

City of Fremont, Nebraska, is inviting you to a Zoom webinar.  
When: Apr 28, 2020 07:00 PM Central Time (US and Canada)  
Topic: April 28, 2020 City Council Meeting 7PM

## ZOOM Meeting Information

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# Webinar ID: 990 9447 6640

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**Please note: Zoom requires a name and an email address to participate via computer, tablet or smartphone. Please enter your first name and enter [attendee@fremontne.gov](mailto:attendee@fremontne.gov) as your email address.**

If you participate by telephone, no identification is required. To request to make a comment during a public hearing or public comment period, please **press \*9 to electronically raise your hand** allowing the Mayor to call on you. Once called upon you will be notified that you are unmuted. **Press \*6 to unmute your phone and press \*6 to mute your phone** when you are finished speaking, or wait to be muted by the host.

Please submit any documents to be received into the record to the City Clerk by 4:30 PM Monday April 27, 2020.



**CITY OF  
FREMONT  
NEBRASKA**

**COMMUNITY DEVELOPMENT AGENCY & REGULAR CITY COUNCIL MEETING**  
April 28, 2020 - 7:00 PM  
City Council Chambers 400 East Military, Fremont NE

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**COMMUNITY DEVELOPMENT AGENCY AGENDA**

**7:00 PM**

**MEETING CALLED TO ORDER**

**ROLL CALL**

1. Resolution 2020-005 to forward a proposed Redevelopment Plan Amendment to the Planning Commission for DPA Auctions project

**ADJOURNMENT**

**CITY COUNCIL REGULAR MEETING AGENDA**

**7:00 PM – Following the preceding Meeting**

**MEETING CALLED TO ORDER**

**ROLL CALL**

**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:**

1. Resolution 2020-085 approving an application for a Class CCS Liquor License for Churchills, LLC., dba Churchills the Cigar Bar, 345 N. Main St.

**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.

2. Motion to approve April 15, 2020 through April 28, 2020 claims and authorize checks to be drawn on the proper accounts
3. Dispense with and approve April 21, 2020 City Council, Community Development Agency, and Board of Equalization Meeting Minutes
4. Motion authorizing the Mayor to sign the License Agreement with ApplicantOne for online application services
5. Resolution 2020-086 to sign agreement with Centurylink for regional connectivity
6. Resolution 2020-087 authorizing execution of an Agreement with Felsburg Holt and Ullevig (FHU) for on-call MS4 Compliance Assistance services for the NPDES Municipal Stormwater Permit and Fremont Stormwater Management Program
7. Motion authorizing the Mayor to sign the Memorandum of Understanding with the International Association of Firefighters Local 1015 regarding Administrative Emergency Paid Sick Leave due to COVID-19
8. Motion authorizing the Mayor to sign the IMA Broker Services Agreement
9. Resolution 2020-088 to enter in to an Interlocal Agreement with the Omaha Regional Interoperable Network (ORION) for cooperative use of the Wireless Area Network
10. Resolution 2020-089 approving the proposed Keno Grant awards as recommended by the Keno Advisory Committee
11. Resolution 2020-090 authorizing Utility Staff to sign a purchase agreement and issue a purchase order to Burns & McDonnell Engineering for Professional Engineering Services for the Affordable Clean Energy Rule
12. Resolution 2020-091 for the reimbursement for the intersection pavement in Morningside Pointe
13. Motion to make appointment to the Nebraska Regional Interoperability Network (NRIN) Governing Board
14. Motion with regard to concrete/excavate license application, Ogden Home Rehab, LLC
15. Resolution 2020-092 authorizing placement of a stop sign at Lincoln and Cuming Street in, and receive Traffic Committee Report

**UNFINISHED BUSINESS:** Requires individual associated action

16. Resolution 2020-070 to authorize and approve the Agreement with Civil Solutions, LLC. for professional consulting services in construction engineering and administration for the Bell Street Asphalt Overlay Project
17. Resolution 2020-075 authorizing the renewal of software support with GeoComm, Inc
18. Ordinance 5531 for a text change to section 11-502.02; 11-504.02 D; and 11-920 "C Terms" of the UDC to define cemetery, permit it as a limited use in R, SR, AR and UR districts and to stipulate conditions under which it is allowed (final reading)

- [19.](#) Resolution 2020-081 accepting and awarding the bid for the construction of the Luther Road South project
- [20.](#) Resolution 2020-083 to award architectural contract for the design of the Joint Law Enforcement Center

**NEW BUSINESS:** Requires individual associated action

- [21.](#) Ordinance 5532 to amend 11-601 to address development standards to exclude Planned Unit Development Districts
- [22.](#) Resolution 2020-093 approving waiver of utility penalties and disconnects for billing cycles March 15, 2020 through June 5, 2020
- [23.](#) Resolution 2020-066 to declare the City's intent to reimburse expenses from bond proceeds of the Highway Allocation Pledge Bonds
- [24.](#) Ordinance 5533 pertaining to pay plan for nonunion officers and employees
- [25.](#) Receive Library 2018-19 Annual Report
- [26.](#) Receive MainStreet Fremont Activities report
- [27.](#) Resolution 2020-094 authorizing the Mayor to sign agreement with WholeStone Farms, Inc. for Wastewater Engineering

**ADJOURNMENT**

Agenda posted at the Municipal Building on April 22, 2020 and online at [www.fremontne.gov](http://www.fremontne.gov). Agenda distributed to the Mayor and City Council on April 22, 2020. This meeting is preceded by publicized notice in the Fremont Tribune and the agenda, including notice of study session, is displayed in the Municipal Building and is open to the public. The official current copy is available at City Hall, 400 East Military, City Clerk's Office. The City Council reserves the right to go into Executive Session at any time. A copy of the Open Meeting Law is posted in the City Council Chambers for review by the public. The City of Fremont reserves the right to adjust the order of items on this agenda.

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

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

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

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

9. At the direction of the presiding officer, Open Public Comment Period Speaker Topics will be limited to those not covered by a published agenda for any Study Session, or any regular City Council meeting.
10. A priority to speak at Open Public Comment Periods and Study Session shall be given to those speakers who reside within the

City limits, or within the ETJ (Extra-Territorial Jurisdiction – a two (2) mile radius of the City limits) of Fremont, and then, as time allows, to those who do not.

11. Member of the public wishing to speak at a Study Session will be required to limit their comments to those that are directly related to the Publicly Noticed Study Session agenda topic(s).
12. Written letters addressed to the City Council will be accepted, as will comment cards that will be made available and collected from those who attend Open Public Comment Period and Study Session meetings who do not wish to speak publicly, 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: Jennifer Dam, Planning Director  
DATE: April 28, 2020  
SUBJECT: Amend Redevelopment District #3 Redevelopment Plan, DPA AUCTIONS Project

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Recommendation: Approve Resolution 2020-005 to forward the proposed Redevelopment Plan amendment to the Planning Commission

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**Background:**

The attorney for Del Peterson is proposing an amendment to the Redevelopment District #3 Redevelopment Plan for the DPA AUCTIONS Project at the Nelson Business Park.

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

**RESOLUTION NO. 2020-005**

**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:**

**Whereas:** The Chairperson and Board of the Community Development Agency of Fremont, Nebraska have 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

**Whereas:** The Redevelopment District #3 Redevelopment Plan was approved by the Fremont City Council; and

**Whereas:** An amendment to the Redevelopment District #3 Redevelopment Plan for the DPA Auctions Redevelopment Project has been prepared and submitted to the Agency in the form attached hereto as **Exhibit B**, for the purpose of redeveloping the Redevelopment Project Area; and

**NOW, THEREFORE BE IT RESOLVED,** the Community Development Agency of the City of Fremont 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.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020

COMMUNITY DEVELOPMENT  
AGENCY OF THE CITY OF  
FREMONT, NEBRASKA.

BY: \_\_\_\_\_  
Scott Getzschman, Chairperson

ATTEST: \_\_\_\_\_  
Tyler Ficken, Secretary

**EXHIBIT "A"**  
**Legal Description of the Project Site**

The improvements for this Project shall be constructed on the property legally described as follows:

Part of Lot 4, of Nelsen Business Park, to the City of Fremont, Dodge County, Nebraska, being described as follows: Beginning at the Southwest Corner of said Lot 4; thence  $N00^{\circ}27'27''E$  (assumed bearing) on the West Line of said Lot 4, a distance of 73.16 feet to a point of curvature; thence northwesterly continuing on said West Line on a 532.50 foot radius curve to the left an arc distance of 170.62 feet to a point of reverse curvature, the chord of said curve bears  $N08^{\circ}43'30''W$  169.89 feet; thence northerly continuing on said West Line on a 467.50 foot radius curve to the right an arc distance of 149.85 feet to a point of tangency, the chord of said curve bears  $N08^{\circ}43'30''W$  149.21 feet; thence  $N00^{\circ}27'27''E$  continuing on said West Line, a distance of 76.42 feet to a point on the West Right-of-Way Line of U.S. Highway No. 275, as previously described and recorded in Book 2005, page 0228, of the Dodge County Register of Deeds records; thence  $S86^{\circ}00'00''E$  on said West Right-of-Way Line, a distance of 100.92 feet, thence  $S81^{\circ}36'18''E$  continuing on said West Right-of-Way Line, a distance of 411.49 feet; thence  $S27^{\circ}30'16''E$  continuing on said West Right-of-Way Line, a distance of 449.43 feet to a point on the South Line of said Lot 4; thence  $N89^{\circ}56'04''W$  on said South Line, a distance of 668.09 feet to the true point of beginning, containing 5.76 acres, more or less.

## EXHIBIT B

### **AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE REDEVELOPMENT DISTRICT #3 REDEVELOPMENT AREA IN THE CITY OF FREMONT, NEBRASKA**

#### **(DPA AUCTIONS REDEVELOPMENT PROJECT)**

The City of Fremont, Nebraska (“City”) has undertaken a plan of redevelopment within the community pursuant to the adoption of the Redevelopment Plan for the Redevelopment District #3 Redevelopment Area in the City of Fremont, as amended (the “Redevelopment Plan”). The Redevelopment Plan was prepared by the City in November of 2004 and was approved by the City Council of the City pursuant to Resolution No. 2004-261. The Redevelopment Plan serves as a guide for the implementation of redevelopment activities within certain areas of the City, as set forth in the Redevelopment Plan.

Pursuant to the Nebraska Community Development Law codified at Neb. Rev. Stat. §§ 18-2101 through 18-2154 (the “Act”), the City created the Community Development Agency of the City of Fremont (“CDA”), which has administered the Redevelopment Plan for the City.

The purpose of this Plan Amendment is to identify a specific project within the Redevelopment Area that will cause the removal of blight and substandard conditions on the site located in the City of Fremont, Nebraska, and legally described on the attached and incorporated Exhibit “A” (the “Project Site”). The project under consideration will consist of the construction of an approximately 24,000 square foot office building, a parking lot and associated improvements on the Project Site.

#### **The Project Site**

The Project Site is in need of redevelopment. The CDA has considered whether the redevelopment of the Project Site will conform to the City’s general plan and the coordinated, adjusted, and harmonious development of the City and its environs. In this consideration, the CDA finds that the proposed redevelopment of the Project Site will promote the health, safety, morals, order, convenience, prosperity, and the general welfare of the community including, among other things, the promotion of safety from fire, the promotion of the healthful and convenient distribution of population, the promotion of sound design and arrangement, the wise and efficient expenditure of public funds, and the prevention of the recurrence of unsanitary and unsafe dwelling accommodations or conditions of blight. The blighted condition of the Project Site and the Redevelopment Area has contributed to its inability to attract business and/or development. In order to support private development, the Project Site and the Redevelopment Area are in need of redevelopment.

The City currently owns the Project Site, which is vacant and underutilized. Dilapidated grain bins, barns and sheds were previously located on the Project Site, but these structures were demolished in accordance with the Redevelopment Plan

adopted in 2004, which called for acquisition of the Project Site by the CDA in order to clear the Project Site of such hazardous structures. Following clearance of the dilapidated structures, the Redevelopment Plan provides for disposal of the Project Site to public or private parties for redevelopment, and contemplates the use of tax increment financing to aid in redevelopment of the Project Site.

Although the Project Site has been cleared of the dilapidated structures in accordance with the Redevelopment Plan, the City has been unable to attract private development on the Project Site due to the upfront costs required to develop the Project Site. Specifically, the Project Site requires site preparation and grading in order to be developed. Additionally, the City's investment in clearing the Project Site of dilapidated structures and in installing public infrastructure in the Redevelopment Area has increased the market value of the Project Site. The cost to acquire the Project Site, in combination with site preparation and grading costs, render the Project impractical without the use of tax increment financing, which will be used to pay for eligible expenditures under the Act. The redevelopment of the Project Site is anticipated to eliminate the current blight and substandard conditions of the Project Site and will further the purposes of the Act in conformity with the Redevelopment Plan.

### **Description of the Project**

Del Peterson and Associates, Inc. (the "Redeveloper") has submitted a proposal for the redevelopment of the Project Site. The Project will consist of the construction of a two-story, approximately 24,000 square foot office building, parking lot, and associated improvements on the Project Site. The office building will constitute the new headquarters for a local online auction company, DPA Auctions, which is anticipated to employ up to 100 individuals in the next 5 years. In addition to modern office and conference components, the building is anticipated to include wellness facilities for employees of the company.

The Redeveloper will pay the costs of the private improvements, including the costs of construction of the building on the Project Site. As part of the Project, the CDA shall capture available tax increment revenues generated by the redevelopment of the Project Site to reimburse the Redeveloper or assist in payment for the public improvements listed as eligible expenditures under the Act in the Redevelopment Area and to be more fully described in the Redevelopment Agreement. Such public improvements may include, but are not limited to: site acquisition, site preparation and grading, installation of utilities, architectural and engineering fees, façade enhancements, energy enhancements, and other improvements deemed feasible and necessary in support of the public health, safety, and welfare which qualify as eligible expenditures for public improvements under the Act. The specific public improvements for which the available tax increment revenues generated by the Project will be used will be described in more detail in the Redevelopment Agreement.

The Project is consistent with the Redevelopment Plan for Redevelopment District #3, which encourages development of a variety of commercial and general industrial uses in the Redevelopment Area to expand employment opportunities for

all income groups. Further, the Project is consistent with the Comprehensive Plan of the City of Fremont. The Future Land Use map set forth in the Comprehensive Plan identifies the future land use of the Project Site as commercial, and the Comprehensive Plan identifies the potential for development of a suburban business park in the vicinity of Morningside Road and Highway 275.

### **Statutory Elements**

As described above, the Project envisions the capture of the incremental taxes created by the Project on the Project Site to pay for those eligible expenditures as set forth in the Act. Attached as Exhibit “B” and incorporated herein by this reference is a consideration of the statutory elements under the Nebraska Community Development Law.

### **Cost-Benefit Analysis**

Pursuant to Section 18-2113 of the Act, the CDA must conduct a cost-benefit analysis for any redevelopment project that will utilize TIF. The Cost-Benefit Analysis for the Project is attached hereto as Exhibit “C” and shall be approved as part of this Plan Amendment. The estimated costs of the Project, the estimated TIF proceeds, and the proposed method of financing the Project are set forth in the Cost-Benefit Analysis.

### **Additional Project Information**

The Redeveloper has represented that without the use of TIF, this Project would not be feasible and the Redeveloper could not undertake the Project as designed on the Project Site. Redeveloper has further represented that it does not intend to file an application with the Department of Revenue to receive tax incentives under the Nebraska Advantage Act.

**EXHIBIT "A"**  
**Legal Description of the Project Site**

The improvements for this Project shall be constructed on the property legally described as follows:

Part of Lot 4, of Nelsen Business Park, to the City of Fremont, Dodge County, Nebraska, being described as follows: Beginning at the Southwest Corner of said Lot 4; thence  $N00^{\circ}27'27''E$  (assumed bearing) on the West Line of said Lot 4, a distance of 73.16 feet to a point of curvature; thence northwesterly continuing on said West Line on a 532.50 foot radius curve to the left an arc distance of 170.62 feet to a point of reverse curvature, the chord of said curve bears  $N08^{\circ}43'30''W$  169.89 feet; thence northerly continuing on said West Line on a 467.50 foot radius curve to the right an arc distance of 149.85 feet to a point of tangency, the chord of said curve bears  $N08^{\circ}43'30''W$  149.21 feet; thence  $N00^{\circ}27'27''E$  continuing on said West Line, a distance of 76.42 feet to a point on the West Right-of-Way Line of U.S. Highway No. 275, as previously described and recorded in Book 2005, page 0228, of the Dodge County Register of Deeds records; thence  $S86^{\circ}00'00''E$  on said West Right-of-Way Line, a distance of 100.92 feet, thence  $S81^{\circ}36'18''E$  continuing on said West Right-of-Way Line, a distance of 411.49 feet; thence  $S27^{\circ}30'16''E$  continuing on said West Right-of-Way Line, a distance of 449.43 feet to a point on the South Line of said Lot 4; thence  $N89^{\circ}56'04''W$  on said South Line, a distance of 668.09 feet to the true point of beginning, containing 5.76 acres, more or less.

**EXHIBIT “B”**  
**Statutory Elements**

A. Property Acquisition, Demolition and Disposal

No public acquisition of private property or relocation of families or businesses is necessary to accomplish the Project. The City of Fremont currently owns the Project Site, and the Redeveloper is under contract to acquire the Project Site from the City. The conveyance of the Project Site shall comply with the Nebraska Community Development Law and all other applicable laws.

B. Population Density

The proposed Project includes the construction of an approximately 24,000 square foot office building on undeveloped land, which will not affect population density in the project area.

C. Land Coverage

The Project is anticipated to consist of construction of an approximately 24,000 square foot office building on the approximately 5.76 acre Project Site. The Project will meet the applicable land-coverage ratios and zoning requirements as required by the City of Fremont.

D. Traffic Flow, Street Layouts, and Street Grades

No adverse impacts are anticipated with respect to traffic flow, street layouts and street grades. The Project Site is currently vacant, so the Project will naturally increase traffic to and from the Project Site. However, the Project Site is located on Bud Boulevard, and is adjacent to Morningside Road and Highway 275, which should be sufficient to accommodate the anticipated increase in traffic.

E. Parking

The Project will include construction a surface parking lot that will meet or exceed parking requirements set forth in the applicable zoning district.

F. Zoning, Building Code, and Ordinances

The Project Site will be subdivided from the larger approximately 12 acre parcel owned by the City of Fremont prior to conveyance to the Redeveloper. The Project Site is located in the General Industrial zoning district. Redeveloper will be responsible for obtaining any zoning, building code, or ordinance changes that are necessary for the Project.

**EXHIBIT “C”  
Cost-Benefit Analysis**

**COMMUNITY DEVELOPMENT AGENCY  
CITY OF FREMONT, NEBRASKA  
DPA AUCTIONS REDEVELOPMENT PROJECT  
COST-BENEFIT ANALYSIS  
(Pursuant to Neb. Rev. Stat. § 18-2113)**

The DPA Auctions Redevelopment Project (the “Project”) will consist of construction of an approximately 24,000 square foot office building and associated improvements on the Project Site, as more particularly described on Exhibit “C-1”. The cost-benefit analysis for the Project, which will utilize funds authorized by Neb. Rev. Stat. § 18-2147, can be summarized as follows:

**1. Tax shifts resulting from the approval of the use of funds pursuant to Section 18-2147:**

a.	Estimated Base Project Area Valuation:	\$58,000
b.	Estimated Completed Project Assessed Valuation:	\$3,150,000
c.	Estimated Tax Increment Base (b. minus a.):	\$3,092,000
d.	Estimated Annual Projected Tax Shift:	\$63,000

*Note: The Estimated Annual Projected Tax shift is based on assumed values and levy rates; actual amounts and rates will vary from those assumptions, and it is understood that the actual tax shift may vary materially from the projected amount. The estimated tax levy for this analysis is 2.047225, which is the 2019 Dodge County tax levy, and is subject to change.*

**2. Public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the redevelopment project:**

a. Public infrastructure improvements and impacts:

The Redeveloper will make significant expenditures for the acquisition, construction and installation of the Project and related and ancillary improvements. It is proposed that approximately \$632,000 of these expenditures will be financed with the proceeds of tax increment financing indebtedness, with the remaining balance to be paid by the Redeveloper. The sources and uses of the TIF indebtedness will be more particularly set forth in the Redevelopment Agreement for this Project. It is anticipated that eligible uses of the TIF indebtedness may include the following: site acquisition, site preparation and grading, architectural and engineering fees, utility installation, façade enhancements, energy efficiency enhancements, and other improvements deemed feasible and necessary in support of the public health, safety, and welfare. All expenditures financed by tax increment financing indebtedness shall be eligible in accordance with the requirements of the Nebraska Community Development Law.

It is not anticipated that the Project will have a material adverse impact on public infrastructure or community public service needs. The Project will result in the redevelopment of a vacant and underutilized parcel without adverse effects on public infrastructure and community public service needs.

b. Local Tax impacts (in addition to impacts of Tax Shifts described above):

The Project will create material tax and other public revenue for the City and other local taxing jurisdictions. While the use of tax increment financing will defer receipt of a majority of new ad valorem real property taxes generated by the Project, it is intended to create a long term benefit and substantial increase in property taxes to the City and other local taxing jurisdictions. Since the Project Site has been owned by the City for over a decade, the City has not historically relied on tax revenue from the Project Site. Further, the City has been unable to attract private development to the Project Site, and thus, would be unlikely to realize additional ad valorem taxes in the near future without the Project, because the Project Site is unlikely to be developed without the use of tax increment financing to eliminate blight and substandard conditions. The Project should also generate immediate tax growth for the City. It is anticipated that the Project will include a significant amount of personal property that will be installed within the office building constructed, which will be on the property tax rolls upon its acquisition and installation.

**3. Impacts on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project:**

It is anticipated that the Project will have a material positive impact on employers and employees of firms locating or expanding within the boundaries of the redevelopment project, because the enhancements to the Project Site should attract additional redevelopment to the area of the Project. Further, the Project will likely require products and services from firms located within the boundaries of the area of the redevelopment project.

It is not anticipated that the Project will have a material adverse impact on employers and employees of firms locating or expanding within the boundaries of the area of the redevelopment project.

**4. Impacts on other employers and employees within the City and the immediate area that is located outside of the boundaries of the area of the redevelopment project:**

The Project should have a material positive impact on private sector businesses in and around the area outside the boundaries of the redevelopment project. The Project is not anticipated to impose a burden or have a negative impact on other local area employers, but should also increase the need for services and products from existing businesses. Since the Project includes an office component, upon occupancy the Project may require the purchase of janitorial services, office supplies, and other similar products and services.

**5. Impacts on the student populations of school districts within the City:**

The Project is not expected to have an impact on student populations of school districts within the City of Fremont because the Project does not include the construction of any dwelling units.

**6. Other impacts determined by the agency to be relevant to the consideration of costs and benefits arising from the redevelopment project:**

The Project is anticipated to create around 50 to 75 full- and part-time jobs at the office building constructed on the Project Site within approximately 5 years of completion, which will have secondary employment effects in other employment sectors in the City of Fremont.

There are no other material impacts determined by the agency relevant to the consideration of the cost of benefits arising from the Project.

**6. Cost Benefit Analysis Conclusion:**

Based upon the findings presented in this cost benefit analysis, the benefits outweigh the costs of the proposed Project.

Approved by the Community Development Agency, City of Fremont this \_\_\_\_ day of \_\_\_\_\_, 2020.

\_\_\_\_\_  
\_\_\_\_\_, Chairman

\_\_\_\_\_  
\_\_\_\_\_, Secretary

## EXHIBIT C-1

### PROJECT INFORMATION

The Project will be undertaken on the real estate legally described as:

Part of Lot 4, of Nelsen Business Park, to the City of Fremont, Dodge County, Nebraska, being described as follows: Beginning at the Southwest Corner of said Lot 4; thence N00°27'27"E (assumed bearing) on the West Line of said Lot 4, a distance of 73.16 feet to a point of curvature; thence northwesterly continuing on said West Line on a 532.50 foot radius curve to the left an arc distance of 170.62 feet to a point of reverse curvature, the chord of said curve bears N08°43'30"W 169.89 feet; thence northerly continuing on said West Line on a 467.50 foot radius curve to the right an arc distance of 149.85 feet to a point of tangency, the chord of said curve bears N08°43'30"W 149.21 feet; thence N00°27'27"E continuing on said West Line, a distance of 76.42 feet to a point on the West Right-of-Way Line of U.S. Highway No. 275, as previously described and recorded in Book 2005, page 0228, of the Dodge County Register of Deeds records; thence S86°00'00"E on said West Right-of-Way Line, a distance of 100.92 feet, thence S81°36'18"E continuing on said West Right-of-Way Line, a distance of 411.49 feet; thence S27°30'16"E continuing on said West Right-of-Way Line, a distance of 449.43 feet to a point on the South Line of said Lot 4; thence N89°56'04"W on said South Line, a distance of 668.09 feet to the true point of beginning, containing 5.76 acres, more or less,

(the "Project Site"). The Project shall consist of the following Private Improvements and Public Improvements:

- (a) **Private Improvements.** The private improvements to be constructed by the Redeveloper on the Project Site include a new approximately 24,000 square foot office building, surface parking lot, and associated improvements.
- (b) **Public Improvements.** Land acquisition, installation of utilities, site preparation and grading, façade enhancements, energy efficiency enhancements, architecture and engineering fees, and other eligible public expenditures under the Act as determined in the Redevelopment Agreement; paid for, in part, by the tax increment generated by the private improvements.

## STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Tyler Ficken, City Clerk

DATE: April 28, 2020

SUBJECT: Class CCS Liquor License Churchills, LLC., dba Churchills The Cigar Bar

<p><b>Recommendation:</b> 1) Conduct public hearing, 2) Move to approve Resolution 2020-085, recommending approval of Class CCS liquor license application of Churchills, LLC., dba Churchills The Cigar Bar, 345 N. Main St., Fremont, NE 68025.</p>
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**Background:** After holding a public hearing, Council will need to make a recommendation to the Nebraska Liquor Control Commission regarding the application.

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

**Fiscal Impact:** Fee for license

**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

<b>RECEIVED</b>		
APR 09 2020		
<b>NEBRASKA LIQUOR CONTROL COMMISSION</b>		
Hot List: YES/NO	Ngw/Replacing #	
Class Type <b>CLS</b>	<b>123638</b>	Initial <b>BT</b>

Applicant name Churchills LLC

Trade name Churchills The Cigar Bar

Previous trade name Not Applicable

Contact email address draftex@cox.net dhartmann@yostlawfirm.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.

