable Mayor and City Council
FROM: Jennifer L. Dam, AICP, Planning Director
DATE: September 24, 2019
SUBJECT: Request for a Conditional Use Permit to cultivate agricultural crops in the SunRidge Addition, SunRidge 1st Addition and SunRidge 2nd Addition developments.

RECOMMENDATION: Conditional approval with the following conditions:
1) measures be taken to avoid drift when spraying;
2) large machinery will not operate before 7 am or after 8 pm;
3) crops be removed by the fall, and
4) all local, state and federal regulations be followed. This permit is valid for the area until it is fully developed.

Background:
The applicant is requesting a Conditional Use Permit to allow crop production on property that has been zoned AR, UR and GC and has been annexed into the city. Infrastructure is currently not being installed in portions of the development.

The Planning Commission held a public hearing on August 19, 2019 and unanimously recommended conditional approval stipulating the conditions contained in the staff recommendation.

The property was previously zoned R, Rural and had been farmed.

The applicant was unaware that a Conditional Use Permit was required to produce crops on the portions of the property that weren’t immediately under development.

The area to the south is zoned LI, Light Industrial and is developed with the utility plant and solar farm. The areas to the north and east are developed with residential uses. The areas to the northeast are zoned R and PD. A church and crop production is to the northeast. The area to the east is zoned R and PD and is developed with a single family dwelling, two schools a swimming pool and park.

Areas further north are zoned R, surrounded by or adjacent to single family development, and/or a church and a school and are in crop production.

Undeveloped ground is required to have a ground cover planted on it in order to comply with storm water (SWIPP and MS4) permits.

The soybeans that were planted are not irrigated so are not consuming well water or city water.
In contrast, turf would require an inch of water per week.

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 crop production does not undermine the implementation of the approved subdivision.

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: Crop production is compatible with the surrounding uses and the natural environment. Crops are planted with residential uses adjacent to them north of this area. The difference is that those areas are zoned R and have not been annexed into the City.

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: The crop production provides a ground cover that minimizes run-off and silt. A ground cover is required for the area. Dry land soybeans consume less water than new turf would require.

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 area of crop production will decrease over time as more of the development is constructed.

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: Conditions of approval will require the applicant to take precautions to minimize drift of chemicals, to limit the hours that farm machinery operates, and to ensure the crop is harvested in the fall.

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 crops will not use public services.

Sec. 11-504.04. A states:

“Agricultural Uses are permitted if it is demonstrated that:

1. "Animal husbandry is located greater than 300 feet from the AR, UR, MH, SC, GC, or DC district boundaries;"
   Finding: Animal husbandry is not proposed.

2. "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 use will not create undue traffic, parking or noise. Conditions of approval limit the hours of operation.

3. "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 is a condition of approval.

Staff Recommendation: Conditional approval with the following conditions:

1) measures be taken to avoid drift when spraying;
2) large machinery will not operate before 7 am or after 8 pm;
3) crops be removed by the fall, and
4) all local, state and federal regulations be followed. This permit is valid for the area until it is fully developed.
General area of crop production

General Area under development

General area of crop production
Generalized area of application
September 9, 2019

RE: Conditional Use Permit

Dear Property Owner:

You are hereby advised that the City of Fremont has received the following application(s):

A request by Marlin Brabec on behalf of Don Peterson and Associates Real Estate Co., for approval of a conditional use permit to allow agricultural crops planted and cultivated in residential zoning inside the City limits at Sunridge Place, located between Military Avenue, Jack Sutton Drive, Luther Road & Johnson Drive, and more particularly described as parcels of land being part of the NW1/4 of Section 19, Township 17 North, Range 9 East of the 6th P.M., Dodge County, Nebraska.

A public hearing on this application will be held before the City of Fremont City Council on the 24th day of September 2019. The public hearing is your opportunity to appear and speak on the merits of this application, if you so choose. The City Council meeting begins at 7:00 PM in the Fremont City Council Chambers located on the second floor in the Fremont Municipal Building at 400 East Military Avenue, Fremont, Nebraska.

If you would like more information, you are encouraged to contact the applicant Marlin Brabec at 402-721-9700 or marlin@donpeterson.com, or the Planning Director, Jennifer Dam at 402-727-2636 or jennifer.dam@fremontne.gov.

The staff report and recommendation will be available at the City Clerk’s office on Friday, September 20. The City Council Agenda and staff reports will also be available on the City’s website at that time, www.fremontne.gov.

Sincerely,

Jennifer L. Dam, AICP
Planning Director

Cc: Marlin Brabec, Don Peterson and Associates
APPLICATION TYPE

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

APPLICANT (all correspondence will be directed to the applicant)

Name Don Peterson Assoc Phone 402-721-8700
Address 100 E. Lin St Fax 402-721-0109
City Fremont State NE Zip 68025
Email marlin@donpeterson.com

PROPERTY OWNER (if not the same as applicant above)

Name Phone
Address Fax
City State Zip
Email

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

Name Phone
Address Fax
City State Zip
Email

AGENT (if not the same as applicant above)

Name Phone
Address Fax
City State Zip
Email

(application continued on next page)
ZONING APPLICATION

PROPERTY INFORMATION

Address of Property: Military + Lucas
General Location (if no address is available): Sunridge Place

Brief Legal Description of Property: Sunridge Place Add.

Description of Request: To cultivate crops in residence & zoning inside city limits

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: [Signature]
Print Name: [Print Name]
Date: [Date]

Office Use Only

Submittal Date: 1-19-19
Payment Amount: $300.00
Project No.: [Project No.]
Receipt No.: [Receipt No.]
Other Comments: [Other Comments]

# 109858
RESOLUTION NO. 2019-188

A RESOLUTION OF THE CITY OF FREMONT, NEBRASKA, AUTHORIZING A CONDITIONAL USE PERMIT FOR THE PURPOSE OF CROP PRODUCTION.

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, Marlin Brabec has submitted a request for approval of crop production on the undeveloped portion(s) of the SunRidge Place Addition, SunRidge Place First Addition and SunRidge Place Second Addition all located in the Northwest Quarter of Section 19, Township17, Range 9E, Fremont, Nebraska; and

WHEREAS, the City has determined that the subject property is currently zoned AR, Auto Urban Residential and UR, Urban Residential; and

WHEREAS, crop production in the AR and UR zoning districts require a Conditional Use Permit; and

WHEREAS, a public hearing on the proposed Conditional Use Permit was held by the Planning Commission on August 19, 2019, and subsequently by the City Council on September 24, 2019; and

WHEREAS, the City has determined that the proposal meets sections 11-316.05 and 11-504.02.1 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 of crop production is approved subject to the conditions that:

1) measures will be taken to avoid drift when spraying;
2) large machinery will not operate before 7 am or after 8 pm;
3) crops are to be removed by the fall; and
4) all local, state and federal regulations will be followed.

This permit is valid until the area is fully developed.

SECTION 4. EFFECTIVE DATE. This Resolution shall take effect and be in force from and after its passage, approval, and publication as required by law.

PASSED AND APPROVED THIS THE 24th DAY OF SEPTEMBER 2019.

Scott Getzschman, Mayor

ATTEST:

Tyler Ficken, City Clerk
STAFF REPORT

TO: Mayor and City Council
FROM: Brian Newton, City Administrator
DATE: November 12, 2019
SUBJECT: Approval of recommendation from the Joint Water Management Advisory Board.

Recommendation: Approve resolution 2019-238

Background: The Joint Water Management Advisory Board held a meeting on November 5, 2019 and recommended that each governing body consider the following action items:

1. Authorize Northeast Nebraska Economic Development District to provide administration for Economic Development Administration (EDA) FY2019 Disaster Supplemental Funding grants on behalf of the governing bodies who comprise the Joint Water Management Advisory Board.

2. Authorize Brian Newton, on behalf of governing bodies who comprise the Joint Water Management Advisory Board to sign the Master Agreement for Professional Service with JEO Consulting Group.

Fiscal Impact: To be determined
RESOLUTION NO. 2019-238

A Resolution of the City Council of the City of Fremont, Nebraska, to approve the recommendation from the November 5, 2019 Joint Water Management Advisory Board.

WHEREAS: The Joint Water Management Advisory Board met on November 5, 2019 and recommended each governing body approve the following action items:

1. Authorize Northeast Nebraska Economic Development District to provide administration for Economic Development Administration (EDA) FY2019 Disaster Supplemental Funding grants on behalf of the governing bodies who comprise the Joint Water Management Advisory Board.

2. Authorize Brian Newton, on behalf of governing bodies who comprise the Joint Water Management Advisory Board, to sign the Master Agreement for Professional Service with JEO Consulting Group.

NOW THEREFORE BE IT RESOLVED by the Mayor and City Council that the recommendations from the November 5, 2019 Joint Water Management Advisory Board (listed above) be approved.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 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: November 12, 2019
SUBJECT: U8 Turbine Valves and Generator Inspection.

Recommendation: Recommendation for Contractor to perform a U8 Turbine Valves and Generator inspection at Lon D. Wright Power Plant.

BACKGROUND: In an effort to provide safe, reliable operation of Lon D. Wright Power Plant Unit 8, LDW Power Plant conducts a Turbine and Generator inspection on U8 at approximately 40,000 hours of operation, the turbine valves are inspected at approximately 20,000 hours, these intervals are based on OEM recommendations. Due to plant budget and crane limitations, the turbine and generator inspections are not scheduled at the same time; the 2020 generator inspection will be conducted ahead of schedule due to the unexpected turbine inspection in 2016.

LDW Power Plant staff developed a specification and received formal bids on October 22, 2019 for a U8 turbine Valve and Generator Inspection at the LDW facility.

The inspection companies were required to provide a list of similar projects on like kind turbines to be qualified for consideration. Below is a summary of the proposals:

<table>
<thead>
<tr>
<th></th>
<th>Power Services Group</th>
<th>General Electric</th>
<th>S.T. Cotter</th>
</tr>
</thead>
<tbody>
<tr>
<td>Base Price</td>
<td>$374,500</td>
<td>$424,639</td>
<td>$261,623</td>
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<tr>
<td>Optional Valve Work</td>
<td>$64,010</td>
<td>$88,400</td>
<td>$78,310</td>
</tr>
<tr>
<td>Total</td>
<td>$438,510</td>
<td>$513,039</td>
<td>$339,933</td>
</tr>
</tbody>
</table>

LDW staff reviewed the proposals, technical specifications, and references and concluded that S.T. Cotter could provide the required inspection at the best value.

After consultation with LDW Staff, the Utilities and Infrastructure Board recommend to the City of Fremont Mayor and City Council to authorize Department of Utility Staff to execute an agreement and issue a purchase order for the U8 Turbine Valves and Generator Inspection to S.T. Cotter.

FISCAL IMPACT: FY 2019/2020 operating budget expenditure of $339,933 this study was budgeted.
RESOLUTION NO. 2019-239

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing City of Fremont, Department of Utilities Staff to sign a purchase agreement with S.T. Cotter.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council accept the recommendation of the Utilities and Infrastructure Board to authorize Department of Utilities Staff to sign a purchase agreement and issue a purchase order to S.T. Cotter for U8 Turbine Valves and Generator Inspection for the amount of $339,933.00.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019.

_____________________________
Scott Getzschman, Mayor

ATTEST:

___________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Lottie Mitchell, Grant Coordinator
DATE: November 12, 2019
SUBJECT: 505 Brewing Company Local Option Economic Development Fund Application

Recommendation: Move to approve resolution 2019-240

Background: The 505 Brewing Company is a start-up microbrewery with plans to open in the basement of the 505 Building on Main Street. With a passion for great beer and seeing downtown markets flourish, they have a vision of being Fremont’s brand, Nebraska’s brewery. They plan to have four core brews as well as house made root beer and cream soda. They will also offer other local brewery guest handles, Nebraska spirits and wine, and apparel. The 505 Brewing Company intends to employ five full-time and five part-time positions and install a canning line in their second year.

The 505 Brewing Company is proposing a $1,250,000 project and is requesting a $165,000 Local Option Economic Development Fund (LB840) Loan. The terms of the loan are:

- $165,000 in a performance based, forgivable loan, subject to creation of five new, full time jobs to be created as follows:
  - One full time job in the first year
  - One additional full time job within the second year
  - Three additional full time jobs within the third year
- Retain five full time jobs for period of five years and maintain location in Fremont.

The Citizens Advisory Review Committee (CARC) reviewed the application on October 30, 2019 and determined the project complies with the Local Option Economic Development Fund Plan. The Committee recommends that the City Council approve the application as submitted by 505 Brewing Company.

The Local Option Economic Development Review Team (LORT) also reviewed the application on October 30, 2019. The LORT considered the project from the following perspectives: job creation, community impact, and investment. The LORT recommends that the City Council approve the application as submitted by the 505 Brewing Company.

Fiscal Impact: The Local Option Economic Development Fund has a balance of $1,193,759.07. This project would have an impact of $165,000.00.
Local Option Development Plan Loan Fund
or Economic Enhancement Fund

The purpose of the Local Option Development Plan Loan and Economic Enhancement Fund is to encourage population growth, new industries, and investment in the community. Funds are offered to businesses in the form of low or 0% interest loans and performance-based forgivable loans (grants), based upon creation of new jobs and investment in Fremont. Businesses must provide matching funds for the project.