*\*Need humidor photo\**

Office use only PAYMENT TYPE <u>Pay Post</u>	 200004156
AMOUNT: <u>1000.<sup>00</sup></u>	
Received: <u>BR</u>	

APPLICATION FOR CIGAR SHOP  
CERTIFICATION

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

Office Use **RECEIVED**

APR 09 2020

NEBRASKA LIQUOR  
CONTROL COMMISSION

**MUST BE SUBMITTED WITH A \$1,000 NON REFUNDABLE APPLICATION FEE**, check made payable to the Nebraska Liquor Control Commission or you may pay online at [www.ne.gov/go/NLCCpayport](http://www.ne.gov/go/NLCCpayport)

**PREMISES INFORMATION**

Trade Name (doing business as) Churchills The Cigar Bar  
Business Street Address 345 North Main Street  
City Fremont County Dodge Zip Code 68025  
Premises Phone Number 402.750.9332 (cell of manager)  
Contact Name and phone number if different from premises Scott A. Brannon  
402.614.2020 402.750.9332

Class C liquor license number (if currently licensed) \_\_\_\_\_

**PREMISES DESCRIPTION AND DIAGRAM OF STRUCTURE**

1. Do you serve food?  YES  NO  
If yes, you will not qualify for this certification
2. How many square feet are the premises? 1940
3. Do the premises have a walk in humidor?  YES  NO
4. Does the humidor have a humidification and temperature control system?  YES  NO
5. How many square feet is the humidor? 119

Provide photos of the humidor - currently under construction

Office use only PAYMENT TYPE _____ AMOUNT: _____ Received: _____	BARCODE
---	---------

**BUSINESS INFORMATION**

1. Has your business been cited for any liquor license violations?  YES  NO  
If yes, explain

---

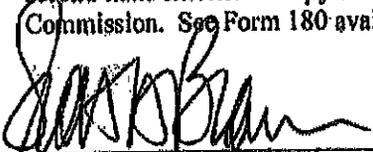
---

2. What was your total revenue for the business last year? NA - New business  
Enclose copies of financial statements showing total sales vs. sales of tobacco and tobacco related products.

3. How much was generated by tobacco and tobacco related products (not including cigarettes)?  
NA - New business

**APPLICANT HEREBY DECLARES THAT**

- ✓ No person under (21) twenty-one years of age shall be allowed to smoke or purchase any product in the cigar shop.
- ✓ Licensee shall post a sign on all entrances to the cigar shop, on the outside of each door, in a conspicuous location slightly above or next to the door, with the following statement:  
"SMOKING OF CIGARS AND PIPES IS ALLOWED INSIDE THIS BUSINESS. SMOKING OF CIGARETTES IS NOT ALLOWED."
- ✓ Effective November 1, 2015, all employees must sign a waiver acknowledging they will be exposed to second-hand smoke. A copy of this waiver must be filed with the Nebraska Liquor Control Commission. See Form 180 available on our website (<https://lcc.nebraska.gov/licensing-forms>).

  
\_\_\_\_\_  
Signature of Applicant  
May be signed by anyone named on the liquor license

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.

# PAYPORT

NEBRASKA.GOV

(COPY)

**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: 47741426

4/8/2020 04:40 PM

Status:

**APPROVED**

Customer Name:

David Hartmann

Type:

Visa

Credit Card Number:

\*\*\*\* \*

Items	Quantity	TPE Order ID	Total Amount
Retail Liquor License	1	49287342	\$400.00
Applicant Name: <b>Churchills LLC</b>			
Trade Name: <b>Churchills The Cigar Bar</b>			
Premises Address: <b>345 North Main Street</b>			
Premises City: <b>Fremont</b>			
Total remitted to the Nebraska Liquor Control Commission			\$400.00
Total Amount Charged			\$409.96

# PAYPORT

NEBRASKA.GOV

(COPY)

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: 47747422

4/9/2020 12:20 PM

Status:

**APPROVED**

Customer Name:

David Hartmann

Type:

Visa

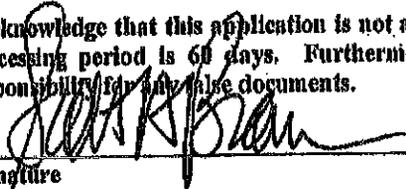
Credit Card Number:

\*\*\*\* \***[REDACTED]** \*\*

Items	Quantity	TPE Order ID	Total Amount
Cigar Shop Certification	1	49425086	\$1,000.00
Name on Liquor License: <b>Churchills LLC</b>			
Trade Name (dba): <b>Churchills The Cigar Bar</b>			
Premises Address: <b>345 North Main Street</b>			
Premises City: <b>Fremont</b>			
Class C License Number: <b>999999</b>			
Total remitted to the Nebraska Liquor Control Commission			\$1,000.00
Total Amount Charged			\$1,024.90

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 [www.ne.gov/go/NLCCpayport](http://www.ne.gov/go/NLCCpayport).
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.  **NA** 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.  **NA** 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.  **NA** If requesting to operate on current liquor license; enclose Temporary Operating Permit (TOP) (form 125).
8.  **NA** 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. See guideline for further assistance <http://www.lcc.nebraska.gov/brochures.html>
10.  Corporation or Limited Liability Company (LLC) must enclose a copy of articles of incorporation; as filed with the Secretary of State's Office. This document must show barcode.
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

April 8, 2020  
 Date



**PREMISES INFORMATION**

Trade Name (doing business as) Churchills The Cigar Bar

Street Address #1 348 North Main Street

Street Address #2 \_\_\_\_\_

City Front County Dodge County Zip Code 68025

Premises Telephone number 402.760.9382 (Cell number of Manager)

Business e-mail address draffex@cox.net

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

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

Name Scott A. Brannon

Street Address #1 8528 L Street

Street Address #2 \_\_\_\_\_

City Omaha State Nebraska Zip Code 68127

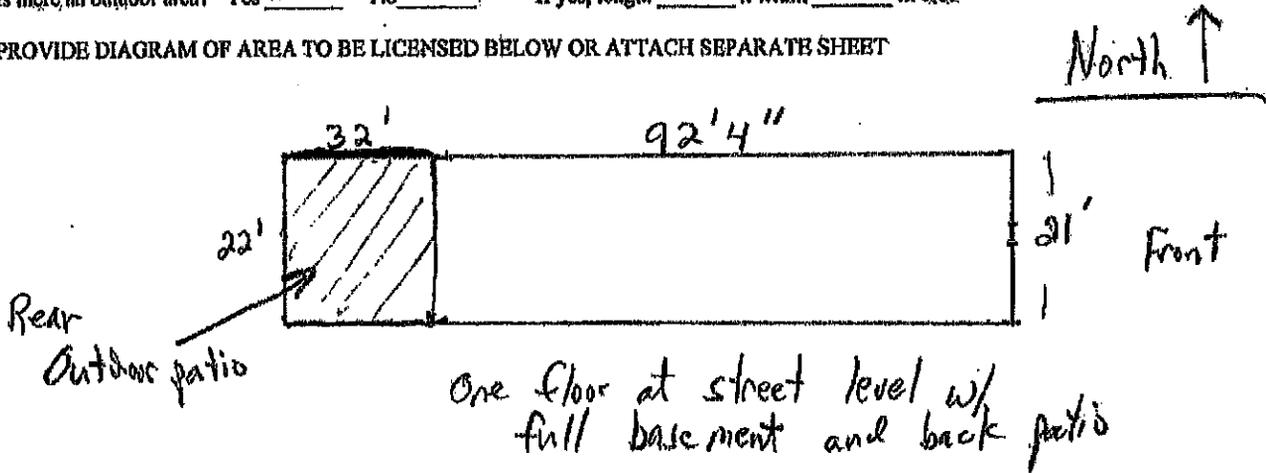
**DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED**

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.

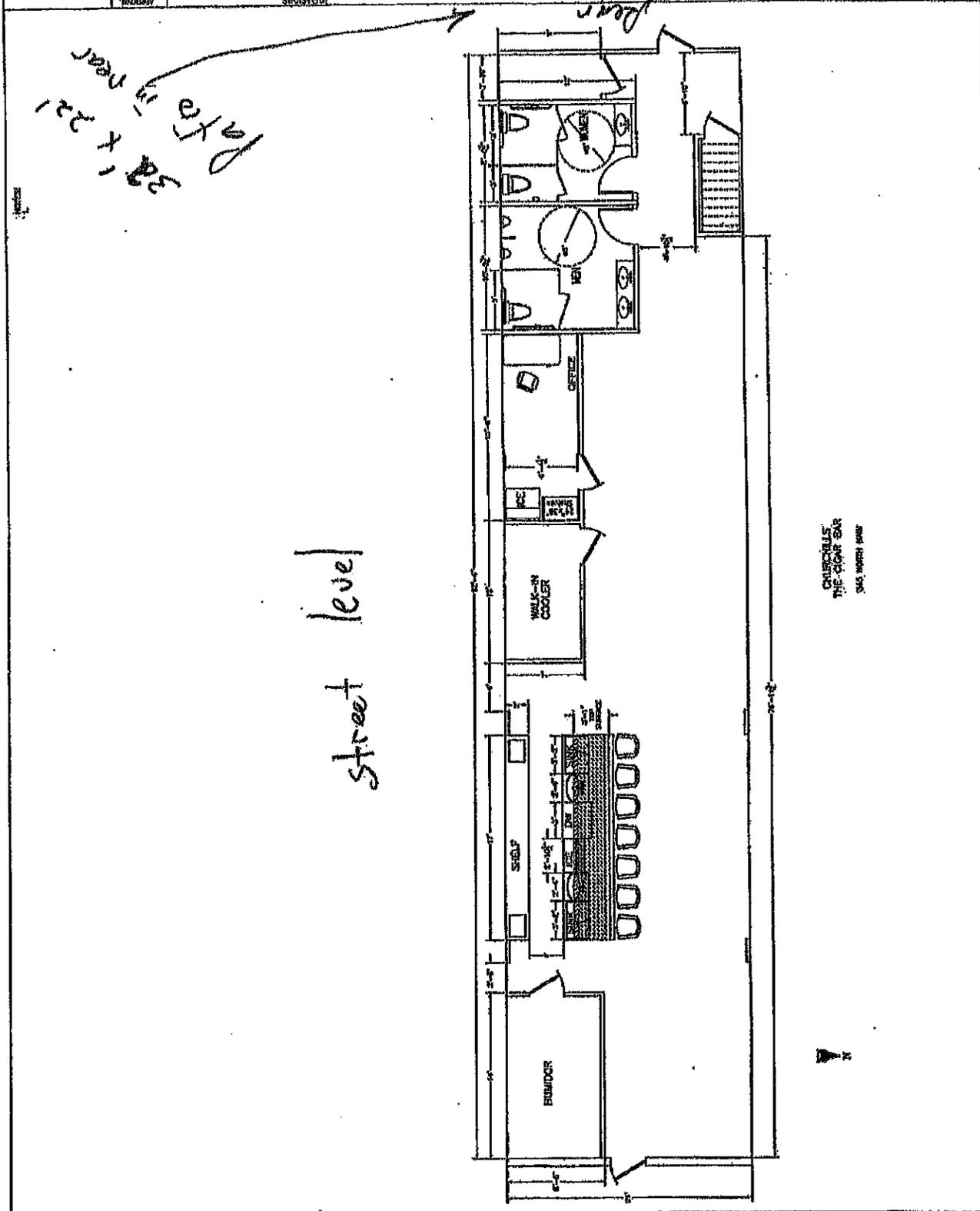
\*\*For on premises consumption liquor licenses minimum standards must be met by providing at least two restrooms

Building: length 92'4" x width 21' in feet  
Is there a basement? Yes X No \_\_\_\_\_ If yes, length 92'4" x width 21' in feet  
Is there an outdoor area? Yes X No \_\_\_\_\_ If yes, length 32' x width 22' in feet

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



<b>Churchills</b> CONSULTING LLC 1928 Fm. Blvd. S1 Fremont, NE 68025 gchurchills@earthlink.net		SIZE: C DATE: 2006
<b>CHURCHILLS</b> FLOOR PLAN		
REVISIONS NO. DATE BY 1 11/15/06 JLD 2 11/15/06 JLD 3 11/15/06 JLD 4 11/15/06 JLD 5 11/15/06 JLD 6 11/15/06 JLD 7 11/15/06 JLD 8 11/15/06 JLD 9 11/15/06 JLD 10 11/15/06 JLD	PROJECT NO. 2006	SHEET 1



*38' x 221*  
*Patio in rear*

*street level*

CHURCHILLS  
 THE CHUR BAR  
 SAS WITH SASS

*Front*

**APPLICANT INFORMATION**

**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

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (city & state)	Description of Charge	Disposition
Scott A. Brannon			traffic citations	30-40 yrs ago
				cannot remember
				specifics

**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 Used to be Irv's Deli - I acquired vacant building.

**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 T25)
- 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) Pinnacle Bank, 99 West 6th St., Fremont NE 68025

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)

---

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.

Pinnacle Bank, 99 West 6th St. Fremont NE 68025 - Scott A. Brannon

---

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.

**See Attached.**

Form 100 – Application For Liquor License

Page 8, No. 11

Premier Midwest Beverage Co., 10367 South 134<sup>th</sup> Street, Omaha NE 68138 – 9/08 – 4/09 – Moved on.

Fremont Eagles Club, 649 North Main Street, Fremont NE 68025 – 1983 – 1986 – Moved on.

Scott A. Brannon, 1841 East 23<sup>rd</sup> Street, Fremont NE 68025 – 1979 – 1983.

\*do not have license numbers for above.

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:

Applicant Name	Date (mm/yyyy)	Name of program (attach copy of course completion certificate)
None		

For list of NLCC certified training programs see: [www.lcc.ne.gov/traininginfo.html](http://www.lcc.ne.gov/traininginfo.html)

Experience:

Applicant Name/Job Title	Date of Employment	Name & Location of Business
Scott A. Brannon	2008-2009	Nebr. Distributing dba Premier Midwest Beverage Co. <span style="float: right;">Omaha NE</span>
Scott A. Brannon	1983-1986	Fremont Eagles Club, Fremont, Nebraska
Scott A. Brannon	1979-1983	Boomers, Fremont, Nebraska

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? June 2020

15. What will be the main nature of business? Cigars and beverages

16. What are the anticipated hours of operation? Noon til midnight

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					
APPLICANT: CITY & STATE	YEAR		SPOUSE: CITY & STATE	YEAR	
	FROM	TO		FROM	TO
Scott A. Brannon / Omaha NE	2008	Current	NA		

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 supervise in person the management and operation of the business. Partnership applicants agree one partner shall supervise 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.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). See guideline for required signatures <http://www.leg.ne.gov/pdfs/Now%20Application%20Guideline.pdf>

  
\_\_\_\_\_  
Signature of Applicant

**Scott A. Brannon**  
\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Spouse

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Applicant

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Signature of Spouse

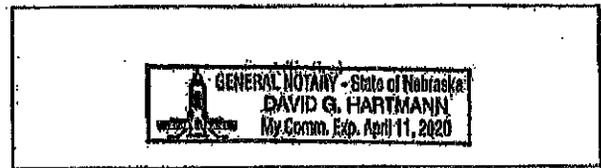
\_\_\_\_\_  
Print Name

ACKNOWLEDGEMENT

State of Nebraska  
County of Dodge  
8th day of April 2020  
date

The foregoing instrument was acknowledged before me this  
Scott A. Brannon  
by \_\_\_\_\_  
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.lco.nebraska.gov

**RECEIVED**

Office Use

APR 09 2020

**NEBRASKA LIQUOR  
CONTROL COMMISSION**

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 State's office)

Name of Registered Agent: Scott A. Brannon

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

Churchills LLC

LLC Address: 8526 L Street

City: Omaha State: NE Zip Code: 68127

LLC Phone Number: 402.614.2020 LLC Fax Number: NA

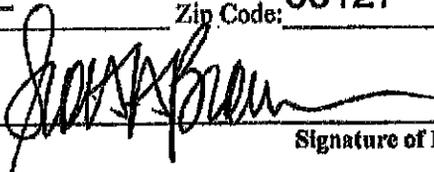
Name of Managing/Contact Member

Name and information of contact member must be listed on following page

Last Name: Brannon First Name: Scott MI: A

Home Address: 10259 Polk Street City: Omaha

State: NE Zip Code: 68127 Home Phone Number: 402.614.2020

  
Signature of Managing/Contact Member

ACKNOWLEDGEMENT

State of Nebraska  
County of Dodge  
The foregoing instrument was acknowledged before me this  
8th day of April 2020 by Scott A. Brannon  
Date  
David G. Hartmann  
Name of person acknowledged

Affix Seal

  
GENERAL NOTARY - State of Nebraska  
DAVID G. HARTMANN  
My Comm. Exp. April 11, 2020

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

Last Name: Brannon First Name: Scott MI: A

Social Security Number: [REDACTED] Date of Birth: [REDACTED]

Spouse Full Name (indicate N/A if single): NA

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 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.

# Nebraska Secretary of State

## CHURCHILLS LLC

Thu Apr 9 08:06:34 2020

### SOS Account Number

[REDACTED]

### Status

Active

### Principal Office Address

No address on file

### Registered Agent and Office Address

SCOTT A. BRANNON

8526 L ST

OMAHA, NE 68127

### Designated Office Address

8526 L STREET

OMAHA, NE 68127

### Nature of Business

Not Available

### Entity Type

Domestic LLC

Qualifying State: NE

### Date Filed

Mar 11 2020

### Filed Documents

Filed documents for CHURCHILLS 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).

Document	Date Filed	Price	
Certificate of Organization	Mar 11 2020	\$0.90 = 2 page(s) @ \$0.45 per page	<input type="button" value="Purchase Now"/>

### 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.

**CERTIFICATE OF ORGANIZATION  
OF  
CHURCHILLS LLC**

**ARTICLE 1  
Name**

The name of this limited liability company is Churchills LLC, hereafter the "Company".

**ARTICLE 2  
Purposes and Powers**

**2.1 Purposes.** The purposes for which the Company is organized are to engage in any and all lawful business for which a limited liability company may be organized under the laws of the State of Nebraska.

**2.2 Powers.** The Company shall have and exercise all powers and rights conferred upon a limited liability company by the Nebraska Uniform Limited Liability Company Act, hereinafter the "Act", and any enlargement of such powers conferred by subsequent legislative acts.

**ARTICLE 3  
Duration**

The period of duration of the Company is perpetual.

**ARTICLE 4  
Designated Office**

The Company's initial designated office in Nebraska is 8526 L Street, Omaha, Nebraska 68127.

**ARTICLE 5  
Agent**

The name and address of the Company's initial agent for service of process in Nebraska is Scott A. Brannon, 8526 L Street, Omaha, Nebraska 68127.

**ARTICLE 6  
Limited Liability**

The debts, obligations and other liabilities of the Company, whether arising in contract, tort or otherwise, are solely the debts, obligations and liabilities of the Company, and do not become the debts, obligations or other liabilities of a member solely by reason of the member acting as a member. No Organizer, Member, employee or agent of the Company shall be personally liable under any judgment, decree, or order of any court, agency, or other tribunal in Nebraska or any other state, or on any other basis, for any debt, obligation, or other liability of the Company.

**ARTICLE 7**  
**Management of the Company**

The management of the Company shall be vested in the Member. The name and address of the Member of the Company is Scott A. Brannon, 8526 L Street, Omaha, Nebraska 68127.

**ARTICLE 8**  
**Amendments**

This Certificate of Organization shall be amended as the Act requires. In all other circumstances, this Certificate of Organization may be amended by the Members of the Company in accordance with the Act.

**ARTICLE 9**  
**Formation**

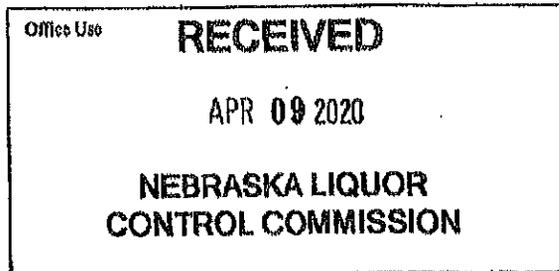
The undersigned Organizer on behalf of the Member of the Company hereby adopts the foregoing Certificate of Organization for the purposes of forming the Company under the Act.

Date of this 16 day of February 2020.

  
\_\_\_\_\_  
Scott A. Brannon, Organizer

**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.lco.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: Churchills LLC

**Premise Information**

Liquor License Number: \_\_\_\_\_ Class Type \_\_\_\_\_ (if new application leave blank)

Premise Trade Name/DBA: Churchills The Cigar Bar

Premise Street Address: 345 North Main Street

City: Fremont County: Dodge Zip Code: 68025

Premise Phone Number: 402.750.9332 (cell of Manager)

Premise Email address: draftex@cox.net

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: Brannon First Name: Scott MI: A  
Home Address: 10259 Polk Street  
City: Omaha County: Douglas Zip Code: 68127  
Home Phone Number: 402.614.2020  
Driver's License Number & State: [REDACTED] Nebraska  
Social Security Number: [REDACTED]  
Date Of Birth: [REDACTED] Place Of Birth: [REDACTED]  
Email address: draftex@cox.net

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: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_  
Social Security Number: \_\_\_\_\_  
Driver's License Number & State: \_\_\_\_\_  
Date Of Birth: \_\_\_\_\_ Place Of Birth: \_\_\_\_\_

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

CITY & STATE	YEAR FROM	YEAR TO	CITY & STATE	YEAR FROM	YEAR TO
Omaha NE	2008	2020	NA		

**MANAGER'S LAST TWO EMPLOYERS**

YEAR FROM TO		NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
2007	2009	Nebraska Distributing	Bill Wright, Owner	
1990	2007	Saeger and Company	Bill Saeger	402.720.4491

**1. READ CAREFULLY. ANSWER COMPLETELY AND ACCURATELY.**

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

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

YES       NO

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

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (City & State)	Description of Charge	Disposition
Scott A. Brannon			traffic citation	30-40 years ago (cannot remember specifics)

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):

Premier Midwest Beverage Co; Fremont Eagles Club; Boomers

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: NA Name on Certificate: \_\_\_\_\_

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

\*For list of NLCC Certified Training Programs see training

**Experience:**

Applicant Name / Job Title	Date of Employment:	Name & Location of Business:
Scott A. Brannon	2008-2009	Nebr. Distributing dba Premier Midwest Bev. Co.
Scott A. Brannon	1983-1986	Fremont Eagles Club Fremont, Nebraska
Scott A. Brannon	1979-1983	Boomers Fremont, Nebraska

*Omaha NE*

5. Have you enclosed form 147 regarding fingerprints?

YES       NO

**PERSONAL OATH AND CONSENT OF INVESTIGATION**

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

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

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

*Applicant Notification and Record Challenger* 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**

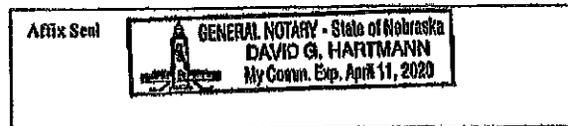
State of Nebraska  
County of Dodge

The foregoing instrument was acknowledged before me this

8th day of April 2020  
date

by Scott A. Brannon  
NAME OF PERSON BEING ACKNOWLEDGED

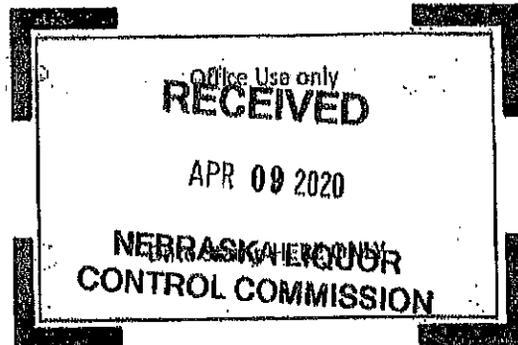
\_\_\_\_\_  
Notary Public signature



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.

**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](http://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 12<sup>th</sup> 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: Churchills The Cigar Bar

Name of Person Bring Fingerprinted: Scott A. Brannon

Date of Birth: [REDACTED] Last 4 SSN: [REDACTED] Date fingerprints were taken: \_\_\_\_\_

Location where fingerprints were taken: \_\_\_\_\_

How was payment made to NSP? Covid 19 e-Attached email

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]  
SIGNATURE REQUIRED OF PERSON BEING FINGERPRINTED

**Burmeister, Tracy**

---

**From:** Trisha Rohifs <trohifs@yostlawfirm.com> on behalf of David Hartmann <dhartmann@yostlawfirm.com>  
**Sent:** Wednesday, April 8, 2020 4:35 PM  
**To:** Burmeister, Tracy  
**Cc:** David Hartmann; Scott Brannon  
**Subject:** Application for Liquor License  
**Attachments:** 20200408163636345.pdf

Dear Tracy:

Thank you for your assistance in connection with this Application for Liquor License and your time on the telephone yesterday.

We are submitting the following:

1. Form 100 – Application for Liquor License;
2. Form 3b – Application for Limited Liability Company along with Certificate of Organization of Churchills LLC;
3. Form 3c – Manager Application;
4. ~~Form 147 – Fingerprints (Note: we are submitting the form as you requested but as you know the Nebraska State Patrol has suspended fingerprinting until the end of May 2020); and,~~
5. Form 121 – Application for Cigar Shop Certification.

Also, we are forwarding the following documents as required:

1. Deed to premises;
2. Business Plan of Churchills The Cigar Bar;
3. Copy of Applicant's US Passport; and,
4. Copy of Proof of Registered Voter in Nebraska.

As you advised, we are submitting the application and supporting documents to you via email. We will pay the \$400 liquor license application fee online via credit card as well as pay online via credit the \$1000 for the application for the cigar shop.

We would greatly appreciate your acknowledgement of receipt of the application and other materials. Please let us know at your earliest convenience what else we need to submit if we have overlooked something.

Again, thank you for your time and attention to this matter.

*David G. Hartmann*

Attorney at Law

Yost, Schafersman, Lamme, Hillis,

Mitchell, Schulz & Hartmann, P.C.