Potential City uses include land improvements; public infrastructure; building acquisition and improvements; retail industry; service industry; other new industry; equipment, working capital, job training and buy-down leases for Primary Industry; equipment, job training, buy-down leases, land improvements, building acquisition and improvements and infrastructure for Non-primary Industry; and other economic development activities allowed by statute.

Eligible activities under the Economic Development Plan may include the following to attract new and existing business and industry development in Fremont.
- Land purchase/options
- Infrastructure to new or existing business and industry
- Site improvements
- Construction for new or existing business or industry or on a speculative basis

The matrix for the two programs include:

**Interest Rate Qualification Criteria:**

<table>
<thead>
<tr>
<th>Jobs</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compensation</td>
<td></td>
</tr>
<tr>
<td>$18.00/hour and benefits</td>
<td>0%</td>
</tr>
<tr>
<td>$16.00/hour and benefits</td>
<td>2%</td>
</tr>
<tr>
<td>$14.00/hour and benefits</td>
<td>4%</td>
</tr>
<tr>
<td>No benefits offered</td>
<td>6%</td>
</tr>
</tbody>
</table>

*Benefits* = 50% of the cost of health insurance paid by the employer

<table>
<thead>
<tr>
<th>Investment</th>
<th>Interest Rate</th>
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</thead>
<tbody>
<tr>
<td>City Participation</td>
<td></td>
</tr>
<tr>
<td>&lt;10%</td>
<td>0%</td>
</tr>
<tr>
<td>10% - 19.99%</td>
<td>2%</td>
</tr>
<tr>
<td>20% - 29%</td>
<td>4%</td>
</tr>
<tr>
<td>30% +</td>
<td>6%</td>
</tr>
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</table>

**Sales Tax**

Based on the initial years taxable sales.

<table>
<thead>
<tr>
<th>Taxable Sales</th>
<th>Interest Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>$&gt;999,999</td>
<td>0%</td>
</tr>
<tr>
<td>$500,000 - $999,999</td>
<td>2%</td>
</tr>
<tr>
<td>$250,000 - $499,999</td>
<td>4%</td>
</tr>
<tr>
<td>$50,000 - $249,999</td>
<td>6%</td>
</tr>
</tbody>
</table>

Revised May 2014
Businesses will be given the benefit of the category under which they meet the requirements for the lowest interest rate. Based on staff discretion, up to a 2% reduction will be provided if multiple categories are met. The interest rate will never be less than 0%.

Loans will be structured as at-risk or performance based forgiveness. To qualify for a performance based forgiveness loan, the applicant must:
- Pay employees at 125% of the Dodge County average wage; and
- Have taxable investment greater than $2.5 million dollars, or
- Have taxable sales greater than $2.5 million dollars.

**NOTE:** Based on special circumstances, staff can make recommendations to the City council outside of these parameters.

To be considered for financial assistance, applicants must provide a completed application, including all applicable attachments. Return competed application to

**City of Fremont**
**Attn: Grant Coordinator**
**400 E. Military**
**Fremont, NE 68025**
CITY OF FREMONT, NEBRASKA
REQUEST FOR ASSISTANCE AGREEMENT

THIS REQUEST, is made on this 11 day of October, 2019, by Timothy A. Gesell
of Gesell Enterprises, LLC

(hereinafter referred to as the
("Applicant") to the City of Fremont, Nebraska (hereinafter referred to as the "City").

WITNESSETH:

WHEREAS, APPLICANT has requested the CITY to investigate the feasibility of obtaining an
Local Option Development Plan Loan or Economic Enhancement Loan in connection with the financing
of a project to be undertaken by Applicant.

NOW, THEREFORE, in consideration of the request the following may be done:

1. City agrees to work with the Applicant to investigate the feasibility of obtaining financing
through a Local Option Development Plan Loan or Economic Enhancement Loan for the Project. City
will investigate the financial condition of Applicant and determine whether or not a Local Option
Development Plan Loan Application or Economic Enhancement Loan Application is appropriate. City
will submit the needed paperwork for a Local Option Development Plan Loan or Economic Enhancement
Loan for the Applicant to the appropriate committees and City Council, if:

   a. Applicant is within the eligibility criteria and the Project is likely to be approved by the City
      Council for an Local Option Development Plan Loan or Economic Enhancement Loan, and;
   b. All other elements of the Project can be financed and/or paid for through the infusion of
equity capital by the Applicant.

2. If the City determines, in its sole discretion, that the Applicant is eligible for a Local Option
Development Plan Loan or Economic Enhancement Loan, then, and in such event, City will advise and
consult with the Applicant in the preparation by the Applicant for a complete set of Loan documents
together with supporting exhibits, for the purpose of making applications for an Local Option
Development Plan Loan or Economic Enhancement Loan (hereinafter referred to as the "Loan Package").
The Loan Package shall be for the sole benefit of the Applicant provided however, that such Loan
Package shall be used by the City in connection with the Application for a City Loan on behalf of the
Applicant, provided, however, that the Loan Package may be used by the Applicant in seeking financial
assistance or guarantees from other governmental agencies and/or private lenders.

3. Applicant hereby acknowledges that the Applicant is charged with the actual responsibility of
preparing the Loan Package, and that the City’s sole responsibility in connection with the preparation of
the Loan Package shall be to consult with and advise the Applicant. The Applicant further acknowledges
that the Applicant will be required to promptly and accurately supply financial information concerning the
Project, the operation of Project, together with the manner, method and terms of financing the Project.
Applicant further specifically acknowledges and agrees that the obtaining of a Local Option Development
Plan Loan or Economic Enhancement Loan, or any other financing is dependent upon many factors that
the City cannot control, including but not limited to economic factors and the decisions of the City
Council, accordingly, the City does not guarantee that the Applicant will obtain financing for the Project.
Applicant hereby covenants and agrees that City shall not be responsible, in any manner, or liable to the
Applicant or any other person in the event that the Applicant is unable to obtain a Local Option
Development Plan Loan or Economic Enhancement Loan for the Project, or any other type of financing for the Project, whether from the City or any other governmental or public source, or from any private financing sources. Applicant also further covenants and agrees that the City shall not be liable for any of the debts or obligations incurred in and for the assistance of benefit of the Applicant. Applicant further agrees that Applicant will hold the City harmless, and pay all costs and expenses, including attorney’s fees, in the event that any claim is made or lawsuit is filed by or against the City arising out of any transaction with or assistance to the Applicant which may in any way be connected with the Agreement.

IN WITNESS WHEREOF, the parties hereto have executed, caused to be duly executed this Agreement, and have affixed or caused to be duly affixed hereto there seals, this ___ day of October, 2019.

APPLICANT

BY: Timothy A. Gessel
PART I.

A. Business (Borrower) Information:

Name of Business to Receive Assistance: 505 Brewing Company

Address: 505 Main Street

Fremont NE 68025

City State Zip

Contact Person: Tim Gesell Telephone No. (402) 659-9004 FAX No. (402)

Business Classification (mark one): ___ Manufacturing ___ Warehousing and Distribution

有何 Service ___ Research and Development

___ Administrative Management Headquarters

Federal ID #: 84-2546720

Business Organization (mark one): ___ Proprietorship ___ Corporation ___ Partnership ___ LLC ___ Other

Does the Company have a Parent or Subsidiaries? ___ Yes ___ No

If Yes, Identify Name:

Address:

City State Zip

Business Type: ___ Start-up (0-5 yrs old) ___ Buyout ___ Existing If existing, years in Business

Ownership Identification: List all officers, directors, partners, owner, co-owners and all stockholders with 20% or more of the stock.

<table>
<thead>
<tr>
<th>Name</th>
<th>Title</th>
<th>Ownership %</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tim Gesell</td>
<td>Owner</td>
<td>80%</td>
</tr>
<tr>
<td>Shawn Morrow</td>
<td>Brewer/ster</td>
<td>10%</td>
</tr>
</tbody>
</table>

Employment Information

Personnel: (Full-Time-Equivalent, FTE is based upon 2,080 hours per year.)

Existing Number of Full-Time Equivalent Positions:

Full-Time-Equivalent Positions to be Created within 36 months of Application Approval: 5 full-time and 5 part-time

If Jobs Would Be Lost Without Loan Approval, Total Number of Full-Time-Equivalent Jobs Retained:

What is the Average Wage for Employees? $12.20
Please describe all benefits which the business provides to employees:

Profit Sharing - We will take the first profits at the end each year and distribute it back to our people based on annual profits.

401K – We will have a 401K plan for eligible team members.

Health, dental and vision options available to eligible team members.

B. Project Information

<table>
<thead>
<tr>
<th>USES OF FUNDS</th>
<th>Total Project Cost</th>
<th>Loan Funds Requested</th>
<th>Total Funds</th>
</tr>
</thead>
<tbody>
<tr>
<td>Land Acquisition</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Building Acquisition</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Renovation</td>
<td>$600,000</td>
<td>$155,000 Grant</td>
<td>$755,000</td>
</tr>
<tr>
<td>New Facility Construction</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Acquisition of Machinery/Equipment</td>
<td>$350,000</td>
<td></td>
<td>$350,000</td>
</tr>
<tr>
<td>Acquisition of Furniture/Fixtures</td>
<td>$50,000</td>
<td></td>
<td>$50,000</td>
</tr>
<tr>
<td>Working Capital (Includes Inventory)</td>
<td>$250,000</td>
<td></td>
<td>$250,000</td>
</tr>
<tr>
<td>Other (Specify)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total:</td>
<td>$1,250,000</td>
<td>$155,000 Grant</td>
<td>$1,405,000</td>
</tr>
</tbody>
</table>

Project Schedule:
See Attachment

C. SOURCES OF FUNDS:

Note: Public sources of financing require the participation of a Bank and/or an injection of equity (non-debt) funds.

Participating Lender Information:

Name of Lending Institution: Pinnacle Bank
Address: 35 W 6th St
Contact Person: Scott Master
Phone: (402) 941-8603

Loan Amount: $600,000
Loan Term: (Yrs.) 10
Interest Rate: 4.75% × Variable
Collateral Required: All equipment, all furniture
Equity Required: $150,000

Equity Information:

Amount available from business or owners for investment: $150,000
Source of owner's equity into project: Personal and private investors
D. ATTACH THE FOLLOWING: (Items 8-13 shall be considered confidential)

(1) Brief description of the business' history.  
Start-up Brewery. See attached presentation and business plan.

(2) Brief description of the proposed project. Has any part of this project been started?  
Yes  X  No  
See attached presentation and business plan.

(3) Description of Impact of Project on Applicant and Community: See attached presentation and business plan.

(4) Have you ever declared bankruptcy?  X  No  Yes  If yes, Bankruptcy Chapter  
Case #:  Date of Discharge  

(5) Are there any unsatisfied judgments against you?  X  No  Yes  
Amount per month  To Whom

(6) Have you defaulted on any previous loan?  X  No  Yes  Give details

(7) Are you a party to a lawsuit?  X  No  Yes  Give details

(8) 3-Year historical balance sheets and operating statements. Current statements less than 90 days old. (Existing Businesses Only). Provide the following and reconcile to current balance sheet:  
- Aging of Accounts Payable and Accounts Receivable.  
- List of current obligations.

(9) X Personal Financial Statement and resumes for each person owning 20% or more of the business.

(10) X Credit Report from Credit Reporting Agency. Contact your bank for information.

(11) X Monthly cash flow analysis for the next 12 months and for new businesses, 3 months beyond the breakeven point.

(12) X Indemnification Agreement

(13) X Tax Returns for the last two years
Once all documents have been received, the City of Fremont staff will review the application to determine if it meets the Local Option Economic Development Plan Fund or Economic Enhancement Loan Fund eligibility requirements. If eligible, a meeting will be scheduled with you.

The above information is accurate to the best of my knowledge and belief. The above information is provided to help you evaluate the feasibility of obtaining public financial assistance. I understand that pages 1-3 of this application are public information and are subject to public disclosure during the application process.

Dated: October 11, 2019  
Signature: [Signature]
PROFESSIONAL EXPERIENCE

November, 2014 – Present Director of Manufacturing, Timpte, Inc., David City, NE
Responsibilities:
- Responsible for operations, continuous improvement, quality assurance, training, manufacturing engineering, material handling and maintenance. This includes 6 direct reports and 320+ hourly people.
- Improved culture to incorporate servant leadership.
- Created and implemented training and development programs for our supervisors and team leaders.
- Member of Timpte’s wellness committee and current Vice President.
- Leader of our Timpte Production System team and continuous improvement efforts. Focus areas are optimizing entire plant layout, material presentation, leadership structure and training to these concepts.
- Member of business operating system improvement team.
- Manage capital investment budget of $2.5 million or greater annually. Created process to ensure ROI is met for these projects.
- Implemented a shop floor computer system (Thrive) to track, communicate and improve data flow within our operations. This includes hour by hour, goal boards, TPM/PM, IIR, project management and quality inspections.
- Awarded our first annual Tom Gamel Innovation Award for innovating our plant layout and manufacturing practices.
- Helping manage current David City campus upgrades. Direct responsibility of manufacturing facility addition and office renovation.