81 West 5<sup>th</sup> Street

Fremont NE 68025

402.721.6160

[dhartmann@yostlawfirm.com](mailto:dhartmann@yostlawfirm.com)

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

HOME

REGISTRATION  
INFORMATION

POLLING  
PLACE

PROVISIONAL  
BALLOT

ABSENTEE  
BALLOT

Select Language ▾

## Registrant Search Information

### Registrant Detail

Name: Scott A Brannon  
 Party: ██████████  
 Polling Place: Hitchcock Elementary School  
 6809 South 104th Street  
 Hallway (ADA MAIN ENTRANCE)  
 Omaha, NE 68127

### Districts

DISTRICT NAME	DISTRICT TYPE
Metro Com College Dist 4	Community College District
U.S. Congressional District 2	U.S. Congressional District
Omaha City Council Ward 5	City Council (Ward)
County Commissioner Dist 02	County Board (Commis./Superv)
ESU 3 District 4	ESU District
Appeals Court Judge Dist 4	Judge of Appeals Court Dist.
County Judge Dist 4	Judge of County Court Dist.
District Judge, Dist 4	Judge of District Court Dist.
Juv Crt Judge, Douglas Co.	Judge of Juvenile Court
Supreme Court Judge Dist 4	Judge of Supreme Court Dist.
Learning Community 1 - Dist 4	Learning Community Coordinating Council
Legislative District 12	Legislative District
Mayor of Omaha	Mayor
Papio NRD Subd 8	Natural Resources District
PSO District 2	Public Service Comm District
Board of Regents District 8	Board of Regents
Millard Public Schools	School District
State Board of Education Dist 8	State Board of Education
Omaha Public Power Subd 8	Public Power District
MUD of Omaha Subd 6	Utilities District
Metro Com College At Large	Community College District

Vote View Mobile  
 Registration Information Polling Place Provisional Ballot Absentee Ballot

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 © Voter View 3.0.1405.10

**Business Plan  
Churchills The Cigar Bar**

**Executive Summary.** Churchills The Cigar Bar is a new venture with plans to sell beer, wine and spirits and cigars.

**Management.** Churchills The Cigar Bar will be owned by Churchills LLC, a Nebraska limited liability company. Scott A. Brannon is the sole member of Churchills LLC and will operate the business. Scott A. Brannon has had several years in the industry in one form or another.

**Products and Services.** Churchills The Cigar Bar will provide and sell beer, wine and spirits and cigars. It will have a walk-in humidor.

**Company Summary.** Churchills The Cigar Bar will open in the building formerly housing Irv's Deli on Main Street in Fremont, Nebraska. This will add to the vitality of Main Street Fremont. Among the plans is to serve and sell locally brewed beer from a brew pub which is currently in the works by others also to be located on Main Street Fremont.

Please return to:  
David G. Hartmann  
81 West 5th Street  
Fremont NE 68026

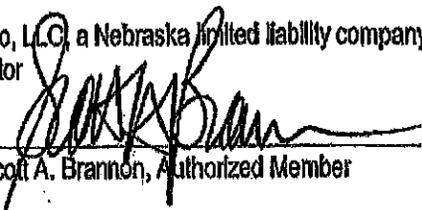
### QUITCLAIM DEED

Sabco, LLC, a Nebraska limited liability company, GRANTOR, in consideration of One Dollar and Other Valuable Consideration received from GRANTEE, Churchills LLC, a Nebraska limited liability company, quitclaims to GRANTEE the following-described real estate (as defined in R.R.S., 1943, §76-201):

Commencing at a point 44 feet South of the Northeast corner of Block 173; thence Southerly along the West side of Main Street, 22 feet; thence Westerly at right angles 132 feet to the alley; thence Northerly along the East line of the alley 22 feet; thence Easterly at right angles to the place of beginning, 132 feet, said land is known as the third 22 feet from the North of Lots 1 and 2 in Block 173 of the City of Fremont, Dodge County, Nebraska.

Executed the 8th day of April 2020.

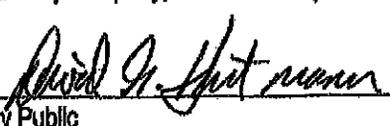
Sabco, LLC, a Nebraska limited liability company,  
Grantor

By   
Scott A. Brannon, Authorized Member

State of Nebraska }  
County of Dodge } ss.

The foregoing instrument was acknowledged before me on the 8th day of April 2020, by Scott A. Brannon, Authorized Member of Sabco, LLC, a Nebraska limited liability company, known to me personally or who has provided sufficient proof of identification to me.



  
Notary Public

**Fremont Police Department**  
**Liquor License Application Investigative Report**

**Name of Business:** Churchills The Cigar Bar  
**Business Address:** 345 N Main St. Fremont, NE 68025  
**Business Phone #:** 402.750.9332  
**Business Owner (s):** Churchills LLC

**Business Owner's Address (s):** 8526 L St. Omaha, NE 68127  
**Owner's Daytime Phone Number:** 402.750.9332

**1. Type of Investigation:**     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  
    Liquor / On / Off Sale only  
    Restaurant / Food Service  
    Entertainment  
    Other \_\_\_\_\_

**4. Type of Ownership:**       Corporation (LLC)  
    Partnership  
    Individual  
    Limited Liability Company (LLC)

**5. Financial Information :**      Previous Years Gross Sales  
(Estimation)                      \$ 150,000      Estimated Annual Payroll  
   \$ 500,000      Estimated Gross Income  
   0% Food      75% Liquor

**6. Premise Information:**     Commercial      \_\_\_ Industrial      \_\_\_ Residential

**Estimated Seating Capacity:**    Estimated # of Customers per day - 20

**Premise days of operation:**    DAYS/WEEK – 7 days

**Premise hours of operation:**    Noon-Midnight

**7. Type of Food Service:**    NA Microwave    NA Grill    NA Kitchen

8. Employees: # 2 Full Time # 6 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: Scott A Brannon  
Address: 10259 Polk St. Omaha, NE 68127  
Phone # 402.614.2020  
Driver's License # \_\_\_\_\_ State NE

Length of time as owner: New Owner

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

No

10. Number of Licenses within competitive distance: 4

11. Does the establishment have gaming? No

12. Does the establishment sell tobacco products? Yes

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. 0

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. Owns the property

Date received by Fremont Police Department 4/16/20

Date of Completed Investigation 4/20/20

Signature of Investigating Officer [Handwritten Signature]

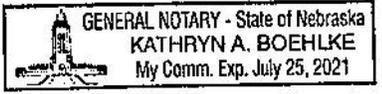
Date of Hearing by Governing Body 4/28/20

Governing Body Recommendation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature of Applicant [Handwritten Signature] Date 4/20/20

Printed Name of Applicant SCOTT A. FRANNON

Notary Kathryn A Boehlke



Falsification of any part of this application may result in criminal and civil penalties.



**FREMONT  
POLICE  
DEPARTMENT**

**JEFFREY J. ELLIOTT**  
Chief of Police

725 North Park Avenue  
Fremont, Nebraska 68025

Case FPD2001158 - UNAPPROVED DRAFT

Printed on April 21, 2020

<b>Status</b>	Active
<b>Report Type</b>	Case
<b>Primary Officer</b>	Aaron Howe
<b>Reported At</b>	04/21/20 09:47
<b>Incident Date</b>	04/21/20 09:47
<b>Incident Code</b>	LIC : Licensing Checks
<b>Location</b>	725 N PARK AVE, FREMONT, NE (FPD)
<b>Zone</b>	District 5
<b>Beat</b>	
<b>Disposition</b>	Forward to Other Agency
<b>Disposition Date/Time</b>	04/21/20 09:49
<b>Review for Gang Activity</b>	None

**Dispatch Information**

**CFS #** CFS2010175  
**Location** 725 N PARK AVE, FREMONT, NE  
**Incident Code** LIC : Licensing Checks  
**Occurred Between** 04/21/20 09:47:22 and  
**Assigned** 09:48:40 **Enroute** 09:48:40 **On Scene** 09:48:40 **Completed** 09:48:40

**Unspecified**

**BRANNON, SCOTT A**

**Primary Narrative By Aaron Howe, 04/21/20 09:58**

Scott A Brannon has completed a liquor license application. He will be the manager/owner of Churchill's The Cigar Bar, located at 345 N. Main St. He has had the forms notarized and they have been sent to City Hall.

LIQUOR APPLICATION REPORT

PLANNING REPORT

DATE April 17, 2020

DUE DATE: April 21, 2020

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: Scott Brannon dba Churchills The Cigar Bar

LOCATION: 345 N. Main Street

REQUESTED LICENSE OR ACTION: Class C beer, wine and spirits on- sale and off sale

EXISTING ZONING: DC, Downtown Commercial

EXISTING LAND USE: vacant commercial building

**ADJACENT LAND USE AND ZONING:**

NORTH: DC, Downtown Commerical

SOUTH: DC zoning with commercial uses

EAST: DC zoning with commercial uses

WEST: DC zoning with parking lot

**GENERAL NEIGHBORHOOD / AREA LAND USES:** The subject property is located in the downtown commercial district and is surrounded by commercial uses. The property was most recently a bar and grill.

**ANALYSIS OF NEIGHBORHOOD EFFECTS:** The proposed use is consistent with the uses in surrounding area. The proposed outdoor area will need to be fenced in, meet ADA requirements and be inspected by the State Fire Marshall. A fence should be installed around the platform to minimize the risk of falls, and the step should be painted a bright yellow.

SIGNED: 

Jennifer L. Dam, AICP; Director of Planning

**RESOLUTION NO. 2020-085**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FREMONT, NEBRASKA CONSIDERING AN APPLICATION FOR A CLASS CCS LIQUOR LICENSE FOR CHURCHILLS, LLC., DBA CHURCHILLS THE CIGAR BAR, 345 N. MAIN ST., FREMONT, NE 68025.

WHEREAS, an application was filed by Churchills, LLC., dba Churchills The Cigar Bar, 345 N. Main St., Fremont, NE 68025 for a class CCS liquor license; and,

WHEREAS, a public hearing notice was published in the Fremont Tribune as required by state law on April 17, 2020; and,

WHEREAS, a public hearing was held on April 28, 2020 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 28th DAY OF APRIL, 2020.

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

# Staff Report

**TO:** Mayor and City Council  
**FROM:** Jennifer McDuffee, Director of Human Resources  
**DATE:** April 28, 2020  
**SUBJECT:** ApplicantOne License Agreement

---

**Recommendation:** Approve motion authorizing the Mayor to sign the License Agreement with ApplicantOne for online application services.

---

## **Background:**

The HR team has been researching options for online application systems and applicant tracking. Our current process involves a pdf application document that causes difficulties and frustration for some applicants who have difficulty submitting a completed application. We also currently track applications by hand, which is a time consuming process that makes it difficult to retain information when candidates submit multiple applications.

We have been reviewing various vendors for the past year and narrowed our search down to three options: JazzHR (\$219 per month), ExactHire (\$5,700 annually), and ApplicantOne (\$400 per month). We have selected ApplicantOne. The ApplicantOne system is provided by the same vendor that provides our background checking services and was able to offer the features we identified as important to the organization and our candidates.

ApplicantOne's proposal falls below the amount budgeted for this service for the next two fiscal years and will create a much more candidate-friendly application experience while increasing our effectiveness in reviewing and screening candidates. We anticipate being able to reduce our advertising expenses while increasing our exposure with the resources available through ApplicantOne.

The agreement has been reviewed by the City Attorney and Director of Information Systems.

**Fiscal Impact:** \$1,500 implementation fee, then \$400 per month thereafter

# License Agreement

ApplicantOne Representative: Trish Gawlowski  
Client Name: City of Fremont NE ("Client")  
Address: 400 E Military Ave  
City/State/Zip: Fremont, NE 68025

Client Implementation Contact: \_\_\_\_\_  
Client Implementation Phone: \_\_\_\_\_  
Client Implementation Email: \_\_\_\_\_

IMPLEMENTATION FEE: \$1500.00

PRICING: \$400.00 / Monthly

This License Agreement and the exhibits, schedules and attachments hereto including, without limitation, the Terms and Conditions, are referred to individually and together as this "Agreement." Client and ApplicantOne are referred to individually as "Party" and together as the "Parties."

The Parties hereby agree to the terms and conditions in this Agreement.

## CLIENT

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Title \_\_\_\_\_  
Date \_\_\_\_\_

## CLIENT NOTICE INFORMATION

To \_\_\_\_\_  
Address \_\_\_\_\_  
Fax \_\_\_\_\_  
Phone \_\_\_\_\_  
Email \_\_\_\_\_

## CLIENT BILLING INFORMATION

Contact/Title \_\_\_\_\_  
Address \_\_\_\_\_  
Fax \_\_\_\_\_  
Phone \_\_\_\_\_  
Email \_\_\_\_\_

## APPLICANTONE, INC

Signature *Trish Gawlowski*  
Name Trish Gawlowski  
Title Regional Sales Manager  
Date 04/13/2020

## APPLICANTONE NOTICE INFORMATION

To ApplicantOne  
Address 180 Fitzgerald Road Suite 1  
Lakeland, FL 33813  
Phone 866-535-3454  
Fax 866-535-3454  
Email helpdesk@applicantone.com

## Terms and Conditions

- 1. The Parties.** Client and ApplicantOne, Inc. ("AO") are referred to individually as "Party" and together as the "Parties."
- 2. The Agreement.** This License Agreement, and all exhibits, schedules and attachments to it including, without limitation, these Terms and Conditions, are referred to individually and together as this "Agreement."
- 3. Right to Access to the Software.** Subject to the terms of this Agreement, AO grants to Client a limited, non-transferable, non-exclusive right to access and use AO's proprietary applicant tracking system software ("Software") via a web browser. The Software is made available to Client as a hosted service. AO will host and retain physical control over the Software and make such computer programs and code available only through the Internet for access, use and operation by Client through a Web-browser. No provision under this Agreement shall obligate AO to deliver or otherwise make available any copies of computer programs or code from the Software, whether in object code or source code or any other form. The Software may contain technological measures designed to prevent unauthorized or illegal use of the Software. Client acknowledges and agrees that: (a) AO may use these and other lawful measures to verify Client's compliance with the terms of this Agreement and enforce AO's rights, including all intellectual property rights in and to the Software; (b) AO may deny any individual access to and/or use of the Software if AO, in AO's sole and absolute discretion, believes that person's use of the Software would violate any provision of this Agreement, regardless of whether Client designated that person as an authorized user; and (c) AO and its representatives may collect, maintain, process and use diagnostic, technical, usage and related information, including information about Client's computers, systems and software, that AO may gather periodically to improve the performance of the Software.
- 4. Fees and Billing.** Upon execution of this Agreement, the pricing and fees specified in this Agreement will be invoiced in full for the one (1) year term, or if agreed upon by AO, the invoicing will be done on a monthly basis. The invoice is due and payable in full upon Client's receipt. Subsequent invoices are due and payable at the commencement of the subsequent one (1) year period(s), or continuing on a monthly basis if so agreed to by AO. Payments are non-refundable.
- 5. Term, Automatic Renewal and Notice of Termination.** This Agreement shall be for a one (1) year term, and shall renew automatically upon the same terms and conditions set forth in this Agreement, including the fees and pricing set forth in this Agreement, for subsequent one (1) year periods unless Client or AO provides written notice of termination at least sixty (60) days prior to the expiration of the then-current term.
- 6. Billing Information.** Client agrees to provide to AO accurate and complete billing and contact information, Client's legal name and company name, street address, e-mail address, and telephone number, and to update this information in writing within 10 days of any changes.
- 7. Fees and Taxes.** During the term of this Agreement, Client agrees to pay AO based on the fees and pricing set forth herein. Unless otherwise specifically provided in this Agreement, fees are non-refundable. All payments, fees and other charges payable by Client to AO under this Agreement are exclusive of all applicable taxes including, without limitation, federal, state and local. Client agrees to bear and be responsible for the payment of all such taxes.
- 8. Delinquent Payment.** In the event that Client's account is delinquent, AO reserves the right to suspend Client's access to the Software, with no liability to Client for this suspension, until such amounts are paid in full. For credit card payments, an account will be considered delinquent if Client's credit card company refuses for any reason to pay the amount billed to it and that amount remains unpaid thirty (30) days following the billing cycle. Client agrees that AO may impose a charge to restore archived data from delinquent accounts. Unpaid charges (except those charges under reasonable and good faith dispute) are subject to interest of 1.75% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection, including without limitation reasonable attorneys' fees.
- 9. Restrictions.** Except as may be expressly provided elsewhere in this Agreement, Client shall not, directly or indirectly, (a) copy the Software, in whole or part, or reverse engineer, decompile, disassemble or otherwise attempt to discover the source code or underlying ideas or algorithms of the Software; modify, translate, or create derivative works based on the Software, or authorize any third party to do any of the foregoing; (b) rent, lease, distribute, sell, resell, assign, or otherwise transfer rights to the Software; (c) use the Software for timesharing or service bureau purposes or otherwise for the benefit of a third party; (d) obfuscate, remove or alter any of the logos, trademarks, internet links, patent or copyright notices, confidentiality or proprietary legends or other notices or markings that are on or in the Software or the related documentation; (e) use the Software for purposes of: (i) benchmarking or competitive analysis of the Software; (ii) developing, using or providing a competing software product or service; or (iii) any other purpose that is to AO's detriment or commercial disadvantage; or (f) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs. Because the Software is proprietary, Client agrees not to publish or disclose to third parties any evaluation of the Software without AO's prior written consent.
- 10. Ownership.** Client retains all right, title and interest to any and all information provided, inputted or uploaded to the Software by Client, a Client candidate and/or employee, or by AO on Client's behalf. AO has no right, title or interest in any personally identifiable information related to Client's candidates or employees. AO shall retain all right, title and interest in and to the Software, the documentation for the Software, and all modifications and/or enhancements to the Software, regardless of the source of inspiration for any such enhancement or modification and regardless of whether Client has provided input regarding such modifications and/or enhancements. Client acknowledges that AO will retain all right, title and interest to transactional and performance data related to use of the Software which AO may collect, use and disclose for its business purposes (including software use optimization and product marketing) provided that such use does not reveal Client's identity, any of Client's Confidential Information or any personally identifiable candidate or employee information that belongs to Client. Custom developed documents, designs, computer programs, computer documentation and other tangible materials authored or prepared for Client by AO ("Deliverables") as required by a statement of work are hereby licensed, solely for Client's internal use, for the term of this Agreement. AO retains ownership and may reuse any Deliverables, provided that such use does not reveal Client's identity or Client's Confidential Information. For avoidance of doubt purposes, Client hereby unconditionally and irrevocably assigns to AO, its entire right, title and interest in and to any intellectual property rights that Client may now or hereafter have in or relating to the Software (including any rights in derivative works or improvements relating to it), whether held or acquired by operation of law, contract, assignment

or otherwise. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel or otherwise, to Client or any third party any intellectual property rights or other right, title, or interest in or to any of the Software.

11. **Equipment.** Client is responsible for obtaining and maintaining all computer hardware, software and communications equipment needed to access the Software, and for paying all third-party access charges, if applicable, incurred while using the Software. AO reserves the right to make changes to its policies, procedures and practices and to make changes to its hosting and technical infrastructure during the term of this Agreement as deemed reasonably necessary by AO to provide service to AO's customers. Such changes will not materially degrade the performance of the Software or materially decrease the functionality of the Software.
12. **Prohibited Uses.** Client may not use the Software for spamming, chain letters, junk mail or distribution lists to contact any person who has not given specific permission to be included in such list. Client agrees not to transmit, or permit Client's employees to transmit, through the Software, any unlawful, harassing, libelous, abusive, threatening, vulgar, obscene or otherwise objectionable material of any kind. Client agrees to only use the Software for lawful purposes, in compliance with all applicable laws including, without limitation, copyright, trademark, obscenity and defamation laws. Unlawful activities may include (without limitation) storing, distributing or transmitting any unlawful material, or attempting to compromise the security of any networked account or site. Client agrees to defend, indemnify and hold AO harmless against any claim or action that arises from Client's use of the Software in an unlawful manner or in any manner inconsistent with the restrictions and policies stated herein.
13. **Third Party Contractors.** Client may make the Software available for use by third-party contractors used by Client solely to assist in Client's applicant tracking efforts ("Third-Party Contractor"), within the limits of the usage rights and restrictions set forth in this Agreement. Client is responsible for the use of the Software by such Third-Party Contractors, including compliance with each term of this Agreement to the same extent as if the Third-Party Contractor were Client's employee. Client agrees that any password provided to a Third-Party Contractor will be disabled immediately upon conclusion of such Third-Party Contractor's work for Client.
14. **Technical Tests, Scans, Reviews, Etc.** Client shall not and shall not allow anyone working on Client's behalf to (i) perform any technical security integrity review, penetration test, load test, denial-of-service simulation or vulnerability scan without AO's prior written consent, or (ii) attempt to access the data of another AO customer. Client shall not and shall not allow anyone working on Client's behalf to use any software tool designed to automatically emulate the actions of a human user (such tools are commonly referred to as "Robots") in conjunction with the AO Software. If Client or anyone working on Client's behalf uses a Robot or a similar program or tool for the purposes listed above or any other purpose, it shall constitute a material breach of this Agreement. Client shall indemnify and hold AO harmless without limitation from any damages, losses, claims, costs, expenses or liabilities arising from downtime, production incidents or other technical problems arising during a time period in which Client is in breach of this provision or as a result of Client's breach of this provision, including without limitation, damages or credits to AO customers arising from downtime and costs, including third party costs, related to the correction of such downtimes, production incidents or other technical problems.
15. **Invoice Dispute and Audit of Use of Software.** To dispute an invoice, Client must contact AO in writing no later than thirty (30) days after the billing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Client agrees to retain complete, clear and accurate records regarding Client's use of the Software and agree to submit to a reasonable audit of this information upon reasonable notice by AO not more than once per calendar year. Notwithstanding the ability to dispute an invoice, all amounts payable to AO under this Agreement shall be paid by Client to AO in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law), and Client will only have the right to receive an adjustment or credit should one be appropriate as a result of the dispute.
16. **Publicity.** Client agrees that AO can disclose the fact that Client is a customer of AO. During the term of this Agreement, and unless otherwise set forth in this Agreement, Client grants AO the right to reference Client, along with Client's logo, on the customer section of AO's public web site and/or AO's marketing and promotional material, until such time as Client's use of the Software is discontinued.
17. **Data Backup.** AO shall use all reasonable efforts to protect Client's data behind a secure firewall system, to conduct regular data backups, and to store full-system backups in a separate, fire-safe facility.
18. **Passwords.** Client will choose or be given all applicable passwords to use in connection with the Software. Client is responsible for maintaining the confidentiality of Client's passwords and account (including, if applicable, the passwords and accounts of each user accessing the Software by means of an account established by Client). Furthermore, Client is responsible for any and all activities that occur under Client's account (including, if applicable, the accounts of each user accessing the Software by means of an account established by Client). Each password may be used by one individual named person only. Passwords may not be used concurrently or shared by more than one individual named person.
19. **Security.** Client shall notify AO immediately of any unauthorized use of its account (including, if applicable, the passwords and accounts of each user accessing the Software by means of an account established by Client) or any other breach of security. AO will not be liable for any loss or damage arising from Client's failure to comply with these requirements.
20. **Cooperation and Notice of Infringement.** Client shall, during the term: (a) take all commercially reasonable measures to safeguard the Software from infringement, misappropriation, theft, misuse or unauthorized access; (b) at AO's expense, take all such steps as AO may reasonably require to assist AO in maintaining the validity, enforceability and AO's ownership of the intellectual property rights in the Software; (c) promptly notify AO in writing if Client becomes aware of: (i) any actual or suspected infringement, misappropriation or other violation of AO's right in or relating to the Software; or (ii) any claim that the Software, including any production, use, marketing, sale or other disposition of the Software, in whole or in part, infringes, misappropriates or otherwise violates the rights of any person; and (d) fully cooperate with and assist AO in all reasonable ways in the conduct of any action by AO to prevent or abate any actual or threatened infringement, misappropriation or violation of AO's rights in, and to attempt to resolve any actions relating to, the Software, including having Client's employees testify when requested and making available for discovery or trial relevant records, papers, information, samples, specimens and the like. AO has the sole right and discretion, but not the obligation, to prevent or abate any actual or threatened

infringement, misappropriation, or violation of AO's or Client's respective rights in, and to attempt to resolve any claims relating to, the Software, including by: (1) prosecuting or defending any action of any kind; and (2) taking any other lawful action that AO, in its sole discretion, believes is reasonably necessary to protect, enforce, or defend the validity of AO's or Client's rights in the Software. AO has the right to prosecute or defend any such action in AO's own name or, if required by applicable law in Client's name and stead for purposes of prosecuting or defending such actions. AO shall bear its own costs and expenses in all such actions and have the right to exclusive control over the conduct of the action and be represented by counsel of its own choice. Client shall and hereby does irrevocably and unconditionally waive any objection to AO's joinder of Client to any action described in this Section on any grounds whatsoever, including on the grounds of personal jurisdiction, venue, or forum non conveniens. If AO undertakes the enforcement or defense of any rights in or relating to the Software, any recovery, damages, or settlement amount derived from such action (whether or not litigated) shall be retained in its entirety by AO. AO may settle any such action, whether by consent order, settlement, or other voluntary final disposition, without the prior written approval of Client.