May, 2011-November, 2014 Area Leader, Lincoln Industries, Lincoln, NE
Responsibilities:
- Responsible for operations in our offsite fabrication facility and two plating lines in our main plant.
- Direct responsibility of 4 team leaders, 1 quality technician, 1 engineer and 2 specialists. Hourly head count between 40 and 60 people.
- Took leading role in our cross functional leadership development team (PPAT). This team was hand chosen by our senior team and was a yearlong commitment. We realized over $250k in savings outside of our daily responsibilities. We also grew in areas of leadership, community, and wellness.
- Helped develop and train our people to practice servant leadership.
- Member of a strategic leadership team focused on sustaining our culture through rapid growth.
- Responsible for creating and meeting a business case for a $1.5 million new tube bender.

February, 2009-May, 2011 1st Shift Production Manager, Pella Corporation, Murray, KY
Responsibilities:
- Managed 3-5 exempt Department Managers and responsible for 125+ hourly team members.
- Created roadmap to achieve desired results in safety, quality and productivity.
- Made hiring decisions for both exempt and hourly team members.
- Provided direction for continuous improvement activities and strategy for future growth.
- Developed experienced Department Managers.
- Created a positive working environment for all employees through servant leadership.

Accomplishments:
- Achieved Pella Continuous Improvement Team Leader certification.
- Delivered the highest contribution margin among all Pella plants and divisions.
- Awarded an exemplary bonus from senior management for leadership provided.
- Led a Kaizen event that reduced painted inventory 93% by eliminating batch processing.
- Provided leadership that exceeded targets in material yield and labor efficiency.
- Created a positive environment focused on working as a team.
April, 2006-February, 2009  
**3rd Shift Production Manager**, Pella Corporation, Murray, KY

**Responsibilities:**
- Managed 2-4 exempt Department Managers and responsible for 100+ hourly team members.
- Led 3rd shift team to make decisions that drove positive results in our key metrics.
- Coached and mentored new department managers to become successful leaders.
- Made decisions for 3rd shift in all areas of business.
- Created a positive working environment for all employees.

**Accomplishments:**
- Delivered positive results in our key metrics to become a viable business for Pella Corporation.
- Implemented a department manager and lead exchange program with our vinyl team on third shift to assist in the growth of team leaders.
- Coached and mentored third shift department managers on understanding lean principles, the Pella culture and what it takes to be successful as a department manager.
- Assisted in the implementation of a Gemba walk.
- Implemented point Kaizen process to educate team members on how to make daily improvements.
- Led a team focused on implementing and improving processes to reduce resin scrap.

May, 2004-April, 2006  
**Department Manager**, Pella Corporation, Pella, IA

**Responsibilities:**
- Made sure all team members adhered to safety standards and provided each employee with a safe working environment.
- Ensured all quality standards were being met on a daily basis. Monitored quality alerts to find trends in defects and implemented projects to reduce the returns.
- Managed standard work and standard work in process to ensure customer needs were met.
- Motivated employees to reach their goals on a daily basis.
- Oversaw department budget for both labor and non-labor spending. Assisted upper management in making decisions for our department’s budget.
- Mentored counterpart to ensure teamwork and cooperation was achieved between shifts to best meet customer needs.

**Accomplishments:**
- Assisted in the development of my line lead to a department manager.
- Successfully implemented a MDI process on both 1st and 2nd shift.
- Led a cross plant MDI team that improved first pass yield on the paint line by 3.91%.
- Led a safety and ergonomics team for the plant.
- Mentored all new department managers through a plant services overview.

**COMMUNITY INVolVEMENT:**
- Member of St. John’s School Education Board in Seward, NE
- Coach for youth sports
- Volunteer for We Got Next Foundation in Sioux City, IA

**EDUCATION**
Wayne State College, Wayne, Nebraska  
Bachelor of Science in Business Administration, May 2004  
Concentrations: Business Management and Human Resource Management  
GPA: 3.5

**Accomplishments:**
- Wayne State College Dean’s List
- WSC Varsity Basketball Team, Captain
- Academic All-Conference, Basketball
- Blue Key National Honor Fraternity, President (2004), Vice President (2003)
# Work Experience

**Lincoln Industries** April 2011- Present  
**Process Manager, Operations**

**Responsibilities**
- Leadership of process control team members
- Management and control of key process input/output variables
- Root cause analysis and corrective action implementation
- Management of area chemistry utilization and budgetary metrics
- Management of area tooling/fixture budgetary metrics
- Scheduling and control of solution maintenance
- Development and implementation of improvements to processes and process control systems
- Integration of new business

**Accomplishments**
- Design, construction and implementation of paperless process data collection system
- Development of process laboratory standard work and procedures
- Kaizen to eliminate electroplating delamination resulting in 98.9% reduction in defect occurrence
- Kaizen for fabrication cleaning processes resulting in standards for testing, control and process procedures
- Kaizen for value stream handling reduction resulting in 60% reduction in defect occurrence
- Developed and implemented improvements to Jigs and Fixtures resulting in 50% annual cost reduction
- Developed and implemented SPC system for line level input variables resulting in overall reduction in RPN values of 50%
- Created and implemented throughput based chemical solutions controls

**Empyrean Brewing Company** August 1999-April 2011  
**Brewer/ Production Supervisor**

**Responsibilities**
- Daily management of brewery production, oversight of process and leadership of team members. Major areas of focus include: Wort Production, Fermentation and Cellaring, Packaging, Materials Handling and Quality Assurance.
- Engineering of new control/production systems, fabrication, installation, programming, refurbishment/ preventative maintenance and repair of all essential brewery mechanical/electro-mechanical systems.
- Implementation and control of Process control systems pertaining to bio-mechanical, fluid systems, chemical and biochemical Processes.
- Control of standard lab practices and quality assurance/root cause analysis. Implementation and control of standard work and procedure systems.
- Regional Consultant for Brewery cellaring and product stabilization improvements.

**Accomplishments**
- Implementation of standard work and process control procedures for brewery systems.
- Development of method for Brewhouse wort extraction/chemical conversion responsible for 35% reduction in processing time and 10% increase in Brewhouse yield efficiency.
- Development, design, construction and implementation of production packaging systems responsible for 33% increase in production output efficiency.
- Design and installation of 19 local and regional draft systems.
- Development of standard cost models for chemistry, labor and raw materials.
- Digitization of process control documents and records

---

**Proficiencies**
- MS Office, MS Access, Adobe Illustrator, Solid Works, AutoCAD, AutoSketch, Minitab, InfinityQS, Navision, SharePoint, TrueChem

**Education and Certifications**
- Certification in Brewing and malting Science  
  Master Brewers Association of America, University of Wisconsin, Madison
- Bachelors of Fine Arts/ Bachelors in Education  
  University of Nebraska, Lincoln, (Junior, 3.5 GPA),
- Draft Management, installation and design, Siebel institute of Brewing Science, Chicago, IL
- Certified Six Sigma Black Belt, Harley Davidson Motor Company/Lincoln Industries
505 Brewing Company Business Plan

Tim Gesell, Owner
Shawn Morrow, Owner/Head Brewer
Executive Summary

505 Brewing Company is a start-up microbrewery targeting the 505 Main Street building as its home in downtown Fremont, NE. We have a passion for great beer and seeing downtown markets flourish. Our vision is to be Fremont’s brand, Nebraska’s brewery. Our mission is to build off of the German beer purity law of water, malt, hops and yeast while adding three more critical ingredients: Art, passion, and community.

We plan to partner with a Lincoln, NE based brewing equipment manufacturer. This will bring the best equipment in the area to our brewery. This will allow us to offer the best in quality products. The byproduct and benefit of the brewing process is our grain can be given to local farmers for their livestock.

Our products will be our core brews, specialty/seasonal brews, guest taps from local breweries, Nebraska spirits, and wine. Our non-alcoholic offerings will be our own root beer and cream soda. We plan to offer food through a partnership with the restaurant on the main level or area food trucks.

Our plan in year one is to target local marketing and growth in our tap house along with local establishments. We want to build our brand in Fremont and engage the community to make our brewery theirs. In year two we plan on installing a canning line and branch out to distribution all around the state of Nebraska. The sky is the limit from there.

Products

505 Brewing Company will have four core brews:

- Saison – Belgian golden ale. Fruity, spicy flavor and aroma with a crisp finish.
- American IPA – American take on the traditional India pale ale. Hop forward, citrus flavor and aroma with a crisp dry finish
- Pale Ale – Well balanced, golden in color and steeped with American hops.

Specialty/seasonal brews

Root Beer and Cream Soda made in house

Other:

- Other local brewery guest handles
- Nebraska spirits
- Wine
- 505 Brewing Company apparel and logo product
Market Analysis Summary

Overall U.S. beer volume sales were down 1% in 2018, whereas craft brewer sales continued to grow through year end at a rate of 4% by volume, reaching 13.2% of the U.S. beer market by volume. Craft production grew the most for microbreweries. Retail dollar sales of craft increased 7%, up to $27.6 billion, and now account for more than 24% of the $114.2 billion U.S. beer market. Now three quarters of the way through 2019, projected at-the-brewery sales growth estimates are slated to close out the year at 13% (about 400,000 barrels), to as much as 3.5 million barrels in 2019. Of this total growth, 4.5% is due to new products released or launched in 2019.

Currently Fremont has over 26,000 people and is in close proximity to Omaha and Lincoln markets. This makes Fremont a prime location for market success.

Sales Strategy, marketing and Forecast

505 Brewing Company plans to establish itself to the local market by primarily focusing on tap room sales and growth in year one. We also plan to market and sell products to local establishments. Our focus will be on engaging the community and generate excitement over our brand to make it Fremont’s own. We plan to get involved in as many activities and events around Fremont as possible. Creating an experience through our brewing and tap house.

Marketing will rely heavily on engagement with the Fremont business community and the Fremont public at large. Partnerships, special events, product sharing, product raffles, “Mug” clubs, limited releases and locally sourced ingredients and goods are at the heart of the outreach to both other local business and the community. Our plan will be to carry both a strong physical presence in the city and also rely heavily on digital outlets and social media. The goal is to draw both digital and physical traffic to our brand and to downtown.

Starting in year two we plan to install a new canning line and branch out further in to distribution. This will allow us to make a presence across Nebraska and beyond. The plan is to be available in local/regional bars as well as retail outlets, such as local markets and corner stores. We will also aim to distribute through supermarkets, but we envision getting shelf space in national supermarkets will be more difficult and more expensive.
The following is the sales forecast for the next three years.

**Management Summary**

The following is the management summary for 505 Brewing Company:

- Tim Gesell – Owner – Will manage financials of the business.
- Shawn Morrow – Owner/Head Brewer – Will manage the day to day operations and is responsible for market growth.
Personnel Plan

505 Brewing Company's personnel plan is as follows:

<table>
<thead>
<tr>
<th>Position</th>
<th>Year 1 Total</th>
<th>Year 2 Total</th>
<th>Year 3 Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Head Brewer</td>
<td>$ 80,000.00</td>
<td>$ 80,000.00</td>
<td>$ 80,000.00</td>
</tr>
<tr>
<td>Brewing Assistant-1</td>
<td>$ -</td>
<td>$ 20,000.00</td>
<td>$ 35,000.00</td>
</tr>
<tr>
<td>Front Of House Manager</td>
<td>$ -</td>
<td>$ 31,800.00</td>
<td>$ 32,754.00</td>
</tr>
<tr>
<td>Tap Staff 1</td>
<td>$ 19,992.00</td>
<td>$ 20,600.00</td>
<td>$ 22,200.00</td>
</tr>
<tr>
<td>Tap Staff 2</td>
<td>$ 19,992.00</td>
<td>$ 20,600.00</td>
<td>$ 22,200.00</td>
</tr>
<tr>
<td>Wait staff-group</td>
<td>$ 14,000.00</td>
<td>$ 14,420.00</td>
<td>$ 14,852.00</td>
</tr>
<tr>
<td>Wait staff-group</td>
<td>$ 14,000.00</td>
<td>$ 14,420.00</td>
<td>$ 14,852.00</td>
</tr>
<tr>
<td>Wait staff-group</td>
<td>$ 14,000.00</td>
<td>$ 14,420.00</td>
<td>$ 14,852.00</td>
</tr>
<tr>
<td>Wait staff-group</td>
<td>$ 14,000.00</td>
<td>$ 14,420.00</td>
<td>$ 14,852.00</td>
</tr>
<tr>
<td>Brewing Assistant-2 (0.33)</td>
<td>$ -</td>
<td>$ -</td>
<td>$ 31,800.00</td>
</tr>
</tbody>
</table>

Total Personnel Costs $175,984.00 $230,680.00 $283,362.00

Financial Plan

The following is the financial plan for 505 Brewing Company:
Payback Summary
On $1,250,000 Initial Investment

-1400000
-1200000
-1000000
-800000
-600000
-400000
-200000
0
200000
400000
600000
800000
1000000
1200000
1400000

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25 26

Monthly Net Earnings
Monthly Cash Flow
505 Brewing Company

Tim Gesell - Owner
Shawn Morrow - Owner/Head Brewer
November 12, 2019
Here We Grow!