21. **Confidential Information.** By reason of the relationship hereunder, Client will have access to certain information and materials concerning AO's technology, business, plans, and customers that are confidential and of substantial value to AO, which value would be impaired if such information were disclosed to third parties or used for competitive purposes by the other party ("Confidential Information"). Confidential Information of AO shall include, without limitation, information specifically designated as confidential, the features and functions of the Software that are not available to the general public via the public internet (including screen shots of the same), future product plans, any documentation or specifications provided to Client, the commercial terms (including pricing) of this Agreement, statements of work, schedules, addenda or amendments to this Agreement, performance and security test results (whether conducted by AO or Client), and any other proprietary, financial or business information supplied to Client by AO. Client agrees that it will not and will ensure that its employees, agents and contractors will not make use of (except in furtherance of this Agreement), disseminate, or in any way disclose any Confidential Information to any person, firm or business, except for any purpose AO may hereafter authorize in writing. Client agrees that it will treat all Confidential Information with the same degree of care as it accords to its own Confidential Information, and Client represents that it exercises reasonable care to protect its own Confidential Information. Notwithstanding the foregoing, "Confidential Information" shall not include: (i) information previously known to Client without reference to Confidential Information, (ii) information which is or becomes publicly known through no act or omission of Client or its representatives, employees or agents, (iii) information which has been independently developed by Client without reference to the Confidential Information, (iv) information received from a third party under no confidentiality obligation with respect to the Confidential Information, or (v) information required to be disclosed pursuant to administrative or court order, government or regulatory requirement or arbitration or litigation arising out of this Agreement.
22. **Termination.** Client or AO may terminate this Agreement for cause: (i) upon 30 days written notice of a material breach to the other party if such breach remains uncured at the expiration of the 30-day period; or (ii) immediately if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. Additionally, any account which is suspended for more than thirty (30) days due to delinquent payments may be terminated, without notice to Client and without any obligation on the part of AO to maintain, store or return any of Client's data or data residing in Client's instance of the AO Software. If Client terminates this Agreement for cause pursuant to this section, AO shall refund to Client the prorated amount of the fees prepaid by Client that were to apply to the remainder of the unexpired term, as calculated from the termination date through the remainder of the unexpired term. Upon termination of this Agreement for any reason, (i) the license will terminate, and Client, and any user accessing the Software by means of a company account, if applicable, will cease to use or have access to the Software; and (ii) except where such termination is due to delinquent payment, Client may request a copy of the most recent back-up of Client's data. Fees may apply to retrieve data from back-ups. AO may, but is not obligated to, delete archived data, but will not do so until thirty (30) days after the termination of this Agreement. Delinquent accounts must be brought to good standing in order to receive data.
23. **Survival.** Each provision of this Agreement reasonably intended by its terms to survive termination or expiration of this Agreement shall so survive.
24. **Warranty.** AO represents, warrants, and covenants that the Software will perform substantially in accordance with any user instructions, manuals, or technical requirements documents that are generally provided by AO in connection with the Software. In the event of a breach of the foregoing warranty, AO's sole obligations, and Client's sole remedy, shall be, at AO's option, to use commercially reasonable efforts to correct the Software or replace the Software free-of-charge subject to the limitations herein.
25. **Disclaimer.** EXCEPT AS SPECIFICALLY PROVIDED HEREIN, THE SOFTWARE IS PROVIDED TO CLIENT "AS IS" AND WITHOUT WARRANTY OF ANY KIND, AND AO DISCLAIMS ALL WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. SOME STATES AND/OR JURISDICTIONS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES, SO THE ABOVE LIMITATION MAY NOT APPLY TO CLIENT. AO DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE. ANY MATERIAL DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICE IS DONE AT CLIENT'S RISK AND CLIENT WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CLIENT'S COMPUTER SYSTEM OR NETWORK, OR LOSS OF DATA THAT RESULTS FROM CLIENT'S USE OF THE SOFTWARE.
26. **Limitation of Liability.** AO's TOTAL LIABILITY WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT (INCLUDING, BUT NOT LIMITED TO, LIABILITY ARISING OUT OF CONTRACT, TORT, STRICT LIABILITY, BREACH OF WARRANTY OR OTHERWISE), WILL BE LIMITED TO THE FEES PAID BY CLIENT TO AO FOR THE SOFTWARE IN THE 12 MONTHS PRIOR TO THE ACT OF INJURY THAT GAVE RISE TO THE LIABILITY. NEITHER PARTY SHALL BE LIABLE IN ANY EVENT FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, THE COST OF ANY SUBSTITUTE FOR THE SOFTWARE), WHETHER OR NOT FORESEEABLE AND EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CERTAIN STATES AND/OR JURISDICTIONS DO NOT ALLOW THE LIMITATION OF LIABILITY FOR INCIDENTAL, CONSEQUENTIAL OR CERTAIN OTHER TYPES OF DAMAGES, SO THE CERTAIN EXCLUSIONS SET FORTH ABOVE MAY NOT APPLY TO CLIENT.

27. **Additional Terms.** This Agreement is between AO and Client, and is not for the benefit of any third party, whether directly or indirectly (including, if applicable, any user accessing the Software by means of an account established by Client). The failure of either party to exercise any right provided for herein will not be deemed a waiver of any other rights hereunder. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect. Client may not assign, transfer, or sublicense this Agreement except with AO's prior written consent. This Agreement shall be governed and construed under the laws of the State of Florida without regard for the conflict of laws provisions thereof. Each Party agrees to submit to the exclusive jurisdiction of the courts located in Hillsborough County, Florida and waives any right it may have to challenge the appropriateness of such forum. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous or contemporaneous written and/or oral agreements, communications and other understandings relating to the Software and/or this Agreement, and that all modifications to this Agreement must be in writing signed by both parties. No agency, partnership, joint venture, or employment is created as a result of this Agreement and neither party has any authority of any kind to bind the other party in any respect whatsoever. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and reasonable attorneys' fees. All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is confirmed by the receiver, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested. This Agreement may be executed in one or more counterparts and may be exchanged by facsimile or electronically scanned copy or photocopied, each of which shall for all purposes be deemed to be an original and all of which shall constitute the same instrument.
28. **AO Support.** Client may contact AO support at (866) 535-3454. AO support is available 8:00 a.m. to 8:00 p.m. (Eastern time), Monday through Friday, excluding holidays.
29. **Client Responsibilities.** Client shall provide AO a list of its administrative users, standard users and contacts, along with user permissions. If any error or problem arises, Client shall cooperate and work with AO and provide all reasonably requested information to enable AO to reproduce, troubleshoot and resolve the error. Client shall designate at least one primary IT contact and one backup IT contact, which shall be the primary IT contacts for AO.
30. **Equitable Relief.** Client acknowledges and agrees that a breach or threatened breach by Client of any of its obligations under Sections 9, 12, 20 and 21 of this Agreement would cause AO irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, AO will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

**CLIENT**

Signature

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Name

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Title

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Date

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## STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: Shelly Holzerland, Communications Director  
DATE: April 28, 2020  
SUBJECT: CenturyLink circuit contract

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**Recommendation:** Approve resolution 2020-086 to enter in to a contract with CenturyLink for circuit to provide connectivity for 911 region.

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**Background:** The current 911 system is in the process of transitioning to NextGen 911. The next generation of 911 will be Internet Protocol (IP) based. In order to minimize costs and maximize interoperability, the state is encouraging regionalization of 911 systems.

Fremont/Dodge County 911 has entered in to an interlocal agreement with Colfax County to connect their independent Viper servers together to form a host region. The two Vipers need to be connected, so if one should fail, the other can continue to carry the 911 calls to all of the PSAP's (Public Safety Answering Points) in the region. This contract with Centurylink will provide one of the two Multiprotocol Label Switching (MPLS) circuits that connect the hosts together.

**Fiscal Impact:** \$500.00 one-time, non-recurring fee; \$658.00 monthly charge for 60 months.

The PSAP Governance board unanimously voted to approve the contract with Centurylink to provide the Viper connectivity.

This project is part of the combined city/county PSAP. This will be split 35/65 with Dodge County, in accordance with the Interlocal

Customer Information	Account Information	Prepared By
<b>Name:</b> DODGE COUNTY 911 - NE <b>Primary Contact:</b> <b>Primary Contact Phone:</b> <b>Primary Contact Email:</b> <b>Billing Contact:</b> <b>Billing Contact Phone:</b> <b>Billing Contact Email:</b>	<b>BPID:</b> 605612 <b>Billing Account:</b> <b>Billing Address:</b> 428 N. BROAD ST FREMONT, NE 68025 <b>Contract ID#:</b> New (Internal Use Only)	<b>Name:</b> Bjorn Johnson <b>Phone:</b> 6059772820 <b>Email:</b> bjorn.johnson@centurylink.com

**Order**

**Pricing Table**

Product	Qty	Service Address	Service Details	Service Attributes	Term (Months)	MRC	NRC	Waived NRC
IQ Managed Data Bundle	1	725 N PARK AVE FREMONT NE 68025	IQ Networking Port - Private	Cisco Comprehensive  Fast E 10M 10 Mbps Flat	60 Months	\$383.00	\$0.00	
	1		Pro MET 24x7 Professional		60 Months	\$0.00	\$0.00	
Local Access	1	725 N PARK AVE FREMONT NE 68025	ELA Native Single- CoS Low	CenturyLink (CLPA) Fast E 10M	60 Months	\$275.00	\$500.00	
<b>Service Sub Total:</b>						<b>\$658.00</b>	<b>\$500.00</b>	

"Terms and Conditions for CenturyLink IQ Managed Data Bundle Offer"

CenturyLink provides CenturyLink IQ Managed Data Bundle services under: (a) the Managed Data Bundle Offer Attachment ("Attachment") and (b) the CenturyLink IQ Networking, Local Access, Rental CPE, and Network Management Service Exhibits.

CenturyLink IQ Managed Data Bundle is a bundle composed of the following services: (a) CenturyLink IQ Networking (b) Local Access and (c) Rental CPE and (d) Network Management Service. The bundle type appears in the first "IQ Managed Data Bundle" row under the "Service Attributes" column. The details for CenturyLink IQ Networking appear in the first "IQ Managed Data Bundle" row under the "Service Details" column (port type) and under the "Service Attributes" column (port bandwidth) of the above table. The details for Rental CPE (CPE type and maintenance type) appear in the first "IQ Managed Data Bundle" row under the "Service Attributes" column of the above table. The details for Network Management Service (Select or Comprehensive) appear in the first "IQ Managed Data Bundle" row under the "Service Attributes" column of the above table. The charges for Local Access are NOT included in the IQ Managed Data Bundle Monthly Recurring Charge (MRC). The Local Access charges are listed as a separate line item in the Pricing Table.

If Customer orders Diversity Enhancement or Diversity Backhaul, the Domestic Network Diversity Service Exhibit applies. A copy of the Domestic Network Diversity Service Exhibit is available upon request.

If Customer orders Building Extension Service, the Building Extension Service Service Schedule applies. A copy of the Building Extension Service Service Schedule is available upon request.

Customer's site must qualify for ProMET® Premium On-Site Maintenance.

<b>Service(s) Total for Services priced in this Order</b>		
	<b>Monthly Recurring Charges (\$)</b>	<b>Non-Recurring Charges (\$)</b>
<b>Total</b>	\$ 658.00	\$ 500.00



Customer Name: **DODGE COUNTY 911 - NE**  
Order #: **Q-00981117**  
Order Generation Date: **4/20/2020 12:44:12 PM**  
Cutoff/Expiration Date: **6/4/2020**  
Currency: **USD**

## Terms and Conditions Governing This Order

1. Except to the extent required by an open records act or similar law, this confidential Order may not be disclosed to third parties and is non-binding until accepted by CenturyLink ("CenturyLink"), as set forth in section 4. Customer places this Order by signing (including electronically or digitally) or otherwise acknowledging (in a manner acceptable to CenturyLink) this document and returning it to CenturyLink.

2. Prior to installation, CenturyLink may notify Customer in writing (including by e-mail) of price increases due to off-net vendors. Customer has 2 business days following notice to terminate this Order without liability; or otherwise, Customer is deemed to accept the increase.

3. If a generic demarcation point (such as a street address) is provided, the demarcation point for on-net services will be CenturyLink's Minimum Point of Entry (MPOE) at such location (as determined by CenturyLink). Off-net demarcation points will be the off-net vendor's MPOE. If this Order identifies aspects of services that are procured by Customer directly from third parties, CenturyLink is not liable for such services.

4. The Service identified in this Order is subject to the CenturyLink Master Service Agreement(s) and applicable Service Schedule(s) or Service Exhibit(s) between CenturyLink Communications, LLC and Customer (or its affiliate if expressly provided for under such affiliate Master Service Agreement). If Customer has not executed a CenturyLink Master Services Agreement with CenturyLink Communications, LLC but has executed a services agreement for applicable services with an affiliate of CenturyLink ("Affiliate Agreement"), then the terms of the most recent Affiliate Agreement will apply to the Service (to the extent not inconsistent with this Order); in such cases, the current standard Service Schedule applicable to the Services will apply. If CenturyLink and Customer have not executed a CenturyLink Master Service Agreement and/or applicable Service Schedule(s) governing the Service and have not executed an Affiliate Agreement, CenturyLink's current standard Master Service Agreement/Service Schedule(s) as of the date of this Order will govern, copies which are available upon request. The CenturyLink invoicing entity is the entity providing Services.

Notwithstanding anything in any Affiliate Agreement to the contrary, CenturyLink will notify Customer of acceptance of requested Service in this Order by delivering (in writing or electronically) the date by which CenturyLink will install Service (the "Customer Commit Date"), by delivering the Service, or by the manner described in a Service Schedule. CenturyLink will deliver a written or electronic notice that the Service is installed (a "Connection Notice"), at which time billing will commence. Unless otherwise provided in a Service Attachment, at the expiration of the Service Term, Service will continue month-to-month, and rates are subject to change upon 30 days' notice from CenturyLink. If the Affiliate Agreement governs and does not include early termination charges and if Customer cancels or terminates Service for any reason other than CenturyLink's uncured default or if CenturyLink terminates due to Customer's uncured default, then Customer will pay CenturyLink's standard early termination liability charges as identified in the CenturyLink Master Service Agreement, Affiliate Agreement, Service Exhibit or Service Schedule. "Affiliate Agreement" for CenturyLink Communications, LLC or any companies that were affiliates of CenturyLink Communications, LLC before the merger between CenturyLink and Level 3 Communications ("Merger") means only an applicable Interexchange Carrier (IXC) network agreement, e.g. CenturyLink Total Advantage Agreement, CenturyLink Total Advantage Express Agreement, or CenturyLink Wholesale Services Agreement, for non-government customers (each, a CenturyLink Affiliate Agreement). Affiliate Agreement also includes an Agreement between Customer and any entity that was an affiliate of Level 3 Communications before the Merger.

5. Neither party will be liable for any damages for lost profits, lost revenues, loss of goodwill, loss of anticipated savings, loss of data or cost of purchasing replacement service, or any indirect, incidental, special, consequential, exemplary or punitive damages arising out of the performance or failure to perform under this Order. Customer's sole remedies for any nonperformance, outages, failures to deliver or defects in Service are contained in the service levels applicable to the affected Service.

6. All transport services ordered from CenturyLink will be treated as interstate for regulatory purposes. Customer may certify transport service as being intrastate (for regulatory purposes only) in a format as required by CenturyLink, but only where the transport services are sold on a stand-alone basis, the end points for the service are located in the same state and neither end point is a CenturyLink provided IP port ("Intrastate Services"). Where Customer requests that services be designated as Intrastate Services, Customer certifies to CenturyLink that not more than 10% of Customer's traffic utilizing the Intrastate Services will be originated or terminated outside of the state in which the Intrastate Services are provided. Such election will apply prospectively only and will apply to all Intrastate Services stated in this Order.

7. Charges for certain Services are subject to (a) a per month property tax surcharge and (b) a per month cost recovery fee to reimburse CenturyLink for various governmental taxes and surcharges. Such charges are subject to change by CenturyLink and will be applied regardless of whether Customer has delivered a valid tax exemption certificate. For additional details on taxes and surcharges that are assessed, visit <http://www.centurylink.com/taxes> or the RSS, if indicated by the applicable Service Schedule(s) or Service Exhibit(s).

8. Customer will pay CenturyLink's standard: (a) expedite charges (added to the NRC) if Customer requests a delivery date inside CenturyLink's standard interval duration (available upon request and (b) ancillary charges for additional activities, features or options. If CenturyLink cannot complete installation due to Customer delay or inaction, CenturyLink may begin charging Customer and Customer will pay such charges.



**RESOLUTION NO. 2020-086**

**A Resolution of the City Council of the City of Fremont, Nebraska, authorizing the Mayor to sign agreement with Centurylink for regional connectivity.**

**WHEREAS**, Fremont/Dodge County and Colfax County have entered in to an Interlocal Agreement to connect 911 servers for a regional 911 system; and,

**WHEREAS**, Connecting the two 911 servers is crucial to operation and redundancy of a regional 911 system; and,

**WHEREAS**, Centurylink provides the only reliable, public safety grade connectivity in the region.

**NOW, THEREFORE BE IT RESOLVED**, the City Council of the City of Fremont accepts the agreement with Centurylink to provide the connectivity between the Fremont/Dodge County and Colfax County 911 servers with a one-time cost of \$500 and then \$658 monthly for 60 months and authorize the Mayor to execute the agreement.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF April, 2020.

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

**TO:** Honorable Mayor and City Council

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

**DATE:** April 28, 2020

**SUBJECT:** Municipal Separate Storm Sewer System (MS4) Compliance Assistance Services

<b>Recommendation:</b> Approve Resolution 2020-087 to Award MS4 Consultant Agreement to FELSBURG HOLT & ULLEVIG (FHU)
---

### **Background:**

FELSBURG HOLT & ULLEVIG will provide MS4 Program Quality Assurance and Quality Control assistance for the City of Fremont MS4 as needed. This proposed agreement is for the consultant services to internally assess Fremont's program and make recommendations for compliance with Nebraska Department of Environment and Energy (NDEE) and Environmental Protection Agency (EPA) requirements. These services will provide a broad scope of services with guidance, recommendations and direction in order to make any future audits compliant.

These are services are intended to be on-call and to service in the following areas:

- 1) Construction Stormwater Program Training
- 2) Municipal Good Housekeeping/Pollution Prevention (GHPP) Program Document
- 3) Municipal Facility Inventory
- 4) Facility Runoff Control Plan Audit and Update
- 5) Monthly Progress Meetings
- 6) 2018-19 MS4 Support Overage

Refer to agreement for detailed descriptions regarding services.

The UIB voted to recommend awarding the Contract to FELSBURG HOLT & ULLEVIG on a 5-0 vote on April 14, 2020.

### **Fiscal Impact:**

FELSBURG HOLT & ULLEVIG of Lincoln, Nebraska will bill on a per hourly fee basis not to exceed \$31,988.00 without prior written agreement by the City of Fremont. This agreement will expire fiscal year September 30, 2020.



January 22, 2020

Mr. Dave Goedecken, Public Works Director  
City of Fremont  
400 E. Military Ave.  
Fremont, NE 68310

RE: 2020 MS4 Program Support Services On-Call

Dear Mr. Goedecken,

Thank you for the opportunity to submit this proposal to provide on-call MS4 Program Support Services. These services are intended to provide knowledgeable and responsive guidance for compliance with the NPDES Municipal Stormwater Permit and the Fremont Storm Water Management Program implementation requirements. This letter proposal summarizes our understanding of services which will be provided under this on-call work order from the City of Fremont.

#### Task 1: Construction Stormwater Program Training

FHU will facilitate targeted training for two specific target audiences:

1. Guided training workshop for all City staff involved with implementation of the Construction Stormwater Program. Training will be based on elements of the completed Construction Stormwater (CSW) Program document, and will utilize an example development project to guide staff through the program steps from plan review, inspection and documentation, enforcement response, and project closeout.
2. Facilitation and delivery of a 3-hour “Lunch and Learn” Erosion & Sediment Control Program Workshop for local developers, engineers, designers, contractors and homebuilders. Facilitation will involve assistance with workshop agenda, speaker arrangements, marketing, venue logistics, and education presentation. Anticipated timeline for completion is by March 15, 2020. The draft agenda would be as follows:
  - a. Welcome & Introductions (City Staff)
  - b. The ABC's of BMP's: Construction Stormwater Basics and Inspection (FHU)
  - c. City of Fremont Construction Stormwater Program Overview (City Staff)
  - d. Erosion Control Project Case Studies & Product Examples (local product vendors)

#### Task 2: Municipal Good Housekeeping/Pollution Prevention (GHPP) Program Document

FHU will lead the development of a Municipal Good Housekeeping/Pollution Prevention (GHPP) document for the City to adopt and apply. FHU will compile all required elements as a draft OEP document which may include: Definitions, contacts and assigned responsibilities, Municipal Facility screening procedures and inventory, Facility Runoff Control Plan (FRCP) procedures, municipal sweeping policy and procedures, storm drain inlet and catch basin maintenance policy and procedures, reporting and record keeping, public education and staff training, maps and forms. After feedback is provided, the final OEP Plan will be submitted for the City to adopt and include as supporting documentation for their SWMP.

### Task 3: Municipal Facility Inventory

FHU will assist the City of Fremont with a windshield survey of existing municipal facilities that could require good housekeeping and pollution prevention practices to comply with the MS4 Permit. These facilities may include any municipal facility within the City limits where operation and maintenance of vehicles and equipment, substantial waste management, or management of significant amounts of materials, stockpiles, or bulk storage tanks is conducted. FHU will discuss future good housekeeping and pollution prevention efforts that should be considered at these facilities to comply with the MS4 Permit with the City and provide a brief summary and facility photo log.

### Task 4: Facility Runoff Control Plan Audit and Update

FHU will provide the City with inspection and education assistance associated with the Streets Maintenance Facility. This task includes:

- Update one (1) Facility Runoff Control Plan (FRCP) with site maps, inspection forms, and recommended BMPs to reflect current facility usage.
- Interview select facility staff to review pollution prevention practices used at the facility, and how the current version of the FRCP is being implemented. Information gathered will be summarized in a FRCP Evaluation Report provided to City staff.
- Conduct one (1) general education session for the facility employee.
- Conduct one (1) training and evaluation session to educate select facility employees how to conduct periodic inspections using the inspection forms and FRCP document.

### Task 5: Monthly Progress Meetings

FHU will facilitate monthly production meetings with the City of Fremont. Each meeting will have an agenda. A summary of action items from each production meeting will be provided. Production meetings are scheduled to occur the second Friday of each month. Meeting location (face-to-face or conference call), agenda, and attendees will be determined in advance between Veronica Trujillo and J.B. Dixon.

Monthly progress reports will be provided with each invoice. Monthly invoices will include the production meeting summary with task progress and action items summarized.

Task meeting discussions will be scheduled with the City of Fremont on an as-needed basis. Agendas for each meeting may include multiple deliverables or discussions. Task meeting agendas will be provided in advance and list all meeting objectives and talking points to be covered. Task meeting minutes/summaries will include the following: action items, due dates, responsible person(s), and any items that may necessitate change in scope will be clearly listed.

### Task 6: 2018-19 MS4 Support Overage

FHU provided MS4 Support Services in 2018-2019 fiscal year for the City of Fremont. Tasks included development of an Illicit Discharge Detection and Elimination (IDDE) Program support document, development of a Construction Stormwater (CSW) Program Document, and assistance with the City's 2018 MS4 Annual Report. The IDDE Program Document was completed and delivered to the City. The CSW Program document went through two drafts and is currently nearing completion. FHU also dedicated time and attention to completing the City's MS4 Annual Report, which also went through several iterations. Given the nature of the work, and coordination with City staff, the contract incurred a contract overage of \$2,625.00. This letter proposal includes these hours for inclusion in this contract for invoicing.

The City will provide FHU with available records and documents relevant to each task as needed. For documentation that is not readily available, the City will authorize FHU to conduct a records review at Nebraska Department of Environment and Energy (NDEE). FHU will not consult with the NPDES permitting authority on any matter pertaining specifically to the Fremont stormwater permit or management program without the consent of the City.

**Fee Estimate**

We propose to conduct these services on a “time and materials” basis. Under such an agreement, we are compensated on an hourly basis for all labor and other direct costs are reimbursed at a rate of 1.1 times actual cost. Our 2020 standard hourly billing rates for personnel and expenses are attached. The 2020 MS4 Program Support Services On-Call maximum budget is established not to exceed \$31,988.00 without prior written agreement by the City.

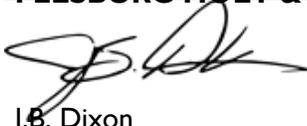
**Project Schedule**

J.B. Dixon will serve as the Project Manager for all professional services and technical assistance provided under this MS4 Program Support Services contract. The proposed Support Services will be completed at a schedule to be established by the City. FHU anticipates that this On-Call contract will begin upon acceptance by the City, concluding September 30, 2020 to coincide with the City’s budget schedule.

If the conditions of this proposal are acceptable to you, please sign below as well as the Standard Provisions for this Letter Agreement. Please return a copy for our files and retain a copy for your records. If you have any questions, please contact me directly at 402-438-7530 or [jb.dixon@fhueng.com](mailto:jb.dixon@fhueng.com).

Sincerely,

**FELSBURG HOLT & ULLEVIG**



J.B. Dixon  
Environmental Scientist



Dave Lampe, P.E.  
Principal

Attachment

\_\_\_\_\_  
Accepted By  
\_\_\_\_\_  
Title  
\_\_\_\_\_  
Date

**Attachment A  
FEE PROPOSAL**

**2020 MS4 Program Support Services  
City of Fremont, Nebraska**



		Principal I	Sr. Env Sci	Env Sci III	Admin	Hours	Total
		\$220	\$190	\$130	\$90	Subtotal	Cost
Task 1	Construction Stormwater Program Training	0.5	2	40	0	42.5	\$5,690
Task 2	Municipal GHPP Program Document (MCM 6)	0.5	4	54	4	62.5	\$8,250
Task 3	Municipal Facility Inventory	0.5	2	32	0	36.5	\$4,650
Task 4	Facility Runoff Control Plan Evaluation/Update	1	4	48	0	53	\$7,220
Task 5	Monthly Progress Meetings	1	2	18	0	21	\$2,940
Task 5	2018-19 MS4 Support Overage						\$2,625
<b>SUB-TOTAL LABOR HOURS:</b>		3.5	14	192	4	194.5	
<b>LABOR COST:</b>							<b>\$31,375</b>
<b>EXPENSES:</b>							<b>\$613</b>
<b>TOTAL PROJECT:</b>							<b>\$31,988</b>

**EXPENSES**

	Quantity	Rate	Cost
Reproduction			\$200
Vehicle Usage*	700	\$0.59	\$413
<b>TOTAL</b>			<b>\$613</b>

\*Assumes up to 6 roundtrips from Lincoln to conduct inspections and attend meetings.

\*Scheduling assumes missed calls, follow-up calls, and coordination with facility management.



## 2020 Rate Sheet

The following hourly billing rates apply to all “Time and Materials” contracts.

### Staff Rates

Principal III .....	\$270
Principal II .....	\$240
Principal I .....	\$220
Associate .....	\$210
Sr. Bridge Engineer .....	\$195
Bridge Engineer V .....	\$175
Bridge Engineer IV .....	\$155
Bridge Engineer III.....	\$130
Bridge Engineer II.....	\$115
Bridge Engineer I.....	\$110
Sr. Engineer .....	\$195
Engineer V .....	\$175
Engineer IV .....	\$155
Engineer III.....	\$130
Engineer II.....	\$115
Engineer I.....	\$105
Sr. Environmental Scientist/Planner.....	\$190
Environmental Scientist/Planner V.....	\$175
Environmental Scientist/Planner IV.....	\$155
Environmental Scientist/Planner III.....	\$130
Environmental Scientist/Planner II.....	\$115
Environmental Scientist/Planner I.....	\$105
GIS Manager.....	\$190
GIS Specialist V.....	\$170
GIS Specialist IV.....	\$155
GIS Specialist III.....	\$130
GIS Specialist II.....	\$115
GIS Specialist I.....	\$105
Sr. Transportation Planner .....	\$190
Transportation Planner V .....	\$170
Transportation Planner IV.....	\$155
Transportation Planner III.....	\$130
Transportation Planner II.....	\$115
Transportation Planner I.....	\$105
Lead ITS Specialist .....	\$200
CADD Manager .....	\$190
Sr. Bridge Designer.....	\$185
Lead Designer.....	\$180
Sr. Designer/Project Technician.....	\$160
Designer V/Project Technician V.....	\$145
Designer IV/Project Technician IV.....	\$135
Designer III/Project Technician III.....	\$115
Designer II/Project Technician II.....	\$100
Designer I/Project Technician I.....	\$90

Sr. Construction Technician.....	\$140
Construction Technician V.....	\$130
Construction Technician IV.....	\$115
Construction Technician III.....	\$100
Construction Technician II.....	\$90
Construction Technician I.....	\$75
Intern I.....	\$55
Graphic Design Manager.....	\$150
Graphic Design Specialist V.....	\$140
Graphic Design Specialist IV.....	\$135
Graphic Design Specialist III.....	\$120
Graphic Design Specialist II.....	\$105
Graphic Design Specialist I.....	\$90
Marketing Manager.....	\$150
Marketing Specialist.....	\$115
Systems Administrator.....	\$120
Sr. Administrative Assistant.....	\$115
Administrative.....	\$90

### Other Direct Costs

#### Plots

Bond.....	\$0.31/sq ft
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#### Prints

Black and White.....	\$0.12/print
Color.....	\$0.19/print

#### Presentation Boards

Bond Foam Core Mounted.....	\$1.51/sq ft
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#### Travel

Mileage.....	\$0.575/Mile
	(or current allowable Federal rate)
Truck (Construction).....	\$45.00/day
Parking.....	Actual Costs
Lodging/Airfare.....	Actual Costs

#### Other Miscellaneous Costs

Courier/Postage.....	Actual Costs
Per Diem.....	Actual Costs
Subconsultants/Vendors.....	Actual Costs

Other direct costs are reimbursed at a rate of 1.1 times the rates above and/or actual costs.