Agenda:

- Introductions
- Why a Brewery?
- Business Case: 505 Brewing Company
- Financial Ask
- Questions?
Why a Brewery?

It creates a catalyst to generate excitement and downtown growth

- “Craft breweries are on an impressive upswing in Nebraska, contributing $465 million annually to the state’s economy and contributing jobs at a faster clip than for the manufacturing sector as a whole. It is important to understand the contributions this growing business sector is making on the economy, community vitality and Nebraska tourism.”
  - Source: Omaha World Herald

- Toppling Goliath - Beer Release Events: “The events are big business in Decorah, too. The brewery estimates its release events add about $1 million to the local economy, including money spent at the brewery, and on food, gas, lodging, and other shopping.”
  - Source: Des Moines Register

- Michael Sothan - Executive Director Main Street in Beatrice: “Our brewery has had a very positive impact. It has increased foot traffic, increased bike traffic, has spun off several new shops, and makes downtown more of a destination. It has provided for fun partnerships for us and them and fellow businesses. They have become a gathering places.”
  - Source: Cortney Schaefer

- Haymarket - Empyrean Brewing Company - Shawn Morrow

• Editorial Staff (2019), ‘Craft breweries open up new opportunities for Nebraska communities’, Omaha World Herald, July 18, 2019
• Austin Cannon, ‘How Iowa’s Toppling Goliath Became a Must-Stop Destination for Craft Beer Fanatics’, Des Moines Register, August 27, 2019
• Cortney Schaefer provided quote from Michael Sothan - Executive Director Main Street Beatrice, September 9, 2019
Business Plan: 505 Brewing Company

Key piece of the 505 Main Street Revitalization Project
Historical Renovation
Business Plan: 505 Brewing Company

- Drives tourism and downtown growth
- Projected revenue of $1.2 million in Year 1
  - Increasing to $2.5 million in Year 3
- Creates 10 above average paying positions with benefits
  - 5 full-time and 5 part-time
- Partner and collaborate with local businesses
- Engagement in the community

Product Offerings

- 505 Brewing Company Beer
- Guest taps from other Nebraska breweries
- Select wine
- Non-alcoholic beverages
- Food from main level restaurant
- Local Food Trucks
Business Case: 505 Brewing Company

- Total proposed investment: $1.25 million
- Breakeven point on investment: 24 months
Financial Ask

- $165,000 Grant
  - 5 full-time positions
  - 5 part-time positions
  - Increased tax revenue for city

- Profits to be given back to employees and invest in future projects for 505 Brewing Company and the downtown Fremont revitalization efforts
Questions?
RESOLUTION NO. 2019-240

A Resolution of the City Council of the City of Fremont, Nebraska approving a Local Option Economic Development Loan for $165,000 to 505 Brewing Company, LLC, authorizing staff to negotiate a loan agreement, and authorizing the Mayor to sign the appropriate loan transactions.

WHEREAS, the City of Fremont, Nebraska, has economic development funds in the form of Local Option Economic Development Plan for the purpose of attracting new industries and retaining or expanding existing businesses in Fremont; and,

WHEREAS, 505 Brewing Company, LLC has made an application for $165,000 to the Local Option Economic Development Fund; and,

WHEREAS, approval is subject to an agreement for a 5-year performance-based forgivable loan with applicable conditions outlined in the loan agreement.

NOW, THEREFORE BE IT RESOLVED, the Mayor and City Council of the City of Fremont approving a Local Option Economic Development Loan for $165,000 to 505 Brewing Company, LLC, authorizing staff to negotiate a loan agreement, and authorizing the Mayor to sign the appropriate loan transactions as approved by the City Attorney.

PASSED AND APPROVED THIS 12th DAY OF NOVEMBER, 2019.

__________________________________
Scott Getzschman, Mayor

ATTEST:

____________________________
Tyler Ficken, City Clerk
STAFF REPORT

TO: Honorable Mayor and City Council
FROM: Lottie Mitchell, Grant Coordinator/Executive Assistant
DATE: November 12, 2019
SUBJECT: Establish PACE (Property Assessed Clean Energy) District

Recommendation: Introduce and hold first reading of Ordinance No. 5517 to establish a PACE District

Background: Property Assessed Clean Energy (PACE) is a development tool that serves public purposes by upgrading building performance that among other things improves energy efficiency and water conservation by providing an alternative financing method. PACE financing is repaid through annual assessments on the benefited property. The City has no financial obligation.

Chris Peterson of PACE Sage Capital delivered a presentation on the PACE program at the October 1, 2019 Study Session. Staff is following up on that presentation with the necessary implementation materials to establish such a program in Fremont. A proposed ordinance and other documents are presented for this purpose.

Fiscal Impact: None
PACE FINANCING FOR COMMERCIAL REAL ESTATE
PACE: Property Assessed Clean Energy

• Commercial Real Estate Financing for Energy Efficiency, Water Conservation & Renewable Energy Systems

• Long Term (20-30 years)

• Fixed Rates, Non-Recourse

• Secured by Annual Assessments on the Property (reason why states and cities are involved)

• No Public Funds At-Risk; No City or Taxpayer Liability
WHAT IS PACE FINANCING?

- Financing tool approved in 36 states, Washington, D.C.
- 20 active state programs, 6 states in-development
PACE in Nebraska

• April 2016 – Legislature adopts PACE Act (LB 1012)*
• May 2017 – Omaha passes first PACE ordinance
• June 2018 – First PACE loan funded in Omaha
• August 2018 – Lincoln passes PACE ordinance
• April 2019 – First PACE loan funded in Lincoln
• August 2019 – La Vista passes PACE ordinance
PACE in Nebraska

- Largest Project: $24.9 million, Omaha Capitol District
  - 333-room Marriott hotel
  - 223-unit apartment building
  - 90,000 sf retail space

- Smallest Project: $900,000 for a car wash in Omaha

- Total PACE loans approved as of 9/27/19:
  - Ten in Omaha, Two in Lincoln; approx $45 million

- Eight hotels; others: apartments, indoor sports facility, car wash, retail
WHAT CAN PACE FINANCE?

Qualifying Energy Conservation Measures:
Energy Efficiency, Water Conservation, and Renewable Energy Systems

- Commercial Boiler
- VRF HVAC System
- LED Lighting
- Chiller
- Fume Hood
- Escalator
- Refrigeration
- Parking Lights
Pace can finance:

- Insulation
- Caulking, Weather-stripping and Air Sealing
- Water Heating Systems
- Daylighting Systems
- Energy Recovery Systems
- Cogeneration and Trigeneration
- Solar, Geothermal, & Wind
- Energy efficiency related items up to 25% of the total cost of the energy project

And more...
DEVELOPMENT SCENARIOS FOR PACE

• Redevelopment including:
  • Renovations
  • Retrofits
  • Rehabs
  • Conversions

• Owner occupied building projects

• New construction

• Non profits (YMCA's & churches)
## PACE IN THE CAPITAL STACK

<table>
<thead>
<tr>
<th>Project Financing Without PACE</th>
<th>Project Financing With PACE</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Project Cost</strong></td>
<td><strong>Project Cost</strong></td>
</tr>
<tr>
<td>100</td>
<td>100</td>
</tr>
<tr>
<td><strong>Debt</strong></td>
<td><strong>Debt</strong></td>
</tr>
<tr>
<td>70</td>
<td>70</td>
</tr>
<tr>
<td><strong>PACE</strong></td>
<td><strong>PACE</strong></td>
</tr>
<tr>
<td>20</td>
<td>20</td>
</tr>
<tr>
<td><strong>Equity</strong></td>
<td><strong>Equity</strong></td>
</tr>
<tr>
<td>30</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>Total</strong></td>
</tr>
<tr>
<td>100</td>
<td>100</td>
</tr>
</tbody>
</table>
PACE – AN ALTERNATIVE SOURCE OF EQUITY

• Cost of PACE Equity: 5.25% - 6.25% (Sept 2019)

• Cost of Investor Equity: 8% - 14%
**BENEFITS OF PACE**

- Available through project completion in Nebraska (in many states up to 36 months beyond completion)

- PACE can fund 100% of the Energy Efficiency, Water Conservation & Renewable Energy System related improvements of a Project, up to a maximum of 20% - 30% of the property’s “Value at Completion”

- Typically $500k* to $20 Million plus for a single PACE loan

- No lengthy public approval process (45 – 90 days from application to closing)

*less than $500k for some qualifying projects*
In every Commercial PACE transaction, existing lienholders (typically a bank) are asked to provide Acknowledgment, Consent and Subordination to PACE liens.

In Nebraska PACE liens are ONLY triggered when a borrower misses a payment; even then it’s only the missed payment that becomes a lien. PACE loans never accelerate.

First National Bank of Omaha, Great Western Bank, Union Bank, Five Points Bank, and Pinnacle Bank have consented in Nebraska.
ENERGY ENGINEERING – TO QUALIFY A PACE PROJECT

**Project Details** *Submit separate sheet if necessary*

<table>
<thead>
<tr>
<th>Measure #</th>
<th>Description /Specification of Energy Measure</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1</td>
<td>Parking Lot Lighting Retrofit: replacement of 22 existing 400w MH fixtures with new 235w LED fixtures.</td>
</tr>
<tr>
<td>#2</td>
<td>Building Exterior Lighting Retrofit: replacement of 94 existing fixtures in soffits of the building with new LED fixtures.</td>
</tr>
<tr>
<td>#3</td>
<td>Roof Replacement: replacement of approximately 97,000sf of roofing. Existing roof cores showed an estimated R-value of 8. New roof has a R-value of 25.</td>
</tr>
<tr>
<td>#4</td>
<td>Storefront Window Replacement: replacement of approximately 6000sf of existing storefront window system.</td>
</tr>
<tr>
<td>#5</td>
<td>HVAC RTU Replacements: replacement of existing rooftop units (160 tons) with high efficiency units.</td>
</tr>
<tr>
<td>#6</td>
<td>EIFS Repairs: repair and replacement of approximately 1000sf of EIFS (and insulation) around the building.</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Measure #</th>
<th>Construction Costs/Bids</th>
<th>Estimated Useful Life (yrs.)</th>
<th>Year #1 Energy Savings</th>
<th>Year #1 Maintenance &amp; Operational Savings</th>
<th>Over Term Energy Savings (specify % growth/yr.)</th>
<th>Over Term Maintenance &amp; Operational Savings (specify % growth/yr.)</th>
<th>Over Term Total Savings (Energy + O&amp;M)</th>
</tr>
</thead>
<tbody>
<tr>
<td>#1</td>
<td>$164,468</td>
<td>20</td>
<td>$954</td>
<td>$2,200</td>
<td>$32,390</td>
<td>$74,697</td>
<td>$107,087</td>
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<tr>
<td>#2</td>
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<td>$2,350</td>
<td>$19,920</td>
<td>$79,790</td>
<td>$93,710</td>
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<tr>
<td>#3</td>
<td>$684,218</td>
<td>30</td>
<td>$1,590</td>
<td>$5,000</td>
<td>$53,999</td>
<td>$169,766</td>
<td>$223,765</td>
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<tr>
<td>#4</td>
<td>$121,547</td>
<td>30</td>
<td>$1,005</td>
<td>$1,500</td>
<td>$34,111</td>
<td>$50,930</td>
<td>$85,041</td>
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<tr>
<td>#5</td>
<td>$200,000</td>
<td>20</td>
<td>$23,640</td>
<td>$1,500</td>
<td>$802,661</td>
<td>$50,930</td>
<td>$853,591</td>
</tr>
<tr>
<td>#6</td>
<td>$126,000</td>
<td>20</td>
<td>$54</td>
<td>$500</td>
<td>$1,824</td>
<td>$16,977</td>
<td>$18,800</td>
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<tr>
<td><strong>Total</strong></td>
<td><strong>$1,304,796</strong></td>
<td></td>
<td><strong>$27,653</strong></td>
<td><strong>$13,050</strong></td>
<td><strong>$938,904</strong></td>
<td><strong>$443,090</strong></td>
<td><strong>$1,381,994</strong></td>
</tr>
</tbody>
</table>

Estimated total energy savings (in kBtu, kwh or therms) | **Electricity = 305,973kWh; Gas = 3,175Mcf**
ENERGY ENGINEERING – TO QUALIFY A PACE PROJECT

About half of the states with active PACE programs do not require PACE projects to meet a Savings to Investment Ratio (SIR). Nebraska’s PACE law includes an SIR standard but to prevent the SIR from disqualifying otherwise worthy projects, LB23 (2019) allows the SIR standard to be waived by the PACE program administrator.

From the Nebraska PACE Act: LB23 (2019)

…there are sufficient resources to complete the energy project and that the energy project creates an estimated economic benefit, including, but not limited to, energy and water cost savings, maintenance cost savings, and other property operating savings expected from the energy project during the financing period, which is equal to or greater than the principal cost of the energy project. The estimated economic benefit may be derived from federal, state or third-party energy certifications or from standards of energy or water savings associated with a particular energy efficiency improvement or set of energy efficiency improvements. A municipality may waive the requirements of this subdivision upon request of the owner of the qualifying property, and, if such request is denied, the owner may appeal the denial …
PACE Program Approval and Administration

- Adopt PACE ordinance and designate PACE administrator
- Publish PACE program guide incl application & fee schedule
- Accept PACE applications including application fee
- Review and approve/deny application
- Issue letter of qualification
- Review, approve and sign PACE assessment contract
- City receives administrative fee at PACE loan closing
- Third-party confirms installation of qualifying measures
- City receives annual fee for program admin; annual report
- City responsible for filing lien if default (missed payment)
Why do Cities adopt PACE?