# Letter Agreement Standard Provisions

## A. SERVICES BY THE CONSULTANT

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

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

## B. RESPONSIBILITIES OF THE CLIENT

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

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

## C. EXTRA WORK

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

## D. TIME OF BEGINNING AND COMPLETION

Execution of the Letter Proposal is authorization by the **CLIENT** for the **CONSULTANT** to proceed with the work (Time of Beginning). The original Time of Completion is as noted in the Letter Agreement.

## E. PAYMENT

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

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

## F. DELAYS

If the **CONSULTANT** is delayed at any time in the progress of work by any act or neglect of the **CLIENT** or its agents, employees or contractors, or by changes in the work, or by extended reviews by

the **CLIENT**, fire, unavoidable casualties, or by any causes beyond the **CONSULTANT'S** control, the time schedule shall be extended for a reasonable length of time, and **CONSULTANT'S** compensation may be subject to renegotiation for increased expenses due to escalation of prices, extended services, rework, and/or other expenses incidental to such delays.

## G. OWNERSHIP OF DOCUMENTS

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

## H. INSURANCE

During the course of the services, the **CONSULTANT** shall maintain Workmen's Compensation Insurance in accordance with the Workmen's Compensation laws of the State of Nebraska; Professional Liability Insurance with a minimum coverage of \$1,000,000 per occurrence, \$2,000,000 aggregate; Automobile Liability with a combined single limit coverage of \$1,000,000; and Commercial General Liability of \$1,000,000 per occurrence, \$2,000,000 aggregate. Upon request, the **CONSULTANT** shall provide certificates of insurance to the **CLIENT** indicating compliance with this paragraph. The City will be named an additional insured if requested to be so named by the City.

## I. TERMINATION

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

## J. DISPUTES

Any claim, dispute, or other matter in question between the **CLIENT** and the **CONSULTANT**, arising out of or relating to either's obligations to the other under this Agreement, shall, if possible, be resolved by negotiation between the **CLIENT'S** representative and the **CONSULTANT** Principal-in-Charge for the Project. **CLIENT** and **CONSULTANT** each commit to seeking resolution of such matters in an amicable, professional, and expeditious manner. If a matter cannot be resolved by these parties, no later than thirty (30) calendar days after either party submits an issue in writing for resolution, representatives from executive management of the **CLIENT** and **CONSULTANT** shall attempt to resolve the matter through additional good faith negotiations. If resolution cannot

be reached within an additional thirty (30) calendar days, the **CLIENT** and **CONSULTANT** agree that all such unresolved disputes shall be submitted to nonbinding mediation, or some other method of dispute resolution.

Pending final resolution of the dispute, the **CONSULTANT** shall proceed diligently with the performance of the Basic Services as described in Article A, as directed by the **CLIENT**, and the **CLIENT** shall continue to pay the undisputed payments due to the **CONSULTANT** for such services in accordance with the payment provisions of this Agreement.

#### **K. GOVERNING LAW**

Unless otherwise agreed in writing, this Agreement and the interpretation thereof shall be governed by the law of the State of Nebraska.

#### **L. SUCCESSORS AND ASSIGNS**

The **CLIENT** and the **CONSULTANT** each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Agreement and to the partners, successors, executors, administrators and assigns of such other party with respect to all covenants of this Agreement. Neither party shall assign or transfer its interest in this Agreement without the written consent of the other.

#### **M. EXTENT OF AGREEMENT**

This Agreement represents the entire and integrated agreement between the parties and supersedes all prior negotiations and representations. Nothing herein shall be deemed to create any contractual relationship between the **CONSULTANT** and any other consulting business, or contractor, or material supplier on the project, nor obligate it to furnish any notices required under other such contracts, nor shall anything herein be deemed to give anyone not a party to this Agreement any right of action against a party which does not otherwise exist without regard to this Agreement.

#### **N. NOTICES**

All notices and instructions given by either party to the other shall be in writing, and shall be deemed to be properly served if delivered to the address of record; 11422 Miracle Hills Dr., Ste 115, Omaha, Ne 68154, or if deposited in the United States Mail properly stamped with the required postage and addressed to such party at the address in the Letter Proposal or Letter Agreement. The date of service of a notice sent by mail shall be deemed to be the day following the date on which said notice is so deposited. Either party hereto shall have the right to change its address by giving the other party written notice thereof.

#### **O. ACCURACY OF SERVICES AND LIMITATION OF LIABILITY**

The **CONSULTANT** shall use reasonable professional skill and judgment in providing the services, hereunder, but does not warrant that such services are without errors and/or omissions. If, during the authorized use and prudent interpretation of documents or advice furnished by the **CONSULTANT**, an error or omission is discovered within a reasonable time, the **CONSULTANT** shall be responsible for correction of any work which must be removed or altered to meet the project requirements, provided the **CONSULTANT** is given a reasonable opportunity to make remedial recommendations and to correct

or arrange for the correction of the work itself. The **CONSULTANT** will not be liable for the cost of procurement of work or services performed in correcting such errors and/or omissions where such work or services result in a value to the Project over and above that which the original work or services provided.

In providing opinions of probable construction cost, the **CLIENT** understands that the **CONSULTANT** has no control over costs or the price of labor, equipment, or materials, or the Contractor's method of pricing, and that the opinions of probable construction costs provided herein are to be made based on the **CONSULTANT'S** qualifications, and experience. The **CONSULTANT** makes no warranty, expressed or implied, as to the accuracy of such opinions as compared to bid or actual costs.

The **CONSULTANT** agrees, to the fullest extent permitted by law, to indemnify and hold the **CLIENT** harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the **CONSULTANT'S** negligent acts, errors or omissions in the performance of professional services under this Agreement and those of his or her subconsultants or anyone for whom the **CONSULTANT** is legally liable.

The **CLIENT** agrees, to the fullest extent permitted by law, to indemnify and hold the **CONSULTANT** harmless from any damage, liability or cost (including reasonable attorneys' fees and costs of defense) to the extent caused by the **CLIENT'S** negligent acts, errors or omissions and those of his or her contractors, subcontractors or consultants or anyone for whom the **CLIENT** is legally liable, and arising from the project that is the subject of this Agreement. **CLIENT'S** amount of indemnity or costs incurred in providing the indemnity shall be limited to the same amount as the **CONSULTANT'S** liability is listed below.

As negotiated as a part of this Agreement, to the fullest extent permitted by law, and notwithstanding any other provision of this Agreement, the total liability, in the aggregate, of the **CONSULTANT** and the **CONSULTANT'S** officers, directors, partners, employees, agents and subconsultants, to the **CLIENT** and anyone claiming by, through or under the **CLIENT**, for any and all claims, losses, costs or damages of any nature whatsoever arising out of, resulting from or in any way related to the Project or the Agreement from any cause or causes, including but not limited to the negligence, professional errors or omissions, strict liability, breach of contract or warranty, express or implied, of the **CONSULTANT** or the **CONSULTANT'S** officers, directors, employees, agents or subconsultants, or any of them, shall not exceed the total amount covered by insurance and identified in Section H.

Upon execution of the Letter Agreement or Letter Proposal, the **CLIENT** thereby agrees to the terms of these Standard Provisions.

**RESOLUTION NO. 2020-087**

**A Resolution of the City Council of the City of Fremont, Nebraska authorizing execution of an Agreement with Felsburg Holt and Ullevig (FHU) for on-call Municipal Separate Storm Sewer System (MS4) Compliance Assistance services for the NPDES Municipal Stormwater Permit and Fremont Stormwater Management Program.**

**WHEREAS,** The Public Works Director reviewed the Agreement and recommends that the Agreement with Felsburg Holt and Ullevig be accepted.

**NOW THEREFORE BE IT RESOLVED:** That the Mayor and City Council of the City of Fremont approve the agreement and authorize the Mayor to execute the agreement with Felsburg Holt and Ullevig for the MS4 Assistance Services in the amount not to exceed \$31,988.00.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL 2020

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Scott Getzschman, Mayor

ATTEST:

---

Tyler Ficken, City Clerk

# Staff Report

**TO:** Mayor and City Council  
**FROM:** Jennifer McDuffee, Director of Human Resources  
**DATE:** April 28, 2020  
**SUBJECT:** Approval of International Association of Firefighters (IAFF) Memorandum of Understanding

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**Recommendation:** Approve motion authorizing the Mayor to sign the Memorandum of Understanding with the IAFF Local 1015 regarding Administrative Emergency Paid Sick Leave due to COVID-19.

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## **Background:**

Local IAFF representatives have approached Administration regarding the Emergency Paid Sick Leave (EPSL) afforded to employees in the Families First Coronavirus Response Act (FFCRA).

City and IAFF representatives have met and agreed upon the attached MOU and corresponding language for EPSL for bargaining unit member, which provides up to 100 hours of leave for three reasons related to COVID-19. The language provides an opportunity for COVID-19 related leave, while attempting to maintain appropriate staffing levels needed to provide basic EMS and fire services to the community.

**Fiscal Impact:** Unknown

**MEMORANDUM OF UNDERSTANDING**

The City of Fremont, Nebraska (“City”), and the International Association of Firefighters Local 1015 (“IAFF Local”) are parties to a collective bargaining agreement effective October 1, 2017, to September 30, 2021 (“Agreement”).

House Resolution 6201, the Families First Coronavirus Response Act (“Resolution”), gives employees up to eighty (80) hours of paid leave for the reasons identified in the Resolution. Also included in the Resolution is the ability of employers to exempt healthcare workers and first responders from this coverage. The City has advised the Union that it will exercise its right to opt out of the coverage for “first responders” under the act, but given the need for the IAFF Local personnel to be available for their duties and their potential exposure to the virus of this pandemic, it is the position of the City that the IAFF Local sworn personnel are entitled to emergency paid sick leave as outlined below.

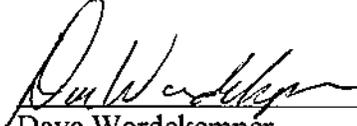
Therefore, the City and the IAFF Local (collectively, the “parties”) have agreed to enter into the following Memorandum of Understanding (“MOU”) to recognize the service of the IAFF Local sworn personnel contemplated by the COVID-19 Emergency:

1. All Sworn Fremont Fire Department personnel will be entitled to one hundred (100) hours of Administrative Emergency Paid Sick Leave under the following conditions:
  - a. The employee is subject to a Federal, State or Local quarantine or isolation order related to COVID-19.
  - b. The employee has been advised by a healthcare provider to self-quarantine due to concerns related to COVID-19. The City may request written verification from the health care provider.
  - c. The employee is experiencing symptoms of COVID-19 and is seeking a medical diagnosis.
2. The hours provided in (1) above will not carry over and will expire on December 31, 2020. Employees will not be compensated for unused or expired Administrative Emergency Paid Sick Leave hours.
3. The IAFF Local and the City acknowledge that the Fremont City Council has passed a resolution that requires additional hourly pay to bargaining unit members over and above the contract rate in the event a level Three (3) and/or Four (4) emergency is declared and the IAFF Local will not make any objections to such change in compensation or working conditions if such an emergency is declared.
4. Nothing in this MOU waives either Parties’ right to demand bargaining on other related items, if circumstances dictate, related to the City’s response the COVID-19 emergency.

City of Fremont, Nebraska

International Association of Firefighters (IAFF Local)

By: \_\_\_\_\_  
Mayor Scott Getzschman

By:   
Dave Wordekemper

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

Date: 4-14-2020

Approved by the Fremont City Council on this \_\_\_\_ day of \_\_\_\_\_, 2020.

ATTEST

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

# Staff Report

**TO:** Mayor and City Council  
**FROM:** Jennifer McDuffee, Director of Human Resources  
**DATE:** April 28, 2020  
**SUBJECT:** IMA Broker Services Agreement

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**Recommendation:** Approve motion authorizing the Mayor to sign the IMA Agreement for Services

---

**Background:**

IMA, our current health insurance broker, has agreed to a one year extension of services at the current rate of \$45,000 per year. Other contract terms remain the same.

**Fiscal Impact:** \$45,000 budgeted expense.

## **Agreement for Services**

This Agreement for services is made and entered into as of the 21<sup>st</sup> day of April, 2020 by and among City of Fremont, having offices at 400 East Military Avenue, Fremont, NE 68025, for itself and its Named Insureds (hereinafter collectively referred to as "Client"), and IMA, Inc. and its subsidiaries (hereinafter referred to as "IMA"). Named Insureds shall be defined as those entities set forth on policies of insurance covered by this Agreement.

Client has requested IMA to perform certain services (the "Services") described in Schedule A attached hereto. IMA has agreed to render such Services to Client on the terms and conditions set forth below, and IMA and Client agree it would be to their mutual advantage to execute this Agreement and thereby define the terms and conditions which shall control the rendering of Services to Client by IMA. Fees and payment terms for the provided Services are described in Schedule B attached hereto.

Now, therefore, in consideration of the premises and the covenants and agreements herein contained and other good and valuable consideration, receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. **Confidentiality.** IMA and the Client agree that all such Proprietary Information exchanged during the performance of Services under this Agreement shall remain the sole and separate property of the party providing the same, subject to the terms and conditions set forth herein. Proprietary Information includes, without limitation, all information concerning the identities, needs, expirations, policies, or purchasing habits of the Client, all business systems, financial data, computer data or processes, forms appraisals, loss experience, other similar data and other business records; provided, however, such Proprietary Information shall not include information that is in the public domain or is readily available or accessible to the public.

IMA and the Client agree that all such Proprietary Information shall not be disclosed, communicated or otherwise transferred or made available to unrelated third parties without the prior written consent of the entity whose Proprietary Information is being shared, except for those employees, agents, representatives and permitted assigns with a reasonable need to know such Proprietary Information to facilitate the performance of services hereunder. Notwithstanding any term or condition herein to the contrary, each party understands and agrees that upon receipt by either party of an order from a court of competent jurisdiction, the restrictions set forth herein shall not prohibit the receiving party of such order from compliance with any such order. The confidentiality provisions set forth herein shall survive the termination of the Agreement.

2. Term and Termination. This Agreement will become effective 12:01 a.m., June 1, 2020 and terminate 12:01 a.m., June 1, 2021 or unless canceled by either party upon thirty (30) days prior written notice of said cancellation, except in the case of nonpayment. Upon cancellation or expiration of the term of this Agreement, no further Services will be provided by IMA to Client except those Services deemed necessary in the sole discretion of IMA to complete the existing Services provided to Client by IMA during the term of the Agreement.

3. Assignment. This Agreement may not be assigned by the Client without the prior written consent of IMA and shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns. Nothing in the Agreement is intended to nor shall confer upon any person or legal entity other than Client or IMA and their respective permitted successors and assigns, any rights or remedies under or by reason of this Agreement.

4. Compensation Disclosure. The IMA Financial Group, Inc. is a national financial services company with numerous affiliates and subsidiaries, including IMA, Inc.; IMA Select; CORnerstone Risk Solutions, LLC; IMA Acumen, LLC; Towerstone, Inc.; IMA Wealth. and Eydent Insurance Services, LLC, (collectively the “IMA Group”). These entities, excluding IMA Acumen, LLC, are insurance producers licensed in accordance with respective state requirements. Insurance producers are authorized by their license to confer with insurance purchasers about the benefits, terms and conditions of insurance contracts; to offer advice concerning the substantive benefits of particular insurance contracts; to sell insurance; and to obtain insurance for purchasers.

The producer may have access to more than one insurance company to place the purchaser’s coverage. The producer may have authority to obligate the insurance company on the purchaser’s behalf and as a result may be required to act within the scope of contractual agreements with the insurer.

Compensation will be paid to the producer by the insurer or other third parties. Compensation may vary depending on a number of factors, including the insurer and the insurance contract the purchaser selects, the volume of business the producer places with the insurer, and the profitability of that business. In addition to the compensation received by the IMA Group, other parties, such as excess and surplus lines brokers, wholesalers, reinsurance intermediaries, underwriting managers and similar parties (some of which may be owned in whole or in part by the IMA Group), may earn and retain usual and customary commissions or other compensations for providing insurance products to a Client under separate contracts with insurers or reinsurers. Such payments will not be considered as compensation to IMA and will not offset any compensation payable to IMA. In addition, there may be referral compensation shared within the IMA Group.

Further, the IMA Group may receive contingent or incentive payments or allowances from insurers or finance companies based on the size or performance of an overall book of business produced with them by the IMA Group. Additionally, expense reimbursements for travel or technology enhancements, salary offsets or de minimus gifts may be provided. The IMA Group may also receive interest on premium being held prior to disbursement.

Upon written request, the IMA Group will provide to Client additional details and information about any and all compensation arrangements for insurance placed and/or quoted on behalf of the Client.

5. Limitation on Stop Loss Liability. IMA does not make any representations regarding an insurer's or MGU's payment or claims denial practices. We do not warrant in any way that all claims submitted to the stop loss carrier will be approved and ultimately reimbursed. The terms and conditions of covered claims for the stop loss insurance policy may not fully correlate with the benefits covered under your benefits program. We will use all information and data supplied by the Client or on the Client's behalf without independently verifying the accuracy, completeness or timeliness of it. IMA will not be responsible for any delays or liability arising from missing, delayed, incomplete, inaccurate or outdated information and data except as provided in Section 6 below.

6. Business Responsibility. All Services hereunder shall be provided by IMA to Client in accordance with applicable industry standards and applicable laws and regulations. In turn, Client acknowledges that IMA has made no representation, warranty, or guaranty concerning either the performance of, or the results to be obtained from, the Services provided hereunder. Additionally, IMA has made no representation, warranty, or guaranty concerning the financial condition of any insurance carrier providing coverage to Client. The Client remains solely responsible for reporting and communicating changes in exposures, loss-related data, ownership and other material changes in writing to IMA; further, the Client remains solely responsible for the conduct and governance of its business operations. Client further agrees that any fines or penalties assessed against Client under any local, state, or federal occupational safety and health law, the Americans with Disabilities Act, any local, state, or federal order, rule or statute pertaining to the protection of the environment, or any other local, state, or federal laws, statutes, orders, or regulations shall be the Client's sole responsibility, and that IMA shall have no responsibility or liability for any portion of any such fines or penalties.

7. Final Agreement and Jurisdiction. This Agreement represents the entire understanding and agreement of the parties hereto with respect to the subject matter hereof, supersedes all prior negotiations between such parties, and cannot be amended, supplemented, or modified except by an agreement in writing signed by the party or parties against whom enforcement is sought and making specific reference to in this

Agreement. In the event any one or more of the provisions contained in this Agreement or any application thereof shall be invalid, illegal, or unenforceable in any respect, the validity, legality, or enforceability of the remaining provisions of the Agreement and any other application thereof shall not in any way be affected or impaired thereby. This Agreement shall be governed by and construed in accordance with the laws of the State of Colorado applicable to contracts made in that state.

8. Execution by Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be one and the same instrument.

9. Notice. Any notice by either party to the other party shall be deemed served effective (i) upon delivery, if personally delivered, (ii) upon delivery to Federal Express or other similar courier service, marked for next day delivery, addressed as set forth below, (iii) upon receipt if sent by registered or certified mail, return receipt requested, addressed as set forth below. The notice addresses of the parties are:

If to Client: City of Fremont  
400 East Military Avenue  
Fremont, NE 68025

If to IMA: IMA, Inc.  
1705 17<sup>th</sup> Street, Suite 100  
Denver, CO 80202

The customary registered/certified receipt or Federal Express or other courier receipt shall be evidence of such notice. Either party hereto may change the name and address of the designee to whom their notice shall be sent by giving written notice of such change to the other party hereto in the manner above provided, at least ten (10) days prior to the effective date of such notice.

10. Engagement Confirmation. The parties agree that the Services provided herein contemplate services in addition to placement activity. No insurance product sale is required under this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first above written.

“IMA”

“Client”

IMA, Inc.

City of Fremont

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

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

Printed Name & Title:

Printed Name & Title:

Kristi Gjellum

\_\_\_\_\_

Executive Vice President

\_\_\_\_\_

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

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

**Schedule A – Description of Services**  
**Benefit Risk Management**

For the purposes of this Agreement, Services shall be defined as set forth below, provided, however, the delivery of all such Services is conditioned upon payment of all invoices, fees and premium associated therewith or due hereunder. Some services may be provided by an authorized services provider acting on behalf of IMA. For the purposes of this Agreement, the employee benefits risk management Services provided shall include the following insurance policies and coverages:

- Third Party Administration
  - Medical
  - Dental
  - Section 125 Plan
- Individual and Aggregate Stop Loss
- Group Life and AD&D
- Voluntary Term Life
- Short Term Disability
- Long Term Disability

In some instances, risk placements made by IMA on behalf of the Client may require the payment of state surplus lines or other premium taxes, Federal excise taxes, and/or fees in addition to the premium itself. IMA will make every effort to identify any such tax and/or fee in advance, but in all instances the payment of these taxes and/or fees will remain the sole responsibility and liability of Client.

The Client will have the responsibility to report and communicate changes in exposures, loss-related data, ownership and other material changes in writing to IMA who shall communicate such information to the Clients’ insurance carrier(s).

*Some services listed may be applicable only when third party data is available to your organization. Where the data is applicable and/or available, services defined within this agreement shall include, but are not limited to:*

<b>Fee Agreement Schedule A Scope of Services</b>	
<b>Health &amp; Welfare Benefit Plan Strategic Consulting</b>	
◆	Assist with development of a multi-year strategy for all benefits linking goals/objectives for overall plan performance to Client’s business goals
◆	Provide advisory services including, but not limited to: cost containment and funding approaches, plan and process change recommendations

<b>Fee Agreement Schedule A Scope of Services</b>
◆ Health and Welfare benefit plan design analysis and recommendations
◆ Benchmark reporting
◆ Meetings with management and/or benefits personnel as requested and at agreed upon regular intervals.
<b>Vendor-Related Services</b>
◆ Assist with management of Request for Information (RFI)/Request for Proposal (RFP) process
◆ Carrier/vendor renewal negotiations
◆ Market health & welfare plans/contracts as needed
◆ Assistance with vendor evaluations
◆ Evaluation and review of plans and coverages
◆ Ensure implementation of policy changes with vendor(s)
◆ Provide support functions for employers/employees with carrier(s) and/or vendor(s) for such matters as billing, enrollment, and claims issues and appeals.
<b>Underwriting and Financial Services</b>
◆ Analysis of renewal information, including, but not limited to: <ul style="list-style-type: none"> <li>➤ loss ratios</li> <li>➤ trend</li> <li>➤ pooling charges</li> <li>➤ maturation factors and administrative loads</li> <li>➤ validation of carriers underwriting assumptions</li> <li>➤ review and evaluation of stop loss levels and pricing</li> </ul>
◆ Alternative funding review and modeling
◆ Provide funding information including premium equivalent rates, COBRA rates and IBNR

### Fee Agreement Schedule A Scope of Services

- ◆ Plan financial analysis, including but not limited to:
  - Network disruption analysis
  - program cost projections
  - employee contribution development
  - reserve setting
  - customized monthly financial recap
  - year-end expense projections and reconciliations

### Regulatory Compliance Services

- ◆ Provide legislative and regulatory updates
- ◆ Health Care Reform general and client-specific analysis and guidance
- ◆ Resource for benefit program and compliance-related questions
- ◆ Assist with annual Form 5500 filings by collecting Schedule A's for all of Client's benefits plans.

### Communications Services

- ◆ Development of communication strategy and assistance in drafting Plan related communications materials
- ◆ Support employee communication efforts
- ◆ Open enrollment support
- ◆ Assessment and guidance for enrollment solutions

### HR Technology Assessment and Resources

- ◆ Assess current technology needs and define goals
- ◆ Engage with subject matter experts
- ◆ Manage Request for Information (RFI)/Request for Proposal (RFP) process

### Wellness

- ◆ Perform comprehensive assessment including, but not limited to claims and costs analysis

<b>Fee Agreement Schedule A Scope of Services</b>
◆ Assist in development of employer goals and strategy
◆ Assist in development of communication and employee engagement strategy and implementation support
◆ Vendor management and HRM RFP preparation
<b>Benefit Analytics</b>
◆ Comprehensive reporting on data and predictive modeling related to multiple benefit plan components including: <ul style="list-style-type: none"> <li>➤ Plan Design</li> <li>➤ Stoploss</li> <li>➤ Care Management</li> <li>➤ Population Management</li> <li>➤ Patient Compliance</li> <li>➤ Other Customized Reports</li> <li>➤ Year-over-year comparisons</li> </ul>
<b>HR Resources</b>
◆ Access to ThinkHR Hotline
◆ Access to ThinkHR Training courses
◆ Access to ThinkHR Library
◆ Access to ThinkHR Benefits Compliance Suite including plan documents and non-discrimination testing

In addition to the fee for services set forth in Schedule B, IMA will receive and retain usual and customary policy specific commission payable by the carrier for the policies listed below and such commission will not be offset or applied to the annual fee due under the Agreement.

None

Other services which are not listed above may be considered outside our scope of services and additional fees may apply. In the case that a service is outside the scope of services (i.e., excessive travel, meetings, printing costs, etc.) IMA will notify the client and negotiate additional fees prior to providing services.

## **Schedule B – Compensation of Services**

1. Client shall pay to IMA as compensation for the Services provided by IMA to Client for each annual period the sum of \$45,000. Such annual fee shall be due and payable monthly commencing June 1, 2020 in equal installments of \$3,750 each. Client and IMA agree to renegotiate fee during the term of the Agreement at the request of either party.

Said annual fee is deemed fully earned upon execution of this Agreement and Client agrees that such fee is for fees in lieu of commissions for the services described in Schedule A. Client further acknowledges and agrees that because such fee is in lieu of any commission Client will be paying a premium amount on the Schedule A insurance policies on a net of commission basis that takes into account that the insurance carrier is not paying a commission to IMA.