• An Existing or New Business Owner or Developer wants to Use PACE Financing

• No Public Funds At-Risk; No City or Taxpayer Liability

• Gives Commercial Real Estate owners & developers another tool to help finance new construction or upgrade existing buildings

• Adds Another Economic Development Tool to the Tool Box (today Iowa and Kansas do NOT have PACE laws)
Questions?

Chris Peterson  
Managing Partner, Nebraska  
PACE Sage Capital, LLC  
1327 H Street, Suite 303  
Lincoln, NE  68508  
Cell:  402.470.7294  
chris@pacesage.com  
www.pacesage.com
SUMMARY

Property Assessed Clean Energy, or PACE, is a financing tool enabling development of clean energy projects and energy efficient buildings and operations. Nebraska State Law (Nebraska Revised Statute Sections 13-3203 and 13-3204(3)) allows for the creation of Clean Energy Districts and defines PACE-eligible projects. City of Fremont Ordinance No. ______ passed by the Fremont City Council on ________ __, 2019 created the Fremont PACE District (FPD) and provides further requirements for implementation of a PACE program in Fremont. The City Ordinance also directs the Grant Coordinator of the City as the District Administrator (or his/her designee) to create a program manual that describes the application process, eligibility and other relevant program guidance. This FPD Program Manual was created to satisfy that requirement.

The State law and the City ordinance provide the minimum requirements for a PACE application and project, as well as the circumstances under which an application or project will not be eligible for PACE financing. This program manual provides guidance for the program and clarification on topics not specifically addressed by either the State Law or City ordinance.

The intent of this program is to incentivize the reduction of energy, water, wastewater and solid waste usage/generation in our community. The City of Fremont views PACE as a tool to encourage developers and property owners to go beyond the requirements of energy and building codes to achieve meaningful reductions in energy and water use and waste generation.

Terminology

It should be noted that references to “energy project”, “energy efficiency” or “energy savings” throughout this document are intended to include projects, efficiencies and savings associated with energy, water, wastewater, solid waste, storm water or other eligible utility projects or equipment under the FPD program consistent with this section.

Boundaries of the FPD

Currently, only qualifying projects located within the Fremont city limits are eligible for PACE financing. Other local government jurisdictions within the State of Nebraska may join the FPD upon establishment of an inter-local agreement.

Eligible Property Types

Although State Law allows for commercial, industrial, residential, and agricultural projects to be eligible for PACE; at this time, the City ordinance and the FPD program only allows for commercial (including multifamily residential property comprised of more than four dwelling units) and industrial PACE projects.

Eligible Project Types

Projects including new construction and the rehabilitation of existing buildings and operations are eligible for PACE financing in the FPD. The types of project improvements eligible for PACE financing within the FPD include, but are not limited to the following:
(a) Insulation in walls, roofs, floors, foundations, or heating and cooling distribution systems;

(b) Storm windows and doors; multi-glazed windows and doors; heat absorbing or heat-reflective glazed and coated window and door systems; and additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;

(c) Automated energy control systems;

(d) Heating, ventilating, or air conditioning and distribution system modifications or replacements;

(e) Caulking, weather-stripping, and air sealing;

(f) Replacement or modification of lighting fixtures to reduce the energy use of the lighting system;

(g) Energy recovery systems, including but not limited to, cogeneration and trigeneration systems;

(h) Daylighting systems;

(i) Installation or upgrade of electrical wiring or outlets to charge a motor vehicle that is fully or partially powered by electricity;

(j) Facilities providing for water conservation or pollutant control;

(k) Roofs designed to reduce energy consumption or support additional loads necessitated by other energy efficiency improvements;

(l) Installation of energy-efficient fixtures, including, but not limited to, water heating systems, escalators, and elevators;

(m) Energy efficiency related items (i.e. demolition/drywall replacement, etc. incident to efficiency equipment or material installation) so long as the cost of the energy efficiency related items financed does not exceed twenty-five percent (25%) of the total cost of the energy;

(n) Waste recycling systems and support equipment;

(o) Any other installation or modification of equipment, devices, or materials approved as a utility cost-saving measure by the municipality;

(p) Renewable energy systems including but not limited to the following:

  (i) Nonhazardous biomass;

  (ii) Solar and solar thermal energy;

  (iii) Wind energy;

  (iv) Geothermal energy;

  (v) Methane gas captured from a landfill or elsewhere; and

  (vi) Photovoltaic systems;

  (vii) Renewable energy system does not include an incinerator;
(viii) Renewable energy resource does not include petroleum, nuclear power, natural gas, coal, or hazardous biomass.

**Timing and Eligibility**

While applicants are encouraged to submit an application to the FPD PACE program prior to or concurrently with the application for a building permit, the City will accept PACE applications for projects with an open building permit and/or not having received a final certificate of occupancy. PACE applications and instructions are available at [www.fremontne.gov](http://www.fremontne.gov) and are included in this manual as Attachment 1. Building permit applications and instructions are also available at: [www.fremontne.gov](http://www.fremontne.gov).

**Annual Assessment and Average Weighted Useful Life**

Section 13-3203 (1) of the State law requires an “agreement to pay an annual assessment for a period not to exceed the weighted average useful life of the energy project.” The weighted average useful life includes only physical improvements to a property for which an average useful life may be calculated. Furthermore, the improvement must qualify as an energy efficiency improvement under Section 13-3203(3) of the Nebraska State law or other eligible improvement listed under “Eligible Project Types” (above).

**Eligible Costs**

Section 13-3205(1) of the State law states “the costs financed under the assessment contract may include the cost of materials and labor necessary for installation, permit fees, inspection fees, application and administrative fees, bank fees, and all other fees incurred by the owner pursuant to the installation.”

**Savings to Investment Ratio (“SIR”)**

Nebraska State Law requires the savings realized by an energy project to equal or exceed the principal cost of the energy project. Therefore, an SIR of 1.0 or greater is required for all energy projects. The SIR is generally calculated by dividing the projected energy savings for the life of the improvements by the cost of the eligible energy efficiency improvements. When calculating the SIR, the SIR for individual discrete components of the project for which PACE funding is being requested must be provided. The City’s approval will be based on the total SIR for the entire project meeting an SIR of 1.0 or greater.

Applicants should include estimated operations and maintenance costs, and projected increases (escalations) in the cost of energy use, in the calculations.

The applicable City official will evaluate the methodology used to determine the energy savings calculations. At this time, the City does not favor one methodology over another. However, please include in the application an explanation of the methodology used to determine the SIR. The City may prescribe a methodology at a future date.

Applicants may request a waiver of the estimated economic benefit requirement and must submit a rationale for this request along with the application, if they choose to do so. The District Administrator may grant or deny the applicant’s request for a waiver.

**Energy Projects and Building Codes**

The City requires an energy project to meet all relevant energy and building codes. However, for new construction, only aspects of the energy project that exceed energy and building codes are eligible for PACE financing in the FPD. Nebraska energy codes are presented at [http://www.neo.ne.gov/home_const/iecc/iecc_codes.htm](http://www.neo.ne.gov/home_const/iecc/iecc_codes.htm).

Costs associated with building to these requirements are eligible under the FPD with the exception of new construction which is required to exceed such requirements as referenced above. In both new construction
and rehabilitation projects, an engineer must demonstrate that the savings generated by the energy project will exceed the cost of the energy project through the life of the PACE loan, as required by State law for loans of $250,000 or greater.

**Verification of Completed Energy Project**

Section 13-3204(m) of the Nebraska State Law requires the municipality to obtain verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended. To meet these criteria, City Inspectors must sign off on components of the project for which they have jurisdiction. Additionally, a professional engineer licensed in the State of Nebraska must provide a letter to the applicable City official stating the systems or improvements were properly installed and are operating as intended.

**Funding Level and Fees**

The FPD fee structure is summarized in the following table:

<table>
<thead>
<tr>
<th>Application Fee</th>
<th>Administrative Fee</th>
<th>Annual Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,000.00</td>
<td>1% of loan not to exceed $40,000</td>
<td>$500.00</td>
</tr>
</tbody>
</table>

The application fee is collected at the time of application. This fee is not refundable.

An administrative fee is due upon approval of the PACE project. The administrative fee shall be subject to a 50% reduction for a project requiring submission of Tax Increment Financing (TIF) fees.

The annual administrative fee will be collected throughout the life of the loan.

**FPD Application Instructions**

The City’s PACE application is included in this manual as Attachment 1 and is also located at the following web address: [www.fremontne.gov](http://www.fremontne.gov), along with other PACE-related resources.

Your completed applications should be submitted to:

Lottie Mitchell  
Grant Coordinator  
City of Fremont  
400 E Military Ave  
Fremont, NE 68025  
Lottie.mitchell@fremontne.gov  
(402) 727-2630

Applicants should, as best as they can, provide responses to questions within the application form, rather than relying on attachments. Attachments providing supporting data, drawings, and calculations are acceptable.

**Provided below is clarification for specific sections of the application.**

**Project Details**

Please describe the entire project, not just PACE components of the project. Please include drawings, maps, and photographs, when appropriate.

**Financing Details**
Applicants may add rows to the tables provided in this section.

A Professional Engineer licensed in Nebraska is required to determine/approve the energy savings calculations for Class I applications.

**Other Topics**

**Applying for both PACE and TIF**

If the property owner is applying for PACE and TIF funding, applicants should indicate as such on the application.

**Who reviews the applications?**

The District Administrator, the District Administrator’s representative or a designated third party administrator will review the applications. Please direct inquiries and submit your application to: Lottie.mitchell@fremontne.gov.

**Who approves the applications?**

The City/FPD has established a seven (7) member PACE Review Committee appointed by the Mayor. The Committee makes a recommendation to the District Administrator to approve or disapprove the applications or may request additional information from the applicant. The District Administrator will approve or disapprove the application based upon recommendations of the Committee and will provide a letter to the applicant with the decision.
PACE ASSESSMENT CONTRACT

THIS PACE ASSESSMENT CONTRACT (this "Contract"), is made and entered into this ______ day of __________________, 20____(the “Effective Date”) by and among THE CITY OF FREMONT, a Nebraska municipal corporation, ("City"), which created THE FREMONT PACE DISTRICT, a clean energy assessment district pursuant to Ordinance No. ______ ("FPD"), ______, a ________________ ("Lender"), and ________________, a ________________("Property Owner"), and is made a part of that certain Construction Loan Agreement dated as of the same date made by and between Lender and Property Owner, such Construction Loan Agreement hereafter referred to as the “Loan Agreement.”

W I T N E S S E T H:

WHEREAS, Property Owner is the owner of certain real property located at ___________________________ in the City (as further described on Exhibit A attached hereto, the “Property”);

WHEREAS, the City has adopted Ordinance No. ______, which is incorporated herein by this reference (the “Ordinance”), by which the City created a clean energy assessment district comprised of all areas within the City, pursuant to Nebraska Revised Statute § 13-3201 to 13-3211, inclusive, and known as the “Property Assessed Clean Energy Act,” (the “Act”) and provides for repayment of financed costs through annual assessments pursuant to assessment contracts entered into with property owners and third party lenders;

WHEREAS, Property Owner has obtained and recorded in the office of Register of Deeds of Dodge County the acknowledged and verified written consent and subordination agreement required by Neb. Rev. Stat. § 13-3205(2)(a) of all persons or entities that currently hold mortgage liens or deeds of trust on the Property, if any, to the Loan, as herein defined in this Contract, and represents to the City that all applicable requirements and conditions of Neb. Rev. Stat. § 13-3205(2) have been satisfied;

WHEREAS, Property Owner intends to make energy efficiency improvements (as such term is used in Neb. Rev. Stat. §13-3203(3) of the Act) at the Property, as described on Exhibit B attached hereto and including the information required by Neb. Rev. Stat. § 13-3203(3)(a) (the “Project”);

WHEREAS, Lender has agreed to make a loan to Property Owner in the amount of $_________ (the “Loan”), the proceeds of which will be used to fund the implementation of the Project, and the repayment of which will be made from PACE special assessments levied on the Property pursuant to the Act and this Contract;

WHEREAS, City has agreed to direct the Dodge County Treasurer to levy special assessments, collect or cause the collection of the special assessments, record such special assessments as a lien on the Property, as allowed by the Act, and remit payments on such special assessments to Lender to be applied to pay down the Loan, all as more particularly set forth herein;

WHEREAS, City is authorized to enter into this Contract pursuant to the Act.

NOW, THEREFORE, for and in consideration of the making of the Loan and the financing and collection arrangements between Lender, Property Owner and City, and other good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, Lender, Property Owner and City agree as follows:
1. **Defined Terms.** The words and phrases as specifically defined in Neb. Rev. Stat. § 13-3203, as amended, or in the Ordinance shall have their defined meanings. The following capitalized terms used in this Contract shall have the meanings defined or referenced below or in the Recitals above:

   “**Bi-Annual Installment**” means the portion of the Loan Amount that is due in a particular year as more fully described in Sections 2 and 5 hereof and shown on **Exhibit C**, as may be increased by the County Treasurer Fee, if applicable, pursuant to Section 5(a).

   “**County Treasurer**” means the office of the Dodge County Treasurer.

   “**Register of Deeds**” means the office of the Register of Deeds for Dodge County.

   “**Lender Parties**” shall have the meaning set forth in Section 12(a) hereof.

   “**Liabilities**” shall have the meaning set forth in Section 11(a) hereof. “**Loan**” shall have the meaning set forth in the Recitals above.

   “**Loan Amount**” means, as of any date of computation, the outstanding amount of all principal under the Note, accrued but unpaid interest and any applicable penalties, costs, fees, charges, late payment charges, default interest rate charges, prepayment premiums or administrative expenses related to the Loan, including without limitation, the administrative fees set forth in Section 14 hereof and any and all other administrative fees to be paid to County Treasurer or Lender by Property Owner in connection with the Loan.

   “**Loan Agreement**” shall have the meaning set forth in the Preamble above.

   “**Note**” shall have the meaning given such term in the Loan Agreement.

   “**PACE Special Assessments**” means the aggregate amount of all Bi-Annual Installments of the Loan Amount, which Bi-Annual Installments shall be levied as special assessments pursuant to § 13-3205(7) of the Act.

   “**City Parties**” shall have the meaning set forth in Section 11(a) hereof.

   “**Tax Year**” means the period from January 1 through the following December 31.

2. **Payments.** The Loan Amount shall be payable in Bi-Annual Installments. The Loan shall bear interest, including default interest, at the rates set forth in the Note and payments shall be due under the Note and the Loan Agreement as more fully described therein and in Section 5 of this Contract, ending upon payment in full of the Loan Amount and all other charges, fees, expenses and other amounts due under this Contract, the Loan Agreement and the Note. The amounts of the Bi-Annual Installments are based on a Loan Amount as of the date of this Contract of $_________. The Loan shall be fully amortized over the term of the Loan, and shall be repaid on the terms set forth in this Contract, the Loan Agreement and the Note. Each year during the term of this Contract, Lender shall supply City with the amount of the Bi-Annual Installment for such year by delivering a completed Lender Installment Certificate in the form attached hereto as **Exhibit D** on or before December 31 of such year. Should Lender fail to deliver a Lender Installment Certificate on or before December 31 of any year, with a copy to the Property Owner, the Bi-Annual Installment shall be presumed to be the same as the Bi-Annual Installment for the applicable year
as shown on Exhibit C, with any surplus or shortfall to be addressed by adjusting the amount of the subsequent year's Bi-Annual Installment.

3. **Consent to PACE Special Assessments.**
   (a) By entering into the Contract, City hereby agrees to enforce the PACE Special Assessments and impose the Bi-Annual Installments as special assessments pursuant to the Act in the manner specified in this Contract. Upon execution of this Contract, City will cause this Contract to be recorded against the Property in the office of the Register of Deeds.

   (b) Property Owner hereby agrees and acknowledges: (i) that Property Owner has received or will receive a special benefit by financing the Project through FPD that equals or exceeds the total amount of the PACE Special Assessments (ii) that the Property is subject to the PACE Special Assessments and consents to the levy of the Bi-Annual Installments; (iii) that Property Owner shall pay the Bi-Annual Installments when due pursuant to the terms set forth in this Contract, the Loan Agreement and the Note; and, (iv) that Bi-Annual Installments of the PACE Special Assessments are a lien on the Property as provided in the Act and the Ordinance.

4. **Term**. This Contract shall remain in full force and in effect until the Loan Amount and all other charges, fees, expenses and other amounts due under this Contract, the Loan Agreement and the Note have been paid in full.

5. **Bi-Annual Installments.**
   (a) During the term of this Contract, City expects to collect the Bi-Annual Installments with the assistance of the County Treasurer. The County Treasurer shall collect the Bi-Annual Installments and City, the Property Owner and the Lender agree that the County Treasurer may deduct from such Bi-Annual Installments a collection fee in such amount as allowed by law (the “County Treasurer Fee”).

   (b) The aggregate amount of all PACE Special Assessments shall equal the Loan Amount and any such amount as needed to pay the County Treasurer Fee, as shown on Exhibit C attached and incorporated by this reference.

   (c) Property Owner hereby agrees to pay the property tax bills and Bi-Annual Installments for the Property during the term of this Contract, which shall not exceed the weighted average useful life of the energy project, in a timely fashion so as to avoid any default or delinquency in such payment.

   (d) If Property Owner fails to pay all or part of any Bi-Annual Installment when due, the parties hereto acknowledge and agree that: (i) default interest on the unpaid amounts of the Bi-Annual Installments shall accrue in favor of Lender as set forth in the Note; (ii) such default interest shall be added to the PACE Special Assessments and shall be included as part of the Bi-Annual Installments due thereafter unless and until all such accrued and unpaid default interest is paid in full; and, (iii) such default interest shall be in addition to any and all penalties and interest that may be imposed by or accru in favor of City as a result of Property Owner’s failure to pay real estate or other property taxes or other assessments on the Property. In addition, Bi-Annual Installments shall continue to be levied as special assessments notwithstanding Property Owner’s failure to pay all or part of any past Bi-Annual Installment, such that the County Treasurer shall continue to levy Bi-Annual Installments, including default interest to be paid to Lender, until the Loan Amount, including all accrued and unpaid interest, is paid in full.

   (e) Property Owner hereby acknowledges and agrees that failure to pay any Bi-Annual Installment of the PACE Special Assessments, like failure to pay any property taxes...
pertaining to the Property, will result in penalties and interest accruing in favor of Lender on the amounts due, in addition to penalties and interest that may accrue in favor of City. In addition, City shall record a PACE lien on the Property as a result of any delinquent Bi-Annual Installments of the PACE Special Assessments. Furthermore, Property Owner agrees not to seek a compromise of any delinquent Bi-Annual Installment.

6. Loan Amount; Prepayment.
   (a) Subject to the terms and conditions in the Loan Agreement, Lender agrees to disburse to Property Owner the Loan Amount.

   (b) Property Owner may only prepay the Loan as set forth in the Construction Loan Agreement. In the event of any permitted prepayment, Lender shall certify to Property Owner and City the aggregate amount due on the Loan, including principal, interest, and fees and any prepayment premium, within thirty (30) days of receipt of a written request for prepayment from Property Owner. City shall certify to Property Owner and Lender any and all amounts collected by City and not yet remitted to Lender within fifteen (15) days of receipt of a written request for prepayment by Property Owner, as well as any administrative fees payable, but not yet collected, as of the anticipated prepayment date. To the extent that City has received any funds from Property Owner prior to Property Owner’s requested date of prepayment, but has not yet remitted the same to Lender, City shall remit the same to Lender on or before the date of Property Owner’s requested date of prepayment. No prepayment shall be effective, and no funds paid by Property Owner or City will be applied to the Loan Amount, unless and until Lender receives the full Loan Amount from City and Property Owner. Property Owner acknowledges that failure of City to remit any funds held by City on or prior to Property Owner’s requested date of prepayment may result in additional interest due in connection with such prepayment.

   (c) Without the prior written consent of Lender, which consent may be given or withheld in Lender’s sole discretion, the Loan may not be prepaid in part and, if such consent is given, any such partial prepayment must be made in strict compliance with the terms and conditions set forth in such written consent, which terms and conditions may include a prepayment penalty. Any partial prepayment in violation of this provision will not be accepted by Lender. Notwithstanding the foregoing, Property Owner shall not be deemed to have made a prepayment if Property Owner decides to pay any Bi-Annual Installment in full, as opposed to payment on an installment basis, for any given year, as applicable.

   (d) Lender, pursuant to Neb. Rev. Stat. § 13-3205(3)(b), shall verify final costs of the energy project and ensure that any amounts paid by the City toward the costs of the energy project will not exceed such final costs.

7. Collection of Bi-Annual Installments; Payments to Lender.
   (a) The County Treasurer shall follow reasonable and customary practices to collect the Bi-Annual Installments once levied, including assessing penalties and charging interest.

   (b) City agrees to separately account for any Bi-Annual Installment payments collected or otherwise received for the Property. City shall remit the collected Bi-Annual Installment payments to Lender in accordance with the payment schedule set forth in this Contract.

8. Other Obligations Payable from Special Charges. City will not issue or incur any obligations payable from the proceeds of the PACE Special Assessments nor voluntarily create or cause to be created any debt, lien, pledge, assignment, encumbrance or other charge upon the PACE Special Assessments or the Bi-Annual Installments, except for administrative fees as provided in this Contract or as allowed by the Act.
9. **City Representations regarding Loan and Loan Documents.** The undersigned on behalf of City hereby represents to Lender and to Property Owner that: (i) he is entering this Contract pursuant to applicable provisions of the Act and City of Fremont Ordinance No. _____; (ii) it is his intent and belief that this Contract is and will be the valid and legally enforceable obligation of City, enforceable in accordance with its terms except to the extent that enforcement thereof may be subject to legal challenge, including without limitation, bankruptcy and other similar laws affecting creditors’ rights generally; and, (iii) to his knowledge this Contract and the dollar amount and all other terms and conditions set forth herein are in compliance with the provisions of the Act and the Ordinance. City shall at all times, to the extent permitted by law and from time to time authorized by the City Council of City, defend, preserve and protect the PACE Special Assessments created by this Contract.

10. **Re-Levy of Special Charge.** If City shall have failed to cause the assessment or collection of any PACE Special Assessments when it is required by this Contract or by the Act or Ordinance to have done so, then City shall take all necessary steps that are then available to cause new PACE Special Assessments (equal in amount to those not assessed, levied or collected plus interest and penalties, if any, thereon) to be levied against the Property in addition to those PACE Special Assessments otherwise to be levied or assessed against the Property.

11. **Waiver of Claims Against City.**
   (a) For and in consideration of City’s execution and delivery of this Contract, Property Owner, for itself and for its successor-in-interest to the Property and for any one claiming by, through or under Property Owner, hereby waives the right to recover from City, FPD, or any officials, agents, employees, attorneys or representatives of City or FPD (collectively, the “City Parties”), and fully and irrevocably releases, indemnifies, holds harmless, and shall defend the City Parties, and each of them, from and against, any and all claims, costs, expenses, obligations, liabilities, causes of action or damages including attorneys’ fees and court costs, that Property Owner may now have or hereafter acquire against any of the City Parties and arising out of accruing from or related to: (i) this Contract; (ii) the disbursement of the Loan Amount; (iii) the levy and collection of the Bi-Annual Installments; (iv) the imposition of the lien of the PACE Special Assessments; (v) the performance of the Project; (vi) the Project; (vii) any damage to or diminution in value of the Property that may result from construction or installation of the Project; (viii) any injury or death that may result from the construction or installation of the Project; (ix) the selection of manufacturer(s), dealer(s), supplier(s), contractor(s) and/or installer(s), and their action or inaction with respect to the Project, (x) the merchantability and fitness for any particular purpose, use or application of the Project; (xi) the amount of energy savings resulting from the Project or any assured performance guaranty; (xii) the workmanship of any third parties under any agreements including any construction contracts; and, (xiii) any other matter with respect to the Program (collectively, the “Liabilities”). This release includes, without limitation, claims, costs, expenses, obligations, liabilities, causes of action and damages of which Property Owner is not presently aware or which Property Owner does not suspect to exist which, if known by Property Owner, would materially affect Property Owner’s release of the City Parties. Notwithstanding the foregoing, Property Owner’s release under this section shall not extend to Liabilities arising from City’s intentional default, gross negligence or willful misconduct.
   
   (b) This Section 11 shall survive the disbursement of the Loan Amount or any portion thereof, the payment of the Loan Amount in full, the transfer or sale of the Property by Property Owner and the termination of this Contract.

12. **Waiver of Claims Against Lender.**
   (a) For and in consideration of Lender’s execution and delivery of this Contract,
Property Owner, for itself and for its successor-in-interest to the Property and for any one claiming by, through or under Property Owner, hereby waives the right to recover from the Lender and any and all officials, agents, employees, attorneys and representatives of Lender (collectively, the “Lender Parties”), and fully and irrevocably releases the Lender Parties from, any and all claims, obligations, liabilities, causes of action or damages including attorneys’ fees and court costs, that Property Owner may now have or hereafter acquire against any of the Lender Parties and accruing from or related to the Liabilities, as defined above. This release includes claims, obligations, liabilities, causes of action and damages of which Property Owner is not presently aware or which Property Owner does not suspect to exist which, if known by Property Owner, would materially affect Property Owner’s release of the Lender Parties. Notwithstanding the foregoing, Property Owner’s release under this Section shall not extend to Liabilities arising from Lender’s intentional default, gross negligence or willful misconduct.

(b) The waivers and releases by Property Owner contained in this Section shall survive the disbursement of the Loan Amount or any portion thereof, the payment of the Loan Amount in full, the transfer or sale of the Property by Property Owner and the termination of this Contract.