All efforts will be made to negotiate placements for the Schedule A insurance policies on a net of commission basis. If IMA is unable to negotiate placements on a net of commission basis, IMA will notify the Client and apply the amount of commission to the fee due hereunder to be set forth on the invoice statement.

2. Payment of all invoices submitted to the Client will be made pursuant to the invoice due date. In the event Client does not remit timely payment, IMA reserves the right to terminate this Agreement. Upon such termination, all further obligations of IMA are terminated automatically, and this Agreement is void and has no further force or effect.
3. It is understood that other benefit management or insurance services may be undertaken by IMA from time to time by mutual agreement of the parties. The parties agree to amend this Agreement as necessary to describe the additional services and compensation payable to IMA for such services.

## STAFF REPORT

TO: Fremont City Council  
FROM: Shelly Holzerland  
DATE: April 28, 2020  
SUBJECT: Interlocal Agreement with ORION

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**Recommendation:** Recommend approval of the resolution 2020-088 to enter into an Interlocal Agreement with the Omaha Regional Interoperable Network (ORION)

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**Background:**

ORION is the network of Public Service Answering Points (PSAP) in the metro area that make up the radio system. As Dodge County is working on the installation of the Dodge County Radio Network, ORION is ready to sign agreements bringing Fremont and Dodge County into the partnership. The Interlocal Agreement was written by the Douglas County Attorney's office and reviewed by the City of Fremont legal counsel and the Dodge County Attorney.

This agreement will make Dodge County an equal partner on the WAN (Wide Area Network) governance committee. It obligates Fremont/Dodge County to share in the expenses of the regional WAN maintenance. It also requires all members to maintain their respective county level WAN's and support contracts for the benefit of the whole system.

**Fiscal Impact:** Yearly share of network support, based on number of ORION PSAPs. As an example, \$65,000 was total cost in 2019; Fremont/Dodge County would be responsible for  $1/5 = \$13,000$ .

The PSAP Governance board unanimously voted to enter in to the Interlocal Agreement at their meeting on April 13, 2020. This project is part of the combined city/county PSAP. This will be split 50/50 with Dodge County, in accordance with the Interlocal agreement.

**INTERLOCAL AGREEMENT  
FOR  
COOPERATIVE USE OF THE  
WIRELESS AREA NETWORK**

THIS INTERLOCAL AGREEMENT (“Agreement”) is hereby made and entered into this \_\_\_ day of \_\_\_\_, 2020, between the OMAHA PUBLIC POWER DISTRICT, a public corporation and political subdivision of the State of Nebraska (“OPPD”); the County of Douglas, a political subdivision organized and existing under the laws of the State of Nebraska (“Douglas County”); the County of Sarpy, a political subdivision organized and existing under the laws of the State of Nebraska (“Sarpy County”); the County of Washington, a political subdivision organized and existing under the laws of the State of Nebraska (“Washington County”); Fremont/Dodge County Communications (“FDCC”) in Nebraska, comprised of both Dodge County, a political subdivision organized and existing under the laws of the State of Nebraska and City of Fremont, a municipal corporation and Nebraska Political Subdivision, is a public safety agency and political entity located in Dodge County in the State of Nebraska and County of Pottawattamie, a political subdivision organized and existing under the laws of the State of Iowa (“Pottawattamie County”) (hereinafter, Douglas County, Sarpy County, Washington County, FDCC and Pottawattamie County shall collectively be referred to herein as “County”); hereinafter, OPPD, Douglas County, Sarpy County, Washington County, FDCC and Pottawattamie County shall be referred to collectively herein as “Parties” or individually as “Party.”

WHEREAS, the Interlocal Cooperation Act of the State of Nebraska, being specifically Neb. Rev. Stat. § 13-801 *et seq.* (Reissue 2012), and Iowa Code § 28E, Joint Exercise of Governmental Powers, enables separate political subdivisions of any state to cooperate on the basis of mutual advantage to provide for joint undertakings, services and facilities, in a manner and pursuant to forms of governmental organization that will accord with best geographic, economic, population, and other factors influencing the needs and developments of local communities;

WHEREAS, a Regional Wireless Area Network (hereinafter “Regional WAN”) comprised of microwave, fiber, and network equipment has been procured, installed and provisioned throughout the five county region for the sole purpose to connect the Parties and leverage regional interests in order to prioritize regional public safety objectives and responses;

WHEREAS, one of the primary public safety priorities in the region is to be able to share information on a real time, on demand basis to help mitigate an emergency that threatens the region;

WHEREAS, by providing the methodology to share information on a daily basis which focuses on multi-jurisdictional, multi-disciplinary interoperability to achieve a competent level of regional prevention, communication, cooperation, and coordination of information and data to execute a wide range of incident management operations;

WHEREAS, the Regional WAN will help maintain collaboration, information sharing and real time access to command posts when a response exists. It will allow emergency centers to be connected so that in real time they can share information, make area and regional command and control decisions and seamlessly communicate during any emergency;

WHEREAS, Parties agree that it will be necessary to maintain a WAN governance committee to collectively determine and prioritize the usage of the Regional WAN and that each Party has an equal vote in governance;

WHEREAS, Douglas County will continue to oversee the Regional WAN;

WHEREAS, it is necessary for the Parties to enter into an agreement to set forth their respective rights, duties and obligations.

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND AGREEMENTS HEREIN CONTAINED, PARTIES DO HEREBY MUTUALLY UNDERTAKE, PROMISE, AND AGREE AS FOLLOWS:

1. The purpose of this Agreement is to delineate how the Regional WAN will be used to support public safety to achieve a competent level of prevention, communication, cooperation and coordination of information and data used to execute a wide range of incident management operations.
  
2. It is the intent of the Parties that the WAN governance committee, with a representative from each Party, will continue to provide direction on the management and coordinate all budgetary requirements of the Regional WAN. To that end, the Parties agree as follows:
  - a. Each Party to this Agreement will designate a representative to act as its member on the WAN governance committee.
  - b. Each such designated representative will have an equal vote. In order for a proposed measure to be passed and adopted by the WAN governance committee, it must receive a majority vote of the members.
  - c. Regional WAN maintenance costs will be shared among OPPD and the Counties of Sarpy, Washington FDCC in Nebraska, and Pottawattamie in Iowa. Presently, the overall costs are estimated at \$65,000 per year.
  - d. The labor for the maintenance of the microwave radios in the Regional WAN, as shown on appendix A attached hereto and incorporated herein (the "Regional WAN") , will be provided by Douglas County. Douglas County will be responsible for diagnosing and replacing or repairing any failed components in the microwave radios with a spare component located in the designated spare component storage location. Repairs will be made during regular business hours unless both Side A & B of the relevant microwave radio shelf are in alarm or out of service or the WAN governance committee determines otherwise in section 3.
  - e. Each Party will be responsible for the cost of waveguide or dish repair for towers located in their respective areas of operation.
  - f. During normal business hours, Douglas County will assist in remotely diagnosing Regional WAN network equipment failures, but each Party will be responsible for replacing defective equipment at their respective facilities. Spare equipment for

the Regional WAN will be made available to any Party needing replacement equipment as spare inventory allows.

- g. The WAN governance committee will approve equipment and budgetary plans for upgrading links and reconfiguration of the Regional WAN, as needed.
- h. Parties agree to keep their respective Regional WAN associated equipment and facilities on a proactive and continuous maintenance schedule that protects the Regional WAN from environmental hazards which may cause disruption including but not limited to cooling system failure; generator, UPS, and battery failures; wave-guide pressure monitoring; physical security and system alarms.
- i. All Parties will be responsible for ensuring that the equipment located in their respective facilities is either insured against damage or theft, or that the Party is financially capable and responsible for the equipment if it is damaged or stolen.
- j. All Parties that have services interacting with the Regional WAN or monitored by the regional network services platform must maintain a software assurance contract with Nokia to ensure that the systems are kept at compatible levels.

3. The WAN governance committee will be responsible for establishing the following:

- a. The priority of service of the following :
  - i. Transmitting Voice over the Regional WAN;
  - ii. Real time mission critical data; and
  - iii. Data replication and back up services.
- b. Each Party is allocated 50 Mbps high priority bandwidth in the Regional WAN. All other bandwidth requests will be honored if the request does not conflict with other Parties' usage. In that case, the request must be approved by the WAN governance committee.
- c. Priority of Emergency Operation Centers connectivity in time of emergency;
- d. Establish criteria for creating circuits;
- e. Review of all services on the Regional WAN on a quarterly basis;
- f. Establish Service Level agreements, as needed, and determine which components require 24 hour repair vs. normal working hour repair timelines;
- g. Evaluate maintenance procedures and recommend adjustments, as needed; and

- h. Determine shared costs for equipment necessary to support and maintain the Regional WAN.
4. Spare parts for the Regional WAN have been purchased and are stored at a central location. If an outage occurs in the jurisdiction of one of the Parties, that Party is responsible for obtaining a replacement part from the central location, swapping the equipment, and returning the replaced part to the central location. The agency responsible for the designated spare component storage location will be responsible for the Return Material Authorization (shipping the broken/replaced equipment) to Nokia.
5. Term. This Agreement shall become effective upon April 15th, 2020 ("Effective Date"). Unless sooner terminated in accordance with this Agreement, the initial term of this Agreement shall commence on the Effective Date and terminate at midnight April 15th, 2025 (the "Initial Term"). This Agreement shall continue in full force and effect after the Initial Term, for consecutive terms of one (1) year each (each term, a "Renewal Term"), for up to two (2) renewal terms, unless a Party provides written notice of termination to all Parties no less than one (1) year prior to the end of the Initial Term or, as applicable, a Renewal Term.
6. Termination. A Party may terminate this Agreement for convenience at any time for any reason by giving the other Parties one year's written notice. A Party shall be liable for its share of the Regional WAN maintenance costs incurred until the effective date of the termination.

This Agreement may be terminated for a material breach not cured within a reasonable time following written notice. Such notice, to be effective must describe the breach or breaches complained of and provide a reasonable time to cure which time may not be less than 45 days following receipt, unless the cure is only the payment of money, in which case such time will be thirty (30) days. Following a failure to cure, the breaching Party may notify the remaining Parties in writing that the Agreement is terminated as to the breaching Party effective in one year following the receipt of such notice. A Party shall

be liable for its share of the Regional WAN maintenance costs incurred until the effective date of the termination.

Following a Party's failure to cure, the WAN governance committee may elect to terminate that breaching Party's participation in the Regional WAN and that Party's voting power under this Agreement, while maintaining the remainder of this Agreement in full force and effect. A majority of non-breaching members is required to remove a Party. Following a failure to cure and majority vote to remove a breaching Party, the remaining (non-breaching) Parties shall notify the breaching Party in writing that such breaching Party has been removed as a Party to this Agreement pursuant to this paragraph effective in one year following the removal vote. A breaching/removed Party shall be liable for its share of the Regional WAN maintenance costs incurred until the effective date of the termination.

In the event of the exercise of removal pursuant to Sections 6 or 7, the remaining Parties cited in 2.c. herein will agree to an equitable division of the continued operational costs of the Regional WAN.

7. The Parties herein reserve the right, by written request sent by certified mail from the notifying Party to each other Party, to amend as provided herein any provision of this Agreement. If on or after 180 days of such amendment notice, amendment discussions have failed to produce an agreed upon amendment to the Agreement by the Parties, then a Party may notify the others in writing of that Party's intent to withdraw and that the notifying Party's participation in this Agreement is terminated following 180 days after the withdrawal notice has been delivered to each other Party. All such notices, provided for in this section, shall be sent by certified mail as follows:
  - a. If to a County, then to the County Clerk.
  - b. If to OPPD, then to the Director - Enterprise Infrastructure for OPPD.
  - c. If to FDCC, then to the Communications Director of FDCC.

8. Non-discrimination. The Parties, in the performance of this Agreement, shall not discriminate in violation of applicable Federal or State law or local ordinances. The Parties shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment because of race, color, age, religion, sex, disability, national origin or similar protected status of the employee or applicant.
  
9. Nonwaiver. The failure of any Party to insist on strict performance of any covenants or conditions, or to exercise any option herein conferred on any one or more instances, shall not be construed as a waiver or relinquishment of any such covenant, condition, right, or option, but the same shall remain in full force and effect. For a waiver of a right or power to be effective, it must be in writing signed by the waiving Party. An effective waiver of a right or power shall not be construed as either a future or continuing waiver of that same right or power, or the waiver of any other right or power. In addition, any act by any Party which it is not obligated to do hereunder shall not be deemed to impose any obligation upon any Party to do any similar act in the future or in any way change or alter any of the provisions of this Agreement.
  
10. Applicable Law / Venue. This Agreement shall be construed and all of the rights, powers, and liabilities of the Parties hereunder shall be determined in accordance with the laws of the State of Nebraska without giving effect to any choice or conflict of law provision that would cause the application of laws of any jurisdiction other than those of the State of Nebraska. In addition, all claims relating to or arising out of this contract, or the breach thereof, whether based in contract, tort or otherwise, shall likewise be governed by the laws of the State of Nebraska without giving effect to any choice or conflict of law provision as previously provided here. Venue for any action under this Agreement shall be in Omaha, Nebraska, Douglas County District Court or for any federal action, it shall be in Omaha, Nebraska, the United States District Court for the State of Nebraska.
  
11. Severability. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or otherwise unenforceable, that provision will be severed and

the remainder of this Agreement will remain in full force and effect. The Parties further recognize that this Agreement shall be subject to amendments in laws and regulations and to new laws and regulations. Any law or regulation that invalidates, or is otherwise inconsistent with the terms of this Agreement or that would cause one or any of the Parties to be in violation of the law or regulation, shall be deemed to have superseded the terms of this Agreement, provided, however, that the Parties shall exercise their best efforts to accommodate the terms and intent of this Agreement to the greatest extent possible.

12. Third Party Rights. This Agreement does not create any third-party rights for those who are not a Party to this Agreement.
  
13. Assignment. This Agreement may not be assigned or transferred, whether voluntarily or by operation of law, nor may any of the duties and responsibilities be assigned or transferred, whether voluntarily or by operation of law, without prior written consent of each non-assigning Party.
  
14. Amendment. This Agreement may be modified only by written amendment, duly executed by authorized officials of the Parties. No alteration or variation of the terms and conditions of this Agreement shall be valid unless made in writing and signed by the Parties hereto. Every amendment shall specify the date on which its provisions shall be effective.
  
15. Entire Agreement. This Agreement contains the whole understanding of the Parties and supersedes all prior oral or written representations and statements among the Parties. No representations were made or relied upon by any Party other than those that are expressly set forth herein. No agent, employee or other representative of any Party is empowered to alter any of the terms hereof except as provided herein.
  
16. Binding Effect. This Agreement shall be binding upon the successors and assigns of the Parties hereto.

17. Indemnification. Subject to the provisions of section 18, each Party will indemnify, defend and hold harmless the other Parties from all liabilities, demands, claims, suits, losses, causes of action, fines, settlements or judgments and all expenses incident thereto, including but not limited to legal fees, for loss of, damage to, or destruction of property, arising out of or in connection with this Agreement and proximately caused by the Indemnifying Party's negligent acts or omissions, or those of its officers, employees or agents while performing their duties under this Agreement, provided that the other Party gives the Indemnifying Party prompt, written notice of any such claim, suit, demand or cause of action. The other Party shall cooperate in the defense or settlement negotiation of such claim, suit, demand or cause of action. The provisions of this section shall survive expiration or termination of this Agreement. These Indemnification provisions are not intended to waive a Party's sovereign immunity.

18. Notwithstanding any provision of this Agreement to the contrary and although the Parties acknowledge the possibility of such losses or damages, no Party hereunder shall have any liability in connection with the failure or loss of use of their respective facilities and systems and no Party shall be liable to any other Party for any special, incidental, indirect, punitive or consequential damages, whether foreseeable or not, including, but not limited to, loss of profits or revenue (whether arising out of transmission interruptions or problems, any interruption or degradation of service or otherwise), or arising out of, or in connection with (i) such Party's failure to perform its respective obligations hereunder, or (ii) claims of customers or citizens, whether occasioned by any construction, reconstruction, relocation, repair or maintenance performed by another Party. Each Party's liability is governed by and limited to the extent provided by the Nebraska Political Subdivision Tort Claims Act or other applicable provisions of law. Nothing contained herein shall operate as a limitation on the right of a Party hereto to bring an action for damages against any third party, including but not limited to claims for indirect, special or consequential damages, based on any acts or omissions of such third party.

EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND WITH RESPECT TO LABOR AND SERVICES PROVIDED BY DOUGLAS COUNTY, DOUGLAS COUNTY MAKES NO REPRESENTATION OR WARRANTY, EXPRESS

OR IMPLIED, AT LAW OR IN EQUITY, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR ANY WARRANTY ARISING OUT OF CUSTOM OR USAGE OF TRADE, AND ALL SUCH WARRANTIES ARE HEREBY EXPRESSLY DISCLAIMED. DOUGLAS COUNTY MAKES NO WARRANTY AS TO ANY GOODS FURNISHED OR LICENSED OR LABOR PROVIDED OR SERVICES PERFORMED HEREUNDER.

These limitations of liability shall survive the expiration or termination of this Agreement.

19. Independent Contractor. It is agreed that nothing contained herein is intended or should be construed in any manner as creating or establishing a partnership or joint venture between the Parties. Any and all acts that the Parties or their personnel, employees, agents, contractors, or servants, perform pursuant to the terms of this Agreement shall be undertaken as independent contractors and not as employees of the other. The Parties shall, except as provided herein, act in their individual capacities and not as agents, employees, partners, joint ventures or associates of the other. An employee or agent of one shall not be deemed or construed to be the employee or agent of the other for any purpose whatsoever. None of the Parties nor its personnel, employees, agents, contractors, or servants shall be entitled to any benefits of the other. The Parties shall not provide any insurance coverage to the other or their employees including, but not limited to, workers' compensation insurance. Each Party shall pay all wages, salaries and other amounts due its employees and shall be responsible for all reports, obligations, and payments pertaining to social security taxation, income tax withholding, workers' compensation, unemployment compensation, group insurance coverage, collective bargaining agreements or any other such similar matters. No Party shall have any authority to bind any other by or with any contract or agreement, nor to impose any liability upon any other Party. All acts and contracts of each shall be in its own name and not in the name of any other.

20. Captions. The captions used in this Agreement are for convenience and are not used in the construction of this Agreement.

21. Force Majeure. Except as may be otherwise specifically provided in this Agreement, no Party shall be in default under this Agreement if and to the extent that any failure or delay

in such Party's performance of one or more of its obligations hereunder is caused by any of the following conditions, and such Party's performance of such obligation or obligations shall be excused and extended for and during the period of any such delay: act of God; fire; flood; fiber, cable, conduit or other material failures, shortages or unavailability or other delay in delivery not resulting from the responsible Party's failure to timely place orders therefore; lack of or delay in transportation; changes to any of the following: government codes, ordinances, laws, rules, regulations or restrictions, as to which a Party's compliance is necessary to carry out the terms and conditions of this Agreement; war or civil disorder; pandemic or infectious disease outbreak; or any other cause beyond the reasonable control of such Party. The Party claiming relief under this section shall promptly notify the other Parties in writing of the existence of the event relied on and the cessation or termination of said event.

22. Joint Work Product. This Agreement is the joint work product of all Parties; accordingly, in the event of any ambiguity, no presumption shall be imposed against or in favor of any Party by reason of document preparation.
  
23. Dispute Resolution. Any dispute which, in the judgment of a Party to this Agreement, may affect the performance of such Party shall be reduced to writing and delivered to the other Parties. As soon as possible thereafter, the Parties authorized representatives shall schedule a face to face meeting to resolve the dispute in a mutually satisfactory manner. Prior to the institution of any formal legal proceeding, the Parties must meet in this manner to resolve the dispute. This meeting must take place within ten (10) business days after service of the written statement of dispute. During the pendency of negotiations, the Parties shall act in good faith to perform their respective duties described herein. If the Parties are unable to resolve their dispute using the process described above, the Parties may commence a legal action against the other Party.
  
24. Authorized Representatives and Notice. Except as provided in paragraph 7, the following named authorized representatives for each Party are available as a point of contact for any inquiries related to the performance of this Agreement. The Parties hereto expressly agree

that for purposes of notice, during the term of this Agreement and thereafter unless changed as provided herein, the following named individuals shall be the authorized points of contact of the Parties:

- A. For Douglas County, Nebraska  
Kathy Allen  
Director of Communications  
15335 West Maple Road, Ste 101  
Douglas County, NE 68116  
402-444-5800
  
- B. For Sarpy County, Nebraska:  
William Muldoon  
Director Emergency Communications  
1210 Golden Gate Dr.  
Papillion, NE 68046  
402-593-2283
  
- C. For Washington County, Nebraska:  
Mike Robinson  
Sheriff, Washington County  
1535 Colfax Street  
Blair, NE 68008  
402-426-6866
  
- D. For Pottawattamie County, Iowa:  
Robert Anderson  
911 Communications Director  
227 South 6<sup>th</sup> St  
Council Bluffs, IA 51501  
712-328-4806
  
- E. For OPPD:  
David Whisinnand  
Director – Enterprise Infrastructure  
Omaha Public Power District  
444 S.16<sup>th</sup> Street  
Omaha, NE 68102  
531-226-3167

F. For Fremont/Dodge County Communications  
Shelly Holzerland  
Communications Director  
725 N. Park Avenue  
Fremont NE 68025  
402-727-2677.

Notice shall be in writing and shall be effective upon receipt. Except for any notice required under applicable law to be given in another manner, delivery may be by hand, in which case a signed receipt shall be obtained, or by United States mail certified, return receipt requested or by facsimile with a signed return facsimile acknowledging receipt. A Party's authorized point of contact may be changed at any time by providing written notice of the updated contact information to each other Party.

25. Confidentiality. Each Party will take reasonable precautions to protect the other Parties' Confidential Information, using at least the same standard of care as it uses to maintain the confidentiality of its own confidential information. For the purposes of this Agreement, "Confidential Information" is any information disclosed in written, graphic, or machine-recognizable form, and is marked, designated, labeled or identified at the time of disclosure as being confidential and verbal information that is indicated as being confidential or proprietary when given and promptly confirmed in writing as such thereafter. In addition and notwithstanding any provision to the contrary, Confidential Information shall not include any information that: (i) is or becomes publicly known through no wrongful act of the receiving party; (ii) is already known to the receiving party without restriction when it is disclosed; (iii) is, or subsequently becomes, rightfully and without breach of this Agreement, in the receiving party's possession without any obligation restricting disclosure; (iv) is independently developed by the receiving party without breach of this Agreement; (v) is explicitly approved for release by written authorization of the disclosing party or (vi) receiving party may disclose information as necessary to comply with state public records laws. The receiving party may disclose Confidential Information if required by a governmental agency, by operation of law, or if necessary in any proceeding to establish rights or obligations under this Agreement, provided that the receiving party gives the disclosing party reasonable prior written notice

sufficient to permit the disclosing party an opportunity to contest such disclosure. The receiving party will reasonably cooperate with disclosing party to prevent the disclosure or obtain continued protection of the Confidential Information once disclosed to the requestor. The disclosing party shall bear all costs, expenses, damages or liabilities in any way related to the refusal to disclose or attempt to prevent disclosure. The Parties acknowledge and agree that this Agreement is not confidential.

26. Drug Free Workplace Policy. Each Party agrees that it will operate a drug-free workplace in accordance with State guidelines and has implemented a drug-free workplace policy.
27. Public Employer Contract Provision – Neb. Rev. Stat. § 4-114(2). Pursuant to Neb. Rev. Stat. § 4-114(2), each Party 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. 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 physically performing services within the State of Nebraska.
28. Public Benefits - Neb. Rev. Stat. §§ 4-108 - 113. No Party is an individual or sole proprietorship. Therefore, no Party is subject to the public benefits attestation and related requirements of Neb. Rev. Stat. §§ 4-108 – 113.
29. Unavailability of Funding. Due to possible future reductions in State and/or Federal appropriations, a Party cannot guarantee the continued availability of funding for this Agreement notwithstanding the consideration stated above. In the event funds to finance this Agreement become unavailable to a Party either in full or in part due to such reductions in appropriations, that Party will notify the remaining Parties in writing giving at least 180 days' notice. Said notice shall be delivered by certified mail return receipt

requested or in person with proof of delivery. Such written notification will also serve as the notifying Party's notice of termination. The notifying Party will cease to be a member of the WAN governance committee as of the date of termination. A notifying Party shall be liable for its share of the Regional WAN maintenance costs incurred until the effective date of the termination. Each Party shall be the final authority as to the availability of its funds.

30. Interlocal Agreements Neb. Rev. Stat. §§13-801 – 827. For purposes of that Act, this Agreement shall be administered jointly by the Parties, as provided herein. This Agreement does not contemplate acquiring, holding or disposing of joint property nor does it contemplate the levying or collecting of any tax.

[Signature Pages To Follow].

*IN WITNESS WHERE OF*, the Parties hereto set their hands to this Agreement upon the day and year hereinafter indicated.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY OF DOUGLAS, NEBRASKA a political subdivision

ATTEST:

\_\_\_\_\_  
County Clerk

By \_\_\_\_\_  
Chairperson of the Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy County Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY OF SARPY, NEBRASKA a political subdivision

ATTEST:

\_\_\_\_\_  
County Clerk

By \_\_\_\_\_  
Chairperson of the Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy County Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY OF WASHINGTON,  
NEBRASKA a political subdivision

ATTEST:

\_\_\_\_\_  
County Clerk

By \_\_\_\_\_  
Chairperson of the  
Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
Deputy County Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY OF POTTAWATTAMIE, IOWA  
a political subdivision

ATTEST:

\_\_\_\_\_  
County Auditor

By \_\_\_\_\_  
Chairperson of the  
Board of County Supervisors

APPROVED AS TO FORM:

\_\_\_\_\_  
Assistant County Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

OMAHA PUBLIC POWER DISTRICT,  
NEBRASKA a political subdivision

ATTEST:

\_\_\_\_\_

By \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

CITY OF FREMONT, NEBRASKA

ATTEST:

\_\_\_\_\_

Clerk

By \_\_\_\_\_

Mayor of Fremont

APPROVED AS TO FORM:

\_\_\_\_\_

City Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

FREMONT/DODGE COUNTY  
COMMUNICATIONS CENTER

ATTEST:

\_\_\_\_\_  
Clerk

By \_\_\_\_\_  
Mayor of Fremont, Chairman of the Board of  
the Communications Center

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 2020.