13. Administrative Fees.
   (a) Property Owner agrees to pay a one-time administration processing fee to City in the amount of ____ % of the project costs financed through the Loan (i.e., the Loan amount less all fees and expenses incurred in issuing the Loan), or and /100 Dollars ($_______). Such payment shall be included in the initial Bi-Annual Installment.

   (b) The Bi-Annual Installments shall include a Bi-Annual administrative fee to be collected by City in the amount of $_______________ per year as of January 1st of each year. This fee shall be included, on a Bi-Annual basis, in the Bi-Annual Installments to be set forth on the Schedule of Bi-Annual Installments attached hereto as Exhibit C.

14. Project Completion. Upon completion of the Project, Property Owner will submit to City and Lender a written certification from Property Owner and the contractor(s), if any, that performed the work incident to the construction and installation of the Project, stating the actual cost of the Project. If the actual cost of the Project is less than the Loan Amount advanced by the Lender, the Property Owner shall immediately repay to City the excess of the amount advanced over such actual cost of the Project and City shall remit the full amount thereof to Lender.

15. Notices. All notices, requests, demands and other communications hereunder shall be given in writing and shall be: (i) personally delivered; (ii) sent by registered or certified mail, return receipt requested, postage prepaid; or (iii) sent to the parties at their respective addresses indicated herein by private overnight mail courier service. The respective addresses to be used for all such notices, demands or requests are as follows:

   (a) If to Property Owner, to:

      Attn: _______________

      __________________

   or to such other person or address as Property Owner shall furnish to Lender and FPD in writing.
If to Lender, to:
_________________
Attn: ______________
_________________
_________________
(with a copy to)
_________________
Attn: ______________
_________________
_________________

or to such other person or address as Lender shall furnish to Property Owner and City in writing.

If to City, to:
City of Fremont
Attn: Lottie Mitchell
400 E Military Ave
Fremont, NE 68025

(with a copy to)
City of Fremont
Attn: City Clerk
400 E Military Ave
Fremont, NE 68025

or to such other person or address as City shall furnish to Property Owner and Lender in writing.

If personally delivered, such communication shall be deemed delivered upon actual receipt (or refusal to accept delivery); if sent by registered or certified mail, such communication shall be deemed delivered upon actual receipt (or refusal to accept delivery); and if sent by overnight courier pursuant to this Section, such communication shall be deemed delivered upon receipt. Any party to this Contract may change its address for the purposes of this Contract by giving notice thereof in accordance with this Section.

16. Assignment or Sale by Lender. Property Owner and City agree that Lender may, at its option, assign the Loan, and its rights and obligations under the Loan (including this Contract, the Note and the other Loan Documents). Property Owner, City and Lender acknowledge and agree that there are no limitations on the right of Lender to assign its interests in the Loan.

17. Supremacy. In the event of any conflict, inconsistency or ambiguity between the provisions of this Contract and the provisions of the Loan Agreement, the provisions of this Contract shall control.

18. Compliance with Laws. Lender and Property Owner hereby agree to comply with all applicable federal, state and local lending and disclosure requirements and with the provisions of the Act.

19. Counterparts. This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which together shall be deemed a single agreement.
20. **Amendment.** This Contract may be amended only by a writing signed by Property Owner, Lender and City.

21. **Severability.** If any one or more of the provisions of this Contract shall be found to be invalid, illegal or unenforceable in any respect or to any extent, such finding shall not affect the validity, legality or enforceability of the remaining provisions of this Contract.

22. **Transferability.** Property Owner, Lender and City agree that the obligations of this Contract, including without limitation the obligation to pay annual assessments, are covenants that shall run with the land and be obligations that are binding on all future owners of the Property.

23. **Effect of Subdivision of Property.** No subdivision of the Property subject to this Contract shall be valid unless an amendment to this Contract divides the total Bi-Annual Assessment due between the newly subdivided parcels pro rata to the special benefit realized by each subdivided parcel.

24. **Incorporation by Reference.** All recitals at the beginning of this Contract and all Exhibits referenced in this Contract shall be incorporated into this Contract by reference.

[Signature Page Follows]
Executed as of the date set forth above.

_______________________________
Property Owner

_______________________________
Signed

_______________________________
Printed name

ACKNOWLEDGMENT

STATE OF NEBRASKA

) SS.

COUNTY OF DODGE

On this _ day of ____________, 20__, before me, the undersigned, a Notary Public, appeared ___________, to me personally known, who, being by me duly sworn, did say that s/he is the__ of the______________________, a__________, and that said instrument was signed on behalf of said company by authority of its members, and said individual acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

_______________________________
Signed

_______________________________
Printed Name

(SEAL)

Notary Public in and for said State
Commissioned in ________________

My commission expires: ________________.
Executed as of the date set forth above.

_______________________________
Lender

_______________________________
Signed

_______________________________
Printed name

_______________________________
Title

ACKNOWLEDGMENT

STATE OF NEBRASKA

) SS.

COUNTY OF DODGE

On this ___ day of _____________, 20___, before me, the undersigned, a Notary Public, appeared _____________, to me personally known, who, being by me duly sworn, did say that he is the _____________ of _____________ limited liability company, and that said instrument was signed on behalf of said company by authority of its members, and said individual acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

_______________________________
Signed

_______________________________
Printed Name

(SEAL)
Notary Public in and for said State
Commissioned in ________________

My commission expires: ________________.
Executed as of the date set forth above.

CITY OF FREMONT

By: ____________________________
Name: Lottie Mitchell
Title: Grant Coordinator

ACKNOWLEDGMENT STATE OF NEBRASKA

) SS.
COUNTY OF DODGE

On this ___ day of _____________, 20___, before me, the undersigned, a Notary Public, appeared Lottie Mitchell, to me personally known, who, being by me duly sworn, did say that she/he is the Grant Coordinator of the City of Fremont, a Nebraska Municipal Corporation, which created a clean energy assessment district pursuant to City of Fremont Ordinance No. ______, and that this instrument was signed on behalf of said City by authority of its governing body, and said individual acknowledged said instrument to be executed for the purposes therein stated and as the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal, the day and year last above written.

Printed Name: ____________________________
Notary Public in and for said State
Commissioned in _____________

My commission expires: _________________.

11
Name of Project: ________________________________

Property Owner Information
Legal Name of Property Owner (Applicant): ________________________________
Contact Person: ________________________________
Tax ID Number (FEIN or SSN): ________________________________ City: ______ State: ______ Zip: ______
Address: ________________________________ City: ______ State: ______ Zip: ______
Phone: ________________________________ Fax: ________________________________ E-mail: ________________________________

Property Information
Address: ________________________________ City: ______ State: ______ Zip: ______
Property Legal Description: ________________________________
Property Type: ________________________________ Tax Key Number (APN#): ________________________________
Assessed Property Value: ________________________________ Appraised Property Value: ________________________________
Building Size: ________________________________ Year Building Built: ________________________________

Other PACE Projects
Does the property owner hold any other PACE loans and has the property owner previously applied for PACE? □ Yes □ No
If yes, please provide details:
________________________________________________________________________________________
________________________________________________________________________________________
________________________________________________________________________________________

City Use Only

<table>
<thead>
<tr>
<th>Rec’d By</th>
<th>Date Rec’d</th>
<th>PACE Application Fee (Due at Submission)</th>
<th>Administrative Fee (Due at Closing)</th>
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□ Approved Condition(s): ____________________________________________________________
□ Disapproved Reason(s): ____________________________________________________________
By:________________________________________ Date: ________________________________
**Project Narrative:** Briefly describe the overall project. Submit separate sheets if necessary.

---

**Project Details:** Submit separate sheets if necessary

<table>
<thead>
<tr>
<th>Measure</th>
<th>Description /Specification of Energy/Water/Waste Measure</th>
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*Note: Energy, water and waste savings should be over the term of the financing period rather than useful life, unless useful life is less than the financing period term.*
<table>
<thead>
<tr>
<th>Measure</th>
<th>Construction Costs/Bids</th>
<th>Estimated Useful Life (yrs.)</th>
<th>Year #1 Energy, Water &amp; Waste Savings</th>
<th>Year #1 Maintenance &amp; Operational Savings</th>
<th>Over Term Energy, Water &amp; Waste Savings (specify % growth/yr.)</th>
<th>Over Term Maintenance &amp; Operational Savings (specify % growth/yr.)</th>
<th>Over Term Total Savings (Energy + Water + Waste + O&amp;M)</th>
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<tbody>
<tr>
<td>#1</td>
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Estimated total energy savings (in Btu, kwh or therms)
Estimated total water savings (gal.)
Estimated total waste savings (tons)

On-site renewable capacity (in kW)

Expected $ amount of utility incentives, rebates, solar tax credits, other benefits

Please specify which other benefits

Name, credentials, contact info of agent determining energy & water savings data

Total costs of improvements/measures

In kW


direct use of on-site renewable energy & water

(after name, indicate if licensed and bonded)

General contractor contact person

Contact person phone

Contact person email

Optional: Energy Subcontractors (if any)

General contractor licensed in NE & bonded? Yes/No

Name of General Contractor Firm

Projected Jobs created by PACE Project and Project Environmental Benefits

Benefits Project and Project Environmental Benefits Projected Jobs Created by PACE
**Mortgage Lien & Deed of Trust Holder Information:** Signed mortgage lien or deed of trust holder consent and subordination agreement required. (Attach additional pages if more than 1 mortgage or lien holder)

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<tr>
<th>Financial institution name</th>
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<tr>
<th>Financial institution contact person</th>
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<tr>
<th>Contact person phone &amp; email</th>
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**Financing Details**

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<th>PACE capital provider</th>
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<tr>
<th>PACE consultant (if any)</th>
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<th>Proposed PACE term <em>(in years)</em></th>
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<th>Proposed interest rate and any Fees</th>
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<th>Annual assessment amount</th>
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<th>FPD administrative fee</th>
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<th>Financing closing date (est.)</th>
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**Approval Criteria**

Please mark all that apply. *Note: property owner refers to the legal entity which owns the property.*

- [ ] Applicant owns the property where the project will be located.
- [ ] Proposed improvements will be affixed to the property.
- [ ] The property owner has sufficient resources to complete the project.
- [ ] There are no delinquent ad valorem taxes for this property.
- [ ] There are no delinquent personal property taxes for this property.
- [ ] There are no delinquent special assessments for this property.
- [ ] There are no overdue or delinquent water or sewer charges for this property.
- [ ] There are no involuntary liens, including but not limited to construction liens for this property.
☐ There are no notices of default pursuant to any mortgage or deed of trust related to this property.

☐ The property owner has not declared bankruptcy in the last 5 years.

☐ The property owner is solvent and has no significant pending legal action.

☐ There are no unresolved or pending violations or complaints of violations of the Municipal Code for this property.

☐ The property owner understands that the estimated economic benefit, including, but not limited to, energy cost savings, maintenance cost savings, and other property operating savings expected from the energy project during the financing period, is equal to or greater than the principal cost of the energy project.

☐ The property owner is duly organized, validly existing and in good standing in the state of its organization, with authority to do business under the laws of the State of Nebraska.

☐ All owners of the property are aware of and approve the project.

☐ The property owner has obtained an acknowledged and verified written consent and subordination agreement executed by each mortgage holder or trust deed beneficiary stating that the mortgagee or beneficiary consents to the imposition of the annual assessment and that the priority of the mortgage or trust deed is subordinated.

☐ The property owner possesses all legal authority necessary to execute all project documents.

☐ All required permits, consents, approvals and authorizations in connection with the project have been obtained or will be obtained.

*If any of these criteria are not met, please attach an explanation.*
Required Application Documents and Information

The following documents and information are needed at time of application submission to obtain approval for funding:

- Applicant name and contact information, including property owner and developer.*
- Project location and legal description.*
- Identification of contractor or supplier, including anticipated PACE contractor.*
- Submit a copy of the approved bid for the energy efficiency project (attach signed bid/estimate).
- Project description.*
- Total project cost.*
- Description of proposed improvements.*
- Description of energy efficiency project to be financed.*
- Amount of requested assessment.*
- Interest rate on the PACE assessment and any required fees.*
- Term of assessment.*
- Energy savings report indicating estimated energy savings and estimated cost savings for the energy project.*
- Whether the applicant is requesting a waiver of the estimated economic benefit requirement.
- Title report showing any mortgage or lien holders. (attach title report)
- Lender consent (attach consent document)
- Projected jobs created by PACE project.*
- Projected environmental benefits.*
- Energy analysis report (attach engineer’s report identifying qualifying energy and water conservation measures, energy and water conservation cost savings, maintenance cost savings, and other property operating savings expected from the energy and water conservation project).
- If the property owner wishes to request a waiver of the estimated economic benefit requirement, please attach a brief explanation for the request.
- Funding source.*
- Assessment contract.
- Completed application or attachments with required information.

* included on application form or as attachment.

Submission Instructions
Submit this application and necessary documents to:

Lottie Mitchell
Grant Coordinator
City of Fremont
400 E Military Ave
Fremont, NE 68025
Lottie.mitchell@fremontne.gov
(402) 727-2630
Property Owner Signature

To the best of my knowledge, the statements made above are complete, true and accurate. I hereby certify that I am authorized to submit this application and affix my signature below. I recognize that submission of this application does not guarantee approval for funding.