COUNTY OF DODGE NEBRASKA a  
political subdivision

ATTEST:

\_\_\_\_\_  
County Clerk

By \_\_\_\_\_  
Chairperson of the  
Board of County Commissioners

APPROVED AS TO FORM:

\_\_\_\_\_  
County Attorney

**RESOLUTION NO.2020-088**

**A Resolution of the City Council of the City of Fremont, Nebraska, to enter in to an Interlocal Agreement with the Omaha Regional Interoperable Network (ORION)**

**WHEREAS**, the city of Fremont currently has public safety radios on the ORION system; and,

**WHEREAS**, the Fremont/Dodge County PSAP radio consoles are already part of the ORION system; and,

**WHEREAS**, the ORION system is being extended into Dodge County; and,

**WHEREAS**, ORION has the master site that will support all of the public safety radios in Fremont and Dodge county; and,

**WHEREAS**, Fremont and Dodge County wish to be equal partners in the ORION System.

**NOW, THEREFORE BE IT RESOLVED**, the City Council of the City of Fremont accepts and enters in to an Interlocal Agreement with ORION, establishing the partnership and requirements for all parties and authorize the Mayor to sign the agreement.

PASSED AND APPROVED THIS 28<sup>th</sup> day of April, 2020.

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Scott Getzschman, Mayor

ATTEST:

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Tyler Ficken, City Clerk

## STAFF REPORT

TO: Honorable Mayor and City Council  
FROM: Lottie Mitchell, Grant Coordinator  
DATE: April 28, 2020  
SUBJECT: Keno Grant Awards

---

Recommendation: Approve resolution 2020-089.

---

**BACKGROUND:** The COVID-19 pandemic has had impacts across all sectors, including revenue from Keno. The committee took the potential decline in Keno revenue into consideration when making their recommendation for Keno grant awards at their meeting on April 15, 2020. The Committee recommends the following award amounts:

Applicant	Project	Requested Amount	Recommended Award Amount
Friends of Fremont Area Parks	Inclusive Playground at Johnson Park	\$3,500	\$3,500
Ridge Cemetery Association	Headstone straightening	\$5,000	\$0
Friends of Fremont Area Parks	LED Lights for Splash Pad at JCFremont Park	\$2,000	\$0
Catz Angels Rescue	Microchipping and virus testing	\$12,684.60	\$0
John C. Fremont Days, Inc.	Balloon Glow for 2020 festival	\$3,195	\$0

There is currently \$20,000 of Keno funds budgeted to award. The committee is recommending awarding \$3,500 due to the expected decrease in Keno funds. The deadline for the next opportunity to apply for a Keno grant is October 1, 2020. All projects awarded this Fiscal Year 2020 must be completed by August 31, 2020 and final report submitted by September 30, 2020.

**FISCAL IMPACT:** \$3,500 of budgeted Keno funds.

**RESOLUTION NO. 2020-089**

**A Resolution of the City Council of the City of Fremont, Nebraska, approving the proposed Keno Grant awards as recommended by the Keno Advisory Committee.**

WHEREAS, The Keno Advisory Committee met on April 15, 2020 to review the submitted Keno Grant Applications; and,

WHEREAS, the Keno Advisory Committee recommends the following award.

- \$3,500 to Friends of Fremont Area Parks

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council approve the proposed Keno Grant award as recommended by the Keno Advisory Committee.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020.

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

# STAFF REPORT

TO: Honorable Mayor and City Council  
FROM: Jeff Shanahan, Power Plant Superintendent  
DATE: April 28, 2020  
SUBJECT: Engineering Services for Affordable Clean Energy Rule Data Submittal

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Recommendation: Approve resolution 2020-090

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## **BACKGROUND:**

The Lon D. Wright Power Plant Unit 8 is required to comply with the Environmental Protection Agency (EPA) Affordable Clean Energy Rule (ACE). The Nebraska Department of Environment and Energy (NDEE) is responsible to submit a State Implementation Plan (SIP) to the EPA to ensure Nebraska compliance with the rule.

On February 19, 2020, NDEE called a meeting with the Nebraska Electric Generators to discuss the implementation of the ACE rule and the development of the Nebraska SIP.

On March 10, 2020, NDEE submitted a Request for Information (RFI) to all Nebraska Electric Generators to provide information to be compiled and submitted as part of the SIP. This information is due to NDEE by September 6, 2020

April 10, 2020 a Request for Proposals was sent to various engineering firms to assist the City of Fremont with the following tasks:

- Task 1: Evaluate BSER Candidate Technologies
- Task 2: Evaluate Baseline Heat Rate and CO2 Emissions
- Task 3: Evaluate Potential Emissions Standards and Compliance Methods
- Task 4: Prepare Final Report
- Task 5: Assist with NDEE Request for Information

On April 21, 2020 LDW staff received four proposals for the tasks mentioned above. The table below represents the prices from the various engineering firms that offered proposals.

Task	RMB Consulting	KLJ Engineering	Designer Group USA	HDR Engineering	Black and Veatch	Burns and McDonnell
1			\$20,000	\$20,148	\$24,000	
2			\$20,000	\$11,283	\$5,000	
3			\$11,000	\$3,448	\$5,000	
4			\$6,000	\$10,827	\$10,000	
5			\$8,000	\$3,274	\$5,000	
Total	No Bid	No Bid	\$65,000	\$48,980	\$49,000	\$35,500

This item was presented at the April 28, 2020 Utilities and Infrastructure Board meeting, but due to the urgency of the matter, this item is being brought to the Mayor and City Council on the same day.

Staff requests that the Mayor and City Council authorize the Utility Staff to sign a purchase agreement with Burns & McDonnell for Professional Engineering Services for the Affordable Clean Energy Rule Engineering in the amount of \$35,500.

**FISCAL IMPACT:**

FY 2019-2020 Budget Expenditure of \$35,500

**RESOLUTION NO. 2020-090**

A Resolution of the City Council of the City of Fremont, Nebraska, authorizing Utility Staff to sign a purchase agreement and issue a purchase order to Burns & McDonnell Engineering for Professional Engineering Services for the Affordable Clean Energy Rule.

NOW THEREFORE BE IT RESOLVED, that the Mayor and City Council authorize Utility Staff to sign a purchase agreement and issue a purchase order to Burns & McDonnell Engineering for Professional Engineering Services for the Affordable Clean Energy Rule in the amount of \$35,000.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020.

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

**TO:** Honorable Mayor and City Council

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

**DATE:** April 28, 2020

**SUBJECT:** Morningside Pointe Addition, Intersection Pavement Reimbursements

<b>Recommendation:</b> Approve Resolution 2020-091 for the reimbursement for the intersection pavement in Morningside Pointe.
---

### Background:

Fremont Area Land Company is requesting pavement cost reimbursement for the six (6) intersections in Morningside Pointe Addition. (See attachments for individual intersections and cost breakdown). The reimbursement is for 1,270.10 square yards of concrete pavement plus a proportionate share of engineering costs. The total reimbursement request is for \$54,061.55.

The UIB approved recommending the reimbursement to City Council at the April 14, 2020 meeting on a 5-0 vote.

### Fiscal Impact:

The fiscal impact for the request is \$54,061.55.

March 24, 2020

Statement

To: City of Fremont

400 East Military

Fremont, Nebraska 68025

From: Fremont Area Land Company

PO Box 926

Fremont, Nebraska 68026

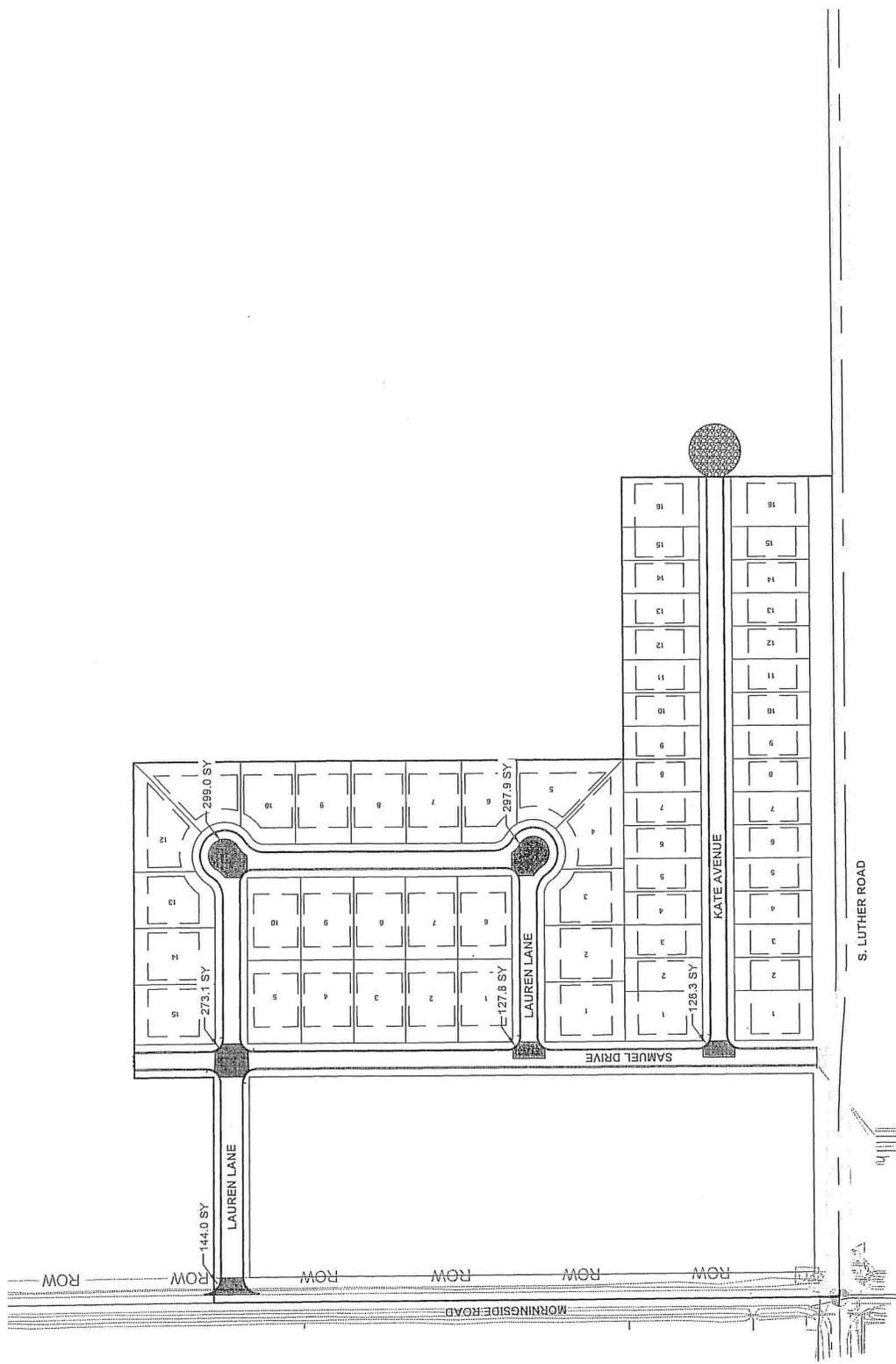
City cost of paving.

6" = 596.9 yards @ \$37.72 = \$22,515.07

7" = 673.2 yards @ \$39.56= \$26,631.79

10% Engineering \$4,914.69

Total Due \$54,061.55



INTERSECTIONS



© JEO Consulting Group

MORNINGSIDE POINTE

Project No. P180511.00

Progress Estimate - Unit Price Work

F.A.L.C.O. 2450 Colorado St, Fremont NE

Owner:

Engineer:

Contractor:

Project:

Contract:

Contractor's Application for Payment

Owner's Project No.:

Engineer's Project No.:

Contractor's Project No.:

Application No.:		1		Application Period:		From 03/18/19 to 05/30/19		Application Date:		05/30/19	
Bid Item No.	Description	Contract Information		Original Contract		Estimated Quantity Incorporated in the Work	Value of Work Completed to Date (E,X,G) (\$)	Materials Currently Stored (m or in G) (\$)	Work Completed and Materials Stored to Date (H+I) (\$)	% of Value of Item (J/F) (%)	Balance to Finish (F-J) (\$)
		Item Quantity	Units	Unit Price (\$)	Value of Bid Item (G,X,E) (\$)						
<b>GROUP A - PAVING &amp; GRADING</b>											
1	Mobilization	1.00	LS				20,780.00				
2	Bonding and Insurance	1.00	LS				19,000.00		19,000.00	100%	20,780.00
3	Earthwork Measured in Embankment (Est. Qty.)	41,925.00	CY	10.85							
4	Subgrade Preparation	11,394.00	SY	3.12							
5	6" Concrete Pavement	11,394.00	SY	34.60							
6	Concrete Header	56.00	LF	10.50							
7	Gravel Surface Course	65.00	TONS	36.75							
8	Install Sign and Post	11.00	EA	190.00							
9	Seeding, Fertilizer and Mulch	16.00	ACRE	1,750.00							
10	Silt Fence, High Porosity	1,000.00	LF	2.25							
11	Stabilized Construction Entrance	21.00	TONS	175.00							
12	Curb Inlet Sediment Filter	12.00	EA	200.00							
<b>GROUP B - WATER MAIN</b>											
1	Mobilization	1.00	LS				1,000.00				
2	Bonding and Insurance	1.00	LS				4,625.00		4,625.00	100%	1,000.00
3	8" DIP Water Main, Class 350	2,212.00	LF	34.30							
4	6" DIP Water Main, Class 350	1,088.00	LF	30.75					33,754.43	44%	42,117.17
5	6" Fire Hydrant Assembly	7.00	EA	1,675.00					12,699.83	38%	20,756.17
6	8" Gate Valve and Box, MJ	8.00	EA	1,225.00						0%	11,725.00
7	6" Gate Valve and Box, MJ	2.00	EA	925.00						0%	9,800.00
8	8" x 8" x 8" Tee, MJ	1.00	EA	445.00						0%	1,850.00
9	6" x 6" x 6" Tee, MJ	8 EA		390						0%	3,120.00
10	6" x 6" x 6" Tee, MJ	1 EA		370						0%	445.00
11	6" 90° Bend, MJ	2 EA		290						0%	370.00
12	8" 45° Bend, MJ	16 EA		285.00						0%	580.00
13	1" Copper Service Line	1036 EA		18.00						0%	18,648.00
14	1" Corporation Stop	25 EA		135.00						0%	3,375.00
15	6" x 1" Saddle	16 EA		140.00						0%	2,240.00
16	1" Curb Stop and Box	9 EA		245.00						0%	2,200.00
17	30" Live Tap Existing Water Main	2 EA		3,055.00						0%	6,125.00
18	8" Plug	3 EA		195.00						0%	585.00
19	8" x 8" Cross	1 EA		365.00						0%	365.00
<b>GROUP C - SANITARY MAIN</b>											
1	Mobilization	1 LS									
2	Bonding and Insurance	1 LS					1,500.00		1,500.00		
3	48" Dia. Concrete Manhole	163 VF		5,425.00							
4	8" PVC Sanitary Sewer Main, SDR 35	2950 LF		330.00							
5	4" PVC Sanitary Sewer Service, SDR 26	1642 LF		36.50							
							104.13	9,653.00	12,699.83	0%	4,348.52
							2,036.00	74,314.00			
							979.00	20,069.50			

**RESOLUTION NO. 2020-091**

**A Resolution of the City Council of the City of Fremont, Nebraska to authorize reimbursement for intersection pavement in Morningside Pointe Addition.**

**WHEREAS,** Fremont Land Company requested reimbursement for the intersection pavement costs in Morningside Pointe Addition. The total reimbursement for concrete intersection pavement is for \$54,061.55.

**WHEREAS,** The total reimbursement to Fremont Land Company for 1,270.10 square yards of concrete pavement is \$54,061.55.

**NOW THEREFORE BE IT RESOLVED:**

That the Mayor and City Council accept the recommendation of the Public Works Director/City Engineer and approve the request from Fremont Land Area Company for reimbursement in the amount of \$54,061.55.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

TO: Fremont City Council  
FROM: Shane Wimer  
DATE: April 28, 2020  
SUBJECT: Appointment to the Nebraska Regional Interoperability Network (NRIN) Governing Board

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**Recommendation:** Recommend appointment of Shelly Holzerland to the NRIN governing Board for a 3 year term

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**Background:** The Nebraska Regional Interoperability Network (NRIN) is a regional and statewide wireless data communications sharing network that is owned by Nebraska's local governments. Its purpose is to connect Public-Safety Answering Points (PSAPs) or 9-1-1 centers. In 2015, the City of Fremont entered in to an Interlocal Agreement that made the PSAP part of NRIN. As a member city, Fremont is entitled to vote for the NRIN Board of Governors. This board oversees and manages the network.

Shelly Holzerland was nominated in March 2020 by the City and County. There are no other nominees for this region. As the Communications Director, she is in the best position to help manage this network and help deliver its benefits not only for Fremont/Dodge County but for all PSAPs in Nebraska. She has faithfully attended the meetings and participated in the activities required to develop and promote this network. Staff recommends Shelly Holzerland be appointed to serve another term on the NRIN Board of Governors.

**Fiscal Impact:** None

**Fiscal Impact:** None.

# **Ballot for Election to Nebraska Regional Interoperability Network (NRIN) Board of Directors**

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## **East Central Region**

**(BOONE, BUTLER, CITY OF COLUMBUS, CITY OF FREMONT, COLFAX, DODGE,  
HOWARD, MERRICK, NANCE, PLATTE, POLK, SAUNDERS)**

**Vote for one candidate:**

Shelly Holzerland

---

**Signature Board Chair or Executive**

---

**Date**

---

**Print Name**

---

**County or Municipality**

Only NRIN Member Public Agencies may vote. Ballots must be received by **May 31,2020** and may be mailed, emailed, faxed or hand-delivered to:

Heidi Gillespie  
PO Box 191  
Sidney, NE 69162  
[director@signey911.org](mailto:director@signey911.org)  
308-254-2880

## STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Tyler Ficken, City Clerk

DATE: April 28, 2020

SUBJECT: Cement/Asphalt/Excavate Work License Application

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

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**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 1<sup>st</sup> of every year.

<u>Business</u>	<u>Applicant</u>	<u>Type</u>
Ogden Home Rehab, LLC	Gary Ogden	Cement/Asphalt/Excavate

CITY OF

# FREMONT

NEBRASKA PATHFINDERS

## LICENSE APPLICATION

Position	Fee	Bond	Term
FMC 10-322 Cement Work/Asphalt/Excavate	20.00	5,000.00	April 1st to April 1st of each year
FMC 10-315 House Mover	25.00	5,000.00	April 1st to April 1st of each year

TO THE FREMONT MAYOR AND COUNCIL:

The undersigned does hereby make application for license as FMC 10-322 Cement work/Asphalt/Excavate

License should be issued to ODDEN Home Rehab LLC

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

ODDEN Home Rehab LLC at 2831 EAST 16th Fremont NE

(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) 317-0444

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

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

general construction / concrete work for various companies

I have the following technical education: Leys college

I give you the following references: Dana beland, tyler thomas, mark clausen

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 3<sup>rd</sup> floor of Municipal Building to obtain the rules and regulations concerning concrete work.

Dated 4/15/20

[Signature]  
Signature

# STAFF REPORT

TO: Honorable Mayor and City Council

FROM: Dave Goedeken, Director of Public Works/City Engineer

DATE: April 28, 2020

SUBJECT: March 17, 2020 Traffic Committee Report

Recommendation: Approve and place March 17, 2020 Traffic Committee Report into the record. Recommend approval of Resolution 2020-092 to place stop sign at Lincoln Avenue and Cuming

**Background:** City Staff meets monthly to consider traffic related issues in the City of Fremont. The committee met on March 17, 2020 to consider five items. (See Attached Committee Report)

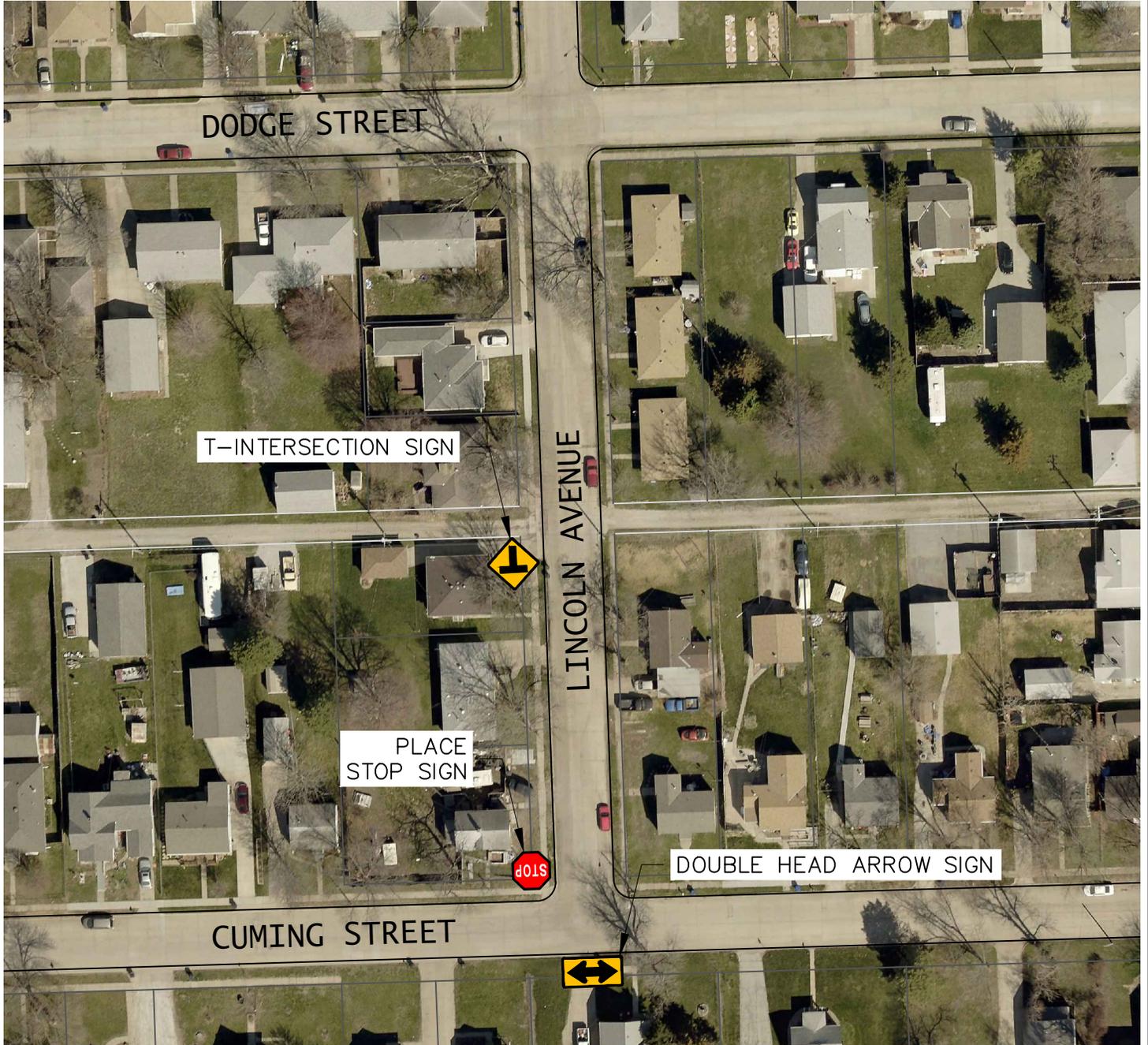
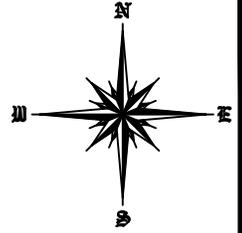
- 1) Traffic exceeding the speed limit on Broad Street in the general location of 20<sup>th</sup> Street and Broad Street.
- 2) Placement of Stop Signs at the following intersection.
  - a. Southbound Lincoln Avenue at Cuming Street.
- 3) Request to place dumpster in alley or in public parking lot behind 317 Main Street
- 4) Request to consider rewording “No Parking During School Hours” sign in the vicinity of 3<sup>rd</sup> Street and Clarkson Street.
- 5) Parking stalls on North side of 5<sup>th</sup> Street, between Main Street and Park Avenue.

The committee recommends the following:

- Have police department monitor North Broad Street, and as weather warms place traffic counters in the vicinity.
- Approve Resolution to place stop signs at the following locations;
  - Lincoln Avenue and Cuming Street. (Southbound)
- Recommend the dumpster be placed in the alley. Reach out to the downtown groups regarding the dumpsters and their placement in the allies.
- Immediately barricade the parking stalls on the North side of 5<sup>th</sup> Street until the City receives a structural report on the stability of the concrete.

**Fiscal Impact:** The City will have the expense of the placing the Stop Sign.

# LINCOLN AVENUE AND CUMING STREET INTERSECTION





## TRAFFIC COMMITTEE MEETING REPORT

ITEMS FOR DISCUSSION

MARCH 17<sup>TH</sup>, 2020

ATTENDEES: DAVE GOEDEKEN, MARK VYHLIDAL, JEFF ELLIOT, VERONICA TRUJILLO

- 1) Speeding traffic on Broad Street at 2021 North Broad Street.

Public Works can place traffic counters in the location to determine traffic volumes and speeds. Also the Police have been patrolling the area specifically for speeding and haven't found an overabundance of speeding.

**The committee recommends traffic counters be placed in the vicinity and have Police continue to monitor. Counters will be placed after weather warms and little chance of snow and ice.**

- 2) Request for a stop sign on Southbound Lincoln Avenue at Cuming Street..

Staff has received a citizen request to consider placing a stop sign at this location due to concerns over vehicle going thru the tee intersection and onto the opposing yard. There is a Tee Ahead sign prior to the intersection and a double head arrow sign on the opposing side of the intersection. The intersection is unmarked at the present time.

**The committee recommends placement of a stop sign at this location due to the proximity of the driveway approach on the opposing property and the risk of someone driving through the intersection and onto their yard. This item will need to be approved by the City Council by Resolution.**

- 3) Request at 317 North Main to place a trash dumpster in the alley or use of a parking stall in the Ilgenfritz parking lot.

**Staff has been to the site and a dumpster in the alley would partially obstruct the alleyway, however, there are many other dumpsters in the alleyway throughout the downtown area. Committee is continuing the request for further consideration. At the present time the dumpster should be placed in the alley as the building is set back a few feet from the alleyway, rather than sacrificing a stall in the public parking lot.**

- 4) Committee received an inquiry regarding a “No Parking During School Hours” sign on 3<sup>rd</sup> Street near Clarkson.

**Staff noted there are no parking signs in the area. The neighbors concern was there are many cars parked in the vicinity during afterhours school events. The request was for more restrictive parking. A similar request had been reviewed at an earlier meeting regarding Fremont Senior High. At that time the committee chose to have the police monitor the situation specifically for vehicles blocking access to drives.**

**Committee recommends the Police monitor the neighborhood during after hour events and to report back at a later committee meeting if there are parking issues.**

- 5) Parking Stalls on Fifth Street, between Main Street and Park Avenue.