__________________________________________
Signature

__________________________________________
Title

__________________________________________
Printed name

__________________________________________
Date
ORDINANCE NO. 5517

AN ORDINANCE TO CREATE A CLEAN ENERGY ASSESSMENT DISTRICT; TO ESTABLISH DEFINITIONS; TO PROVIDE FOR THE FINANCING, ADMINISTRATION, AND COLLECTIONS, TO PROMOTE ENERGY EFFICIENCY IMPROVEMENTS AND RENEWABLE ENERGY SYSTEMS; AND TO PROVIDE THE EFFECTIVE DATE HEREOF.

WHEREAS, the City of Fremont desires to create a clean energy assessment district to enable property assessed clean energy financing for property owners; and,

WHEREAS, the City also desires to authorize the clean energy assessment district to enable third-party lenders to accept applications and enter into financing agreements with property owners within the boundaries of the district; and,

WHEREAS, this Ordinance, upon execution, shall create a clean energy assessment district, which shall be known as the Fremont PACE District, as authorized by Nebraska Revised Statute § 13-3203 and 13-3204(3), which boundaries shall be the corporate boundaries of the City of Fremont.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF FREMONT:

Section 1. Findings and Determinations. That the Mayor and City Council of the City of Fremont, Nebraska (the "City"), hereby finds and determines as follows:

Pursuant to Neb. Rev. Stat. §§13-3201 to 13-3211, inclusive, the Property Assessed Clean Energy Act (the "Act"), energy efficiency and the use of renewable energy are important for preserving the health and economic well-being of Nebraska's citizens. Using less energy decreases the cost of living and keeps the cost of public power low by delaying the need for additional power plants. To further these goals, it is necessary for the City to promote energy efficiency improvements and renewable energy systems. Upfront costs for energy efficiency improvements and renewable energy systems may prohibit or deter many property owners from making improvements. It is necessary for the City to implement an alternative financing method through the creation of a clean energy assessment district.

Financing energy projects to further these goals is a valid public purpose and can be accomplished through Property Assessed Clean Energy ("PACE") financing, which is used to overcome the upfront costs for energy efficiency improvements and renewable energy systems by using private capital and equity, rather than public debt.

Pursuant to the Act and Neb. Rev. Stat. § 13-3204, the City of Fremont is authorized to establish a clean energy assessment district so that owners of qualifying property can access PACE financing for energy efficiency improvements or renewable energy improvements to their properties located in the City. The City also may enter into an agreement with one or more other municipalities pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §§ 13-801, et seq., for the joint creation, administration, or creation and administration of clean energy assessment districts, pursuant to Neb. Rev. Stat. § 13-3210. The City declares its intent that the provisions of this Ordinance shall be in conformity with federal and state laws. The City enacts this Ordinance pursuant to the Act, as amended.
Section 2. Title and Definitions. That this Ordinance shall be known and may be cited as "The City of Fremont Property Assessed Clean Energy (PACE) Ordinance." Except the words and phrases specifically defined below or in Neb. Rev. Stat. § 13-3203, as amended, words and phrases used in this Ordinance shall have their customary meanings. As used in this Ordinance, the following words and phrases shall have the following meanings:

"District" means the Fremont PACE District, created pursuant to this Ordinance, as authorized by Neb. Rev. Stat. §§ 13-3203 and 13-3204(3), which boundaries shall be the corporate boundaries of the City.

"District Administrator" means the Grant Coordinator of the City or a designated representative, or a third-party administrator selected by the City.

"PACE financing" means funds provided to the owner(s) of qualified property by third-party lender, pursuant to the Act and this Ordinance, for an energy efficiency improvement or renewable energy system(s).

"Qualifying Property" means commercial property, including multifamily residential property having more than four dwelling units, and industrial property located in the District.


A. The City finds that the financing of energy efficiency improvements and renewable energy systems is a valid public purpose. Such public purposes include, but are not limited to, reduced energy and water costs, reduced greenhouse gas emissions, economic stimulation and development, improved property valuation, and increased employment.

B. The boundaries of the District shall be the corporate boundaries of the City, as allowed pursuant to Neb. Rev. Stat. § 13-3204(1).

C. The District Administrator shall use a form contract for assessment contracts among the City, the owner of the qualifying property, and a third-party lender, containing terms as attached hereto as Exhibit "A," governing the terms and conditions of financing and annual assessments in accordance with the Act, including Neb. Rev. Stat. § 13-3205(1), which provides for repayment of the costs financed through annual assessments upon the qualifying property benefited by the energy project.

D. The District Administrator is authorized to enter into assessment contracts on behalf of the City.

E. The District Administrator will use a financing application process and eligibility requirements, which shall be more specifically defined in a program manual created by the District Administrator as attached hereto as Exhibit "B," for financing energy projects in accordance with the requirements of the Act and accepted by the third-party lender. The application process and program eligibility requirements shall be, at a minimum, as follows:
i. Submission of an application as attached hereto as Exhibit "C" to the District Administrator, which shall include, but not be limited to, the following information:
   a) Applicant name and contact information, including property owner and developer;
   b) Project location and legal description;
   c) Identification of contractor or supplier, including anticipated PACE contractor and a copy of the approved bid for the energy efficiency project;
   d) Project description;
   e) Total project cost;
   f) Description of proposed improvements;
   g) Description of energy efficiency project to be financed;
   h) Amount of requested assessment;
   i) Interest rate on the PACE assessment and any required fees;
   j) Term of assessment;
   k) Energy savings report indicating estimated energy savings and estimated cost savings for the energy project;
   l) Whether the applicant is requesting a waiver of the estimated economic benefit requirement;
   m) Title report showing any mortgage or lien holders;
   n) Lender consent;
   o) Projected jobs created by PACE project;
   p) Project environmental benefits;
   q) Funding source;
   r) All other such information as needed to demonstrate the project complies with all the requirements of the Act.

ii. The District Administrator may grant an applicant’s request to waive the estimated economic benefit requirement. If the District Administrator denies the applicant’s waiver request, the applicant may appeal the denial by submitting a request in writing to the Assistant City Administrator of the City. The appeal shall be mailed by certified mail or hand delivered to the Assistant City Administrator within fourteen days after the denial. The Assistant City Administrator will review the matter on the record made by the District Administrator and, after providing the applicant an informal opportunity to be heard, the Assistant City Administrator will make the final decision.

iii. The District Administrator shall review the application to determine whether the energy project meets the eligibility requirements of the Act and this Ordinance. An energy project shall not be eligible for PACE financing if the qualifying property is subject to any of the following:
   a) Delinquent ad valorem taxes;
   b) Delinquent personal property taxes;
   c) Delinquent special assessments;
   d) Overdue or delinquent water or sewer charges;
   e) Involuntary liens, including but not limited to construction liens;
f) Notice of default pursuant to any mortgage or deed of trust related to the qualifying property, or

g) If the property owner or property developer is delinquent in the payment of any assessment required to be paid for any energy efficiency improvement financed pursuant to the Act.

iii. If the energy project is determined to be eligible under the terms of the Act and as required in this Ordinance, the District Administrator shall review the application and approve, request additional information, or deny the application at his/her sole discretion.

iv. Upon approval of an application, the District Administrator is authorized to proceed with and execute an assessment contract.

F. Pursuant to Neb. Rev. Stat. § 13-3205(7), annual assessments agreed to under an assessment contract shall be levied against the qualifying property and collected in accordance with the Act.

G. The District shall establish procedures to determine the following in the future:

i. Provisions for an adequate debt service reserve fund created under § 13-3209, if applicable;

ii. Provisions for an adequate loss reserve fund created under § 13-3208, if applicable; and

iii. Any application, administration, or other program fees to be charged to owners participating in the program that will be used to finance costs incurred by the City as a result of the program;

Any costs shall be deducted before remitting the assessment to the third-party PACE program administrator.

H. The assessment term shall not exceed the weighted average useful life of the energy project paid for by the annual assessments.

I. Any energy efficiency improvement that is not permanently affixed to the qualifying property upon which an annual assessment is imposed to repay the cost of such energy efficiency improvement must be conveyed with the qualifying property if a transfer of ownership of the qualifying property occurs during the assessment term.

J. Prior to the effective date of any contract that binds the purchaser to purchase qualifying property upon which an annual assessment is imposed, the owner shall provide notice to the purchaser that the purchaser assumes responsibility for payment of the annual assessment as provided in Neb. Rev. Stat. § 13-3205(3)(d), and that the obligations set forth in the assessment contract, including the obligation to pay annual assessments, are a covenant that shall run with the land and be assessed upon future owners of the qualifying property.

K. In connection with providing PACE financing, the City will provide for marketing and participant education.
L. The City shall obtain, or applicable third-party lenders shall obtain and provide to the City, verification that the renewable energy system or energy efficiency improvement was properly installed and is operating as intended.


A. The District Administrator shall comply with the Act and the provisions of this Ordinance and follow any applicable City procurement policy and procedures for selecting a third-party administrator, should a third-party administrator be selected for the administration of the PACE program. Any such third-party administrator must ensure that there is no financial requirement, liability, or exposure to the District or City. The District Administrator as defined in Section 2 of this ordinance may serve as the administrator of the PACE program for the District and City.

B. The District or City may also engage the services of a state or local financing agency for the purposes of providing conduit bond financing for the District or City as part of its third-party administration.

C. Upon selection of a third-party administrator, that third-party administrator may, on behalf of the City, accept applications for financing energy efficient improvements within the District boundaries, facilitate the financing application process, and review eligibility requirements for financing energy projects in accordance with the requirements of the Act and as accepted by the third-party lender.

D. The District may be expanded via the Interlocal Cooperation Act in order to create a program of sufficient size and scale to attract qualified third-party administrators and/or to promote energy efficiency across multiple political subdivisions, as authorized under the Act.

Section 5. Liability of City Officials; Liability of City. That notwithstanding any other provision of law to the contrary, officers, officials, employees, or agents of the City, or the District shall not be personally liable to any person or entity for any claims, liabilities, costs, or expenses, of whatever kind or nature, under, arising out of, or related to the City's or District's participation in the District's PACE Program or any PACE Financing, including, without limitation, claims for or related to uncollected PACE Assessments. Not in limitation of the foregoing, the City has no liability to a property owner or lender for or related to energy savings improvements or funding under a PACE Financing or Program, other than to remit PACE Assessments received in accordance with the Act.

Section 6. This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by the law, and satisfaction of any conditions set forth in this Ordinance.
PASSED AND APPROVED THIS ____ DAY OF____________, 2019:

City of Fremont

______________________________
Scott Getzschman, Mayor

Attest:

______________________________
Tyler Ficken, City Clerk
TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Brad Yerger - Ward 4 - City Council Member

DATE: November 7, 2019

SUBJECT: Implementation of a City Policy to commence and govern public prayer at the beginning of each Fremont City Council Meeting.

RECOMMENDATION: Motion to approve authorization of the City Attorney to research other communities, develop an implementation plan, and draft a City Policy for instituting public prayer at the beginning of all Fremont City Council Meetings.

Background: It has been requested at several Open Public Comment Meetings that the City Council consider implementing a time of public prayer at the beginning of each City Council meeting.

In order to draft and implement such a policy, the City Council wishes to have the City Attorney research other communities who begin their meetings with both the Pledge of Allegiance and public prayer.

With approval of this motion, the City Attorney is hereby commissioned to perform the requisite community research and to draft a Fremont City Policy for implementation of public prayer at the beginning of each City Council meeting.

Fiscal Impact: None
AGENDA REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Brad Yerger - Ward 4 - City Council Member

DATE: November 6, 2019

SUBJECT: Motion to require the City Clerk to maintain a list, and prepare a monthly report of the Open Meeting Period meeting discussion topics, including drop box card topics, and the status of any associated City action plan or resolution.

RECOMMENDATION: Motion to approve requiring the City Clerk to prepare, maintain and present a cumulative informative report on Open Meeting Period discussion topics, including drop box card topics, complied from prior meetings, along with the City’s action type designation (actionable/non-actionable), action assignment, the disposition status and the date of resolution of actionable items.

Background: The City Council implemented an Open Public Comment Period, which occurs at the Council’s last meeting of the month. During this Open Public Comment Period meeting the public is invited to present their views or requests for action, without Council discussion, on any topics not already on the Council’s agenda for that night.

The Open Public Comment Period meeting allows the public to speak on non-agenda topics as they may see fit to present either orally or via a card placed in a drop box.

The public has requested that a monthly reporting and tracking of (1) the topics or issues raised at the Open Public Comment Period meeting, (2) the action type designation (actionable/non-actionable), (3) action assignment of the issues and (4) the disposition status and date of resolution of the actionable issues raised, in order to afford greater public transparency and aid in opening communication channels with the public on topics of concern to them. Once reported, items may be removed from subsequent reporting if the items weren’t actionable or after action status has been designated and reported as complete.

With approval of this motion, the City Clerk will required to prepare and provide a cumulative, running, monthly status report of the topics that have been raised by the public and the disposition of at each if action was required. That running report (without Council discussion of same) will be presented by the Clerk for the record and received by the Council, at the next regularly meeting of City Council.

Fiscal Impact: None