**Staff has been contacted regarding water issues in the basement of the 505 Building due to street surface water. Staff was requested to inspect the interior of the building to visually inspect the location of the water in the basement. The 505 building has a basement which extends under the sidewalk and into the parking and sidewalk area of the street itself. The water appears to be coming in through sidewalk and pavement joints along 5<sup>th</sup> Street as well as Main Street. Staff also saw areas of the ceiling which would be the bottom of the parking area concrete that have deteriorated to the point where it appeared it may be unsafe to park on the concrete surface overhead.**

**Committee has recommended the Street Department immediately barricade the parking stalls above the basement and wait for a structural engineers report regarding the condition of the concrete.**

**RESOLUTION NO. 2020-092**

**A Resolution of the City Council of the City of Fremont, Nebraska authorizing placement of a stop sign.**

**WHEREAS,** The Fremont Traffic Safety Committee recommends placement of a stop sign at the following intersection;

Lincoln Avenue and Cuming Street (Southbound)

**NOW THEREFORE BE IT RESOLVED:**

That the Mayor and City Council hereby approve and authorize the placement of the stop sign.

PASSED AND APPROVED THIS 28<sup>TH</sup> DAY OF APRIL, 2020

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

**TO:** Honorable Mayor and City Council  
**FROM:** David Goedeken, P.E., Director of Public Works/City Engineer  
**DATE:** April 28, 2020  
**SUBJECT:** Bell Street Asphalt Overlay Project

<b>Recommendation:</b> Award Construction Management Agreement to CIVIL SOLUTIONS, LLC.
---

### Background:

Proposals for Engineering Construction Management Service were accepted and opened for the project Bell Street Asphalt Overlay Project on March 23, 2020; three (3) proposals were received. The Bell Street Asphalt Overlay Project consists of a mill and 2 inch asphalt overlay, sidewalk, drainage, and utility improvements on Bell Street from Linden Avenue to 23<sup>rd</sup> Street. The project's scope of services is for Construction Management Services, and all other local, state, and federal requirements necessary for completion of the construction phase of the project in the City of Fremont, Nebraska. Civil Solutions, LLC has been selected as the engineering consultant based on timeline for design work, scope of work, hours worked and cost, and prior experience on related projects.

### Fiscal Impact:

CIVIL SOLUTIONS, LLC. of Omaha, Nebraska was the best value priced proposal in the amount of \$24,910.00 with the funds coming out of the Street Fund.



16439 Briar Street  
Omaha, NE 68136-4154  
402-895-5633

March 22, 2020

Ms. Veronica Trujillo (via email)  
City of Fremont, NE  
400 East Military  
Fremont, NE 68025

**RE: Bell Street Asphalt Overlay Project – Fremont, NE  
Construction Engineering Services**

Dear Ms. Trujillo,

Civil Solutions is pleased to present the attached proposal to the City of Fremont for Construction Engineering Services for the Bell Street Asphalt Overlay Project. Civil Solutions is a partnership with a combined experience of over sixty (60) years in engineering design and construction management.

Daniel E. Norman, P.E. will be the primary contact person onsite if Civil Solutions is selected for this project. Mr. Norman is scheduled to be in Fremont, NE this spring conducting construction management for the South Johnson Road Project. We feel confident that both projects can be overseen at the same time by the same engineer. In the event that critical items are being constructed at both projects at the same time, Kelly G. Thompson, P.E. will be available to assist.

We trust that our proposal meets or exceeds your expectations, and we hope to hear from you soon.

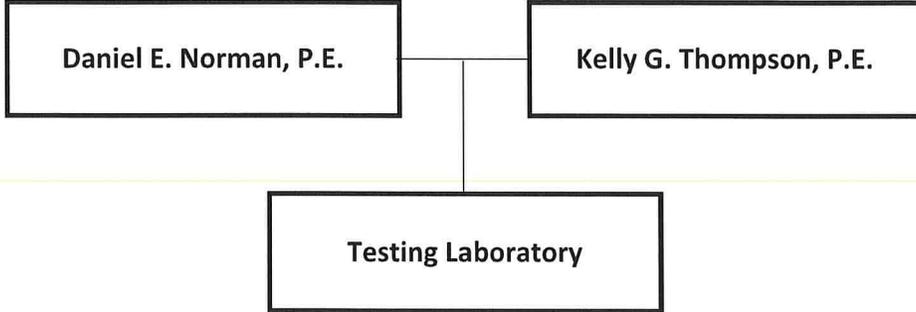
Thank you for the opportunity. We greatly appreciate it.

Sincerely,  
**Civil Solutions, LLC**

A handwritten signature in blue ink that reads 'Daniel E. Norman'.

Daniel E. Norman, P.E.

**ORGANIZATION CHART FOR CONSTRUCTION ENGINEERING SERVICES**



## **PROJECT UNDERSTANDING AND APPROACH**

**Civil Solutions** has over 60 years of combined engineering/construction experience between the two managing partners. We also have another professional engineer that works with us on a part-time basis. Her experience includes 4 years of experience working in the Roadway Design Division of the Nebraska Department of Transportation.

This is an asphalt overlay project that begins at the intersection of Linden Avenue and Bell Street and extends north on Bell Street to 23<sup>rd</sup> Street. Along with the asphalt overlay, the project includes manhole and water valve box adjustments, inlet reconstruction, sidewalk ramps, replacement of approximately 16 vehicle loop detectors, and other miscellaneous work as shown on the Plans.

We understand the scope of work for this project includes, but is not limited to, the following items:

- *Conduct Preconstruction Conference and provide meeting minutes*
- *Temporary Traffic Control Assurance (**Extremely important due to the traffic volume on Bell Street**)*
- *Conduct periodic progress meetings and provide meeting minutes*
- *Coordinate Construction Staking*
- *Coordination with Design Engineer and City Staff*
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- *Construction Inspection/Oversight (Weekly Field Reports w/ photo logs)*
- *Coordinate materials sampling and testing*
- *Environmental Compliance Checks*
- *Final Completion and Punch List*
- *Project Closeout*
- *Provide Record Drawings and Project Documents (PDF)*

## **PROJECT APPROACH**

It is very important to establish a good working relationship with the Contractor, and that begins with the Preconstruction Conference. The Contractor should leave that meeting knowing what is expected of him to complete the project, but he should also feel that the Construction Engineer is there to help him reach those objectives. The

Construction Engineer is a liaison between the Owner and the Contractor. He is not there to try and prevent the Contractor from completing his tasks.

The Contractor should also be aware that it is the Construction Engineer's responsibility to make sure all construction follows the specifications and to make sure the City of Fremont gets a good quality product when finished. The best way to do that is to make sure there are open lines of communication between the Construction Engineer, the Contractor, and the City of Fremont.

Although the Request for Proposals requires Weekly Field Reports with photo logs be submitted, Civil Solutions will provide the following:

Field reports will be completed for every site visit and submitted to both the Contractor and the City of Fremont. This way all parties are made aware of any construction issues and any potential problems can be worked out immediately. There should be no miscommunication issues during the course of the project.

Asphalt projects typically requires somebody onsite during the asphalt overlay to collect asphalt tonnage tickets to verify actual quantities. Civil Solutions is prepared to have somebody available, if needed, to collect asphalt tonnage tickets.

Traffic control plans and verification will be completed by a professional engineer.

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Beginning in 2013, Civil Solutions has prepared the Plans, Specifications, and Bidding Documents for the asphalt overlay projects in Washington County. From 2013 through 2015, Civil Solutions also completed the construction management. Washington County forces took over the management portion of the projects beginning in 2016.

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(1) Project Engineer and Construction Engineer for design and construction of street extension project involving 700 feet of residential street pavement and 700 feet of 8-inch diameter sanitary sewer. (2) Project Engineer and Construction Engineer for design and construction of twelve block 30-foot wide residential and street project involving pavement removal, design, and replacement; grading; and storm drainage.

### **US HIGHWAY 30/UPRR OVERPASS (MISSOURI VALLEY, IA)**

Project Engineer for this project involving a 270-foot bridge and 1600 feet of PCC Highway 30 paving, grading, and utility relocations. Project was for the Iowa Department of Transportation; City of Missouri Valley, IA; and the Union Pacific Railroad. Provided Construction Engineering services for the project.

### **US HIGHWAY 30 DETOUR CONSTRUCTION (MISSOURI VALLEY, IA)**

(1) Project Engineer and Construction Engineer for design and construction of US Highway 30 detour including 2,000 feet of new PCC pavement, asphalt overlay of existing streets, grading, and storm drainage. (2) Project Engineer for design of Huron Street Bridge Replacement involving field surveys and coordination of structural design for new 150-foot concrete slab bridge over Willow Creek.



## **AGREEMENT FOR CONSTRUCTION MANAGEMENT**

**THIS AGREEMENT** made and entered into by and between the City of Fremont of Nebraska, hereinafter referred to as the "Fremont" and Civil Solutions, LLC, hereinafter referred to as the Consultant.

### **WITNESSES THAT:**

**WHEREAS**, Fremont has awarded a contract to Constructors, Inc. for the Bell Street Asphalt Overlay Project, and

**WHEREAS**, Fremont and the Consultant are desirous of entering into a construction management agreement to oversee the Bell Street Asphalt Overlay Project, and

**WHEREAS**, the Project Understanding and Approach included in this contract is authorized as part of Fremont's approved work for the Consultant, and

**WHEREAS**, it would be beneficial to Fremont to utilize the Consultant as an independent entity to accomplish the Scope of Work set forth herein.

**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 Fremont the work activities described in the Project Understanding and Approach (Attachment #1 to this agreement).
- b. Fremont 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 the parties sign and complete execution of the contract.

#### **3. Consideration**

Fremont shall reimburse the Consultant on a time and material basis for all time, material, and allowable expenses agreed upon by the parties to complete the Project Understanding and Approach. In no event shall the total amount reimbursed by Fremont exceed the sum of \$24,910. Reimbursement under this contract shall be based on monthly billings, supported by appropriate documentation and billed at the rate of \$65/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.

#### **4. Record Maintenance, Record Retention & Access to Records**

The Consultant agrees to maintain such records and follow such procedures as may be required by Fremont or the Department may prescribe. In general, such records will

include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by Fremont for a period of ten years after the final audit of Fremont's CDBG project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Village/City/County shall request a longer period for retention.

Fremont 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 Fremont 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 Fremont and nothing contained herein shall be deemed to create the relationship of employer and employee or principal and agent between Fremont and the Consultant.

## 6. Suspension, Termination and Close Out

If the Consultant fails to comply with the terms and conditions of this contract Fremont 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, Fremont 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 Fremont 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 Fremont shall pay the Consultant for work performed to the satisfaction of Fremont, 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 Fremont deems continuation of the contract to be substantially detrimental to the interests of Fremont.
  - 2) The consultant has failed to take satisfactory action as directed by Fremont or its authorized representative within the time specified by same.
  - 3) The consultant has failed within the time specified by Fremont or its authorized representative to satisfactorily substantiate its compliance with the terms and conditions of this contract; then, Fremont 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 Fremont, with the consent of the Consultant, or by the Consultant with the consent of Fremont, 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 Fremont 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 Fremont fails to pay the Consultant promptly or within 60 days after invoices are rendered, Fremont 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, Fremont shall then promptly pay the Consultant for all services performed and all allowable expenses incurred.
  - 4) Fremont 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 Fremont as provided herein, the Consultant will be paid for time provided and expenses incurred up to the termination date.

## **7. Changes, Amendments, Modifications**

Fremont 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 Fremont 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 Fremont.

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 Fremont. 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 Fremont thereto; provided, however, that claims for money by the Consultant from Fremont 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 Fremont.

**10. Reports and Information**

The Consultant, at such times and in such forms as Fremont may require, shall furnish Fremont 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 Fremont.

**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 Fremont 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. Hold Harmless**

The Consultant agrees to indemnify and hold harmless Fremont, 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 Fremont, 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.

**15. Governing Law**

This agreement will be governed by the laws of the State of Nebraska, without regard to that body of law controlling conflicts of law. Any legal proceeding arising out of or relating to this agreement shall be instituted in any court of general jurisdiction in the

State of Nebraska.

This agreement contains all terms and conditions agreed to by Fremont and the Consultant. The attachment(s) to this agreement are identified as follows:

ATTACHMENT #1: Project Understanding and Approach

**WITNESS WHEREOF**, Fremont and the Consultant have executed this contract agreement as of the date and year last written below.

**FREMONT**

BY \_\_\_\_\_  
Scott Getzschman, Mayor

DATE \_\_\_\_\_

**CONSULTANT**

BY \_\_\_\_\_  
Dan E. Norman, P.E.

DATE \_\_\_\_\_

**APPROVED as to legal form:**  
Fremont Attorney

BY \_\_\_\_\_  
Travis Jacott, Adams & Sullivan

DATE \_\_\_\_\_

## ATTACHMENT 1

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Project Engineer for this project involving a 270-foot bridge and 1600 feet of PCC Highway 30 paving, grading, and utility relocations. Project was for the Iowa Department of Transportation; City of Missouri Valley, IA; and the Union Pacific Railroad. Provided Construction Engineering services for the project.

#### **US HIGHWAY 30 DETOUR CONSTRUCTION (MISSOURI VALLEY, IA)**

(1) Project Engineer and Construction Engineer for design and construction of US Highway 30 detour including 2,000 feet of new PCC pavement, asphalt overlay of existing streets, grading, and storm drainage. (2) Project Engineer for design of Huron Street Bridge Replacement involving field surveys and coordination of structural design for new 150-foot concrete slab bridge over Willow Creek.



**RESOLUTION NO. 2020-070**

**A Resolution of the City Council of the City of Fremont, Nebraska to authorize and approve the Agreement with Civil Solutions, LLC. for professional consulting services in construction engineering and administration for the Bell Street Asphalt Overlay Project.**

**WHEREAS,** Proposals were accepted by the 23<sup>rd</sup> day of March 2020 until 5:00pm of the business day; and

**WHEREAS,** The City Engineer and Public Works Director reviewed the proposals received and recommended that the agreement of Civil Solutions, LLC. be accepted for the Bell Street Asphalt Overlay Project.

**NOW THEREFORE BE IT RESOLVED:**

That the Mayor and City Council accept the recommendation of the Public Works Director and approve the Agreement with Civil Solutions, LLC. for construction engineering and administration services for the Bell Street Asphalt Overlay Project in the amount of \$24,910.00, and authorize the Mayor to sign the agreement.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

TO: HONORABLE MAYOR AND CITY COUNCIL  
FROM: Shelly Holzerland, Communications Director  
DATE: April 28, 2020  
SUBJECT: Support renewal with GeoComm, Inc.

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**Recommendation:** Approve resolution 2020-075 to renew support contract for GIS, interface and mapping services for 911 PSAP.

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**Background:** In 2019, the Fremont/Dodge County 911 Center purchased GeoComm mapping hardware and software for the Dodge County 911 system. Continued support of the software and interfaces is needed to ensure the system performs at the highest level. This agreement is for one year of support of the software and interfaces for the mapping system. The first year of maintenance and support charges take effect May 1, 2020 and continue through April 30, 2021.

**Fiscal Impact:** \$5,000, budgeted expense



**Software Support Renewal Contract**  
**#03.20 DCNE**  
March 10, 2020

**Geo-Comm, Inc.**  
**EIN # 41-1811590**  
**601 West St. Germain**  
**St. Cloud, MN 56301**  
**Phone: (320) 240-0040**  
[www.geo-comm.com](http://www.geo-comm.com)

**Dodge County 9-1-1**  
**Shelly Holzerland**  
**Communications Director**  
**725 N. Park Ave.**  
**Fremont, NE 68025**  
**Phone: (402) 727-2677**  
**E-mail: [shelly.holzerland@fremontne.gov](mailto:shelly.holzerland@fremontne.gov)**

Software Description	No. of Licenses	Annual Total
GeoLynx Server Dispatch Mapping Software Support	4	\$4,000.00
Network Analyst Extension for Server Software Support	1	Included
Standard Dispatch CAD Interface Support	1	\$1,000.00
<b>Grand total:</b>		<b>\$5,000.00</b>

Software support services provided from May 1, 2020 through April 30, 2021.

A description of the services covered under this contract is attached and made a part of this agreement as Exhibit A.

Customer agrees to pay GeoComm:

\$5,000.00 invoiced net 45 days upon contract signing

### Customer Authorization

<b>Signature</b>	
<b>Print Name</b>	
<b>Purchase Order # (if required)</b>	
<b>Date</b>	

## Exhibit A – Software Support Services

### Software Support Services

To engage GeoComm’s software support services for issues related to GeoComm’s software please contact Software Support by email at [swsupport@geo-comm.com](mailto:swsupport@geo-comm.com) or by phone at 1.866.837.7379. All calls for service are logged into our customer relationship management software.

Software support services are provided during regular business hours from 8 a.m. to 5 p.m. Central Standard Time, Monday through Friday, excluding holiday. For 24/7 emergency services (as described below) please call 1.866.837.7379.

GeoComm response time commitment for GeoComm software support is as follows:

Priority	Examples	Response Time
<b>Critical Impact - Service Not Available (Emergency 24/7)</b>	Service is unavailable or halted Data is unavailable or nonfunctional Service productivity or functionality is severely compromised  There is a complete loss of service for all End Users and there is no ability to avoid or reduce the incident via a workaround  Loss of one or more of the following: Essential Server Functionality, Base Map Functionality, 911 Call Plotting Functionality, connectivity to the hosting site, access to the system, ability to upload map data	Less than two clock hours
<b>Major Impact – Severely Impaired (Emergency 24/7)</b>	Service performance and/or functionality for all End Users is seriously impaired or degraded  There is no workaround  Bad Map Data Deployed or Data accuracy is seriously impaired  Bad Call Parsing Rules or change in ALI message format	Less than four clock hours
<b>Minor Impact – Minimal Degraded Performance or Functionality; Single User Issues</b>	Service has encountered a non-critical issue with minimal loss of performance and/or functionality  Data accuracy is minimally degraded  May be identified as a functional defect  Complete stoppage of a Single End User in a multi-user environment  A partial loss of service for an End User and there is a workaround to reduce the impact to End User  No Access to Online or Local Pictometry  Loss of CAD or AVL Functionality  Problems with accessing or configuring GeoComm Software  ArcGIS versioning issues with GeoComm Software  GIS Toolbar not functioning	Less than 16 business hours Monday through Friday 8 a.m. to 5 p.m. Central Standard Time
<b>Low Impact – Single User Application Issue</b>	Service is unavailable or degraded for a Single End User in a multi-user environment	Less than 24 business hours Monday through Friday 8 a.m. to 5 p.m. Central Standard Time
<b>No Impact</b>	Password resets  Requests for access rights	Less than 48 business hours Monday through Friday 8 a.m. to 5 p.m. Central Standard Time

**Note:** Non-emergency calls after hours may result in GeoComm invoicing customer for a minimum of one hour of work. Fees will be invoiced in addition to the normal annual support and maintenance.

## Remote Connection Services

In order for GeoComm to provide technical support services, GeoComm will require the customer to grant permission to remotely connect to customer's system. If the customer doesn't grant remote access, then support services will be limited. GeoComm will use a Criminal Justice Information Services (CJIS) compliant software to connect remotely to customer's environment.

## Customer Responsibilities

- Purchasing and managing equipment, network including internet connectivity, hardware, operating system and other non-GeoComm related upgrades
- Ensure operating systems meet GeoComm software requirements
- Install operating systems patches as required
- Make connections available for remote technical support of GeoComm Software Solutions otherwise services will be limited
- Maintain system backups and copies of current map data files

## Support Service Do Not Include

- Onsite services unless contracted separately
- Hardware or operating systems issues/failures. In the event of a hardware failure then GeoComm will only cover remote installation.
- Customized programming
- Resolving other vendor and/or customer issues (ex: changing network settings, interfaces, etc.)
- Re-installation of software due to Customer opting to do a clean OS install, upgrade of hardware or relocation of facilities
- Modification of the GIS map data for non-GeoComm Maintenance Customers
- Tampering of software or non-approved modifications made by customer or third parties

All of GeoComm's software have web helps within the software and that can be very helpful to users, especially when first learning the software. The web helps also includes license agreement, which explains what can and can't be done with the software. Additional terms and conditions around cancellations can be found at: <https://www.geo-comm.com/terms/>.

**RESOLUTION NO. 2020-075**

**A Resolution of the City Council of the City of Fremont, Nebraska, renew software support with GeoComm, Inc.**

**WHEREAS**, Fremont/Dodge County 911 has a GeoComm hardware and software for 911 mapping functions; and,

**WHEREAS**, the support and performance of the software and interfaces are crucial to public safety; and,

**WHEREAS**, the yearly support contract for software and interface support is due to GeoComm.

**NOW, THEREFORE BE IT RESOLVED**, the City Council of the City of Fremont accepts the software support renewal contract with GeoComm, Inc. in the amount of \$5,000.00 to provide software and interface support for the dispatch and 911 mapping software and interface.

PASSED AND APPROVED THIS 28<sup>th</sup> day of April, 2020.

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Scott Getzschman, Mayor

ATTEST:

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Tyler Ficken, City Clerk

## STAFF REPORT

TO: Honorable Mayor and City Council  
FROM: Jennifer L Dam, AICP  
DATE: April 28, 2020  
SUBJECT: Change the Unified Development Code (UDC) to allow Cemeteries

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**Recommendation:** Hold final reading of Ordinance 5531

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### **Background:**

The prior Zoning Ordinance allowed Cemeteries as a permitted use in all residential districts except the Residential Lake (RL) district.

Cemeteries were inadvertently omitted as a use in the UDC.

Councilman Yerger noted at the public hearing on March 31 that he would like cemeteries to be a conditional use instead of a limited use. The ordinance and background information has been revised to reflect that request.

This proposal would allow cemeteries as Conditional uses in Rural, Suburban Residential, Auto Urban Residential and Urban Residential districts, as well as in the Suburban Commercial and General Commercial districts.

This proposal stipulates the following requirements as limitations on the use in those districts:

D. Cemeteries are permitted if it is demonstrated that:

1. Any cemetery established after the effective date of this chapter shall contain a minimum of 15 acres.
2. A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, property boundaries, structures on the site, the location and arrangement of parking spaces, the traffic circulations pattern, loading and unloading areas, fencing, landscaping, and entrances/exits to such facility.
3. All required setbacks shall be maintained as landscaped or open space areas. Additional setback or screen requirements may be required to minimize impacts on adjacent properties.
4. Prior to use, such facilities shall comply with all applicable state and local laws and regulations.

Finally, this proposal defines cemeteries as follows:

Cemetery. Shall mean land used or intended to be used for the burial of human or animal remains and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

The Planning Commission held a public hearing on this item on March 16, 2020. They voted 5-0 to recommend approval.

**Fiscal Impact:** N/A

**ORDINANCE NO. 5531**

**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 March 16, 2020 and subsequently by the City Council on March 31, 2020; 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 sections 11-502.02, 11-504.02, and 11-920 of the Fremont Municipal Code pertaining to cemeteries are hereby adopted as attached in Exhibit A.

**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 28<sup>th</sup> DAY OF APRIL, 2020**

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Scott Getzschman, Mayor

ATTEST:

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Tyler Ficken, City Clerk

## Exhibit A

Sec. 11-502.02. - Institutional, recreation, and amusement uses.

Set out in Table 11-502.02., *Institutional, Recreation, and Amusement Uses*, is the permitted, limited, conditional, and prohibited institutional, recreation, and amusement uses in each district. Refer to Section 11-600, *Development Yield and Lot Standards*, for applicable district intensity and development standards.

<b>Table 11-502.02. Institutional, Recreation and Amusement Uses</b>															
<b>Land Use</b>	<b>Zoning Districts</b>														
	<b>Residential</b>					<b>Commercial</b>			<b>Industrial</b>			<b>Special</b>			
	R	SR	AR	UR	MH	SC	GC	DC	BP	LI	GI	AV	CU	PO	PD
<b>Institutional Uses</b>															
Adult Day Service	-	-	-	C	-	L	P	L	C	-	-	-	C	-	C
Ambulatory Surgery Center/Health Clinic/Hospital	-	-	-	C	-	L	P	L	C	-	-	-	C	-	C
Assisted Living Facility/Nursing Home (i.e. intermediate care facilities, nursing facilities, and skilled nursing facilities)	-	-	-	C	-	L	P	L	C	-	-	-	-	-	C
<u>Cemetery</u>	C	C	C	C	C	C	C								
Child Care Center	C	C	C	C		C	C	C	C				C		C
Civic Club/Private Club	C	C	C	C	-	L	P	P	L	C	-	-	P	-	C
College/University/Vocational School	-	-	-	C	-	L	P	L	C	-	-	-	P	-	C
Educational Facility (i.e. preschools, elementary schools, middle/junior high schools, and high schools)	L	P	P	P	-	P	P	L	C	-	-	-	P	-	C
Mental Health Center/Substance Abuse Treatment Center	-	-	-	C	-	C	L	C	C	-	-	-	-	-	C

Sec. 11-504.02. - Institutional, recreation, and amusement use standards.

The standards of this section apply to institutional, recreation, and amusement uses that are specified in Table 11-502.02., *Institutional, Recreation, and Amusement Uses*, as limited ("L") or conditional ("C").

Institutional Uses

A. Adult Day Services and Child Care Centers are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either R, SR, AR, MH, 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. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

B. Ambulatory Surgery Centers, Health Clinics, and Hospitals are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either R, SR, AR, MH, 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. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

C. Assisted Living Facilities and Nursing Homes are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either R, SR, AR, MH, 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. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

D. Cemeteries are permitted if it is demonstrated that:

1. Any cemetery established after the effective date of this chapter shall contain a minimum of 15 acres.

2. A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, property boundaries, structures on the site, the location and arrangement of parking spaces, the traffic circulations pattern, loading and unloading areas, fencing, landscaping, and entrances/exits to such facility.

3. All required setbacks shall be maintained as landscaped or open space areas. Additional setback or screen requirements may be required to minimize impacts on adjacent properties.

4. Prior to use, such facilities shall comply with all applicable state and local laws and regulations.

E. Child Care Centers are conditionally permitted provided that:

1. Child Care Centers in the R, SR, AR or UR districts may only be permitted in places of public assembly that provide adequate area for off-street circulation, drop-off and parking.
  2. In all instances the site is 300 feet from a MH, LI, GI, AV or PO district as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a collector or arterial roadway;
  3. Primary access to the site is from a collector or arterial roadway
  4. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking and noise; and
  5. The application shall be accompanied by the following information
    - a. The number of children and number of staff members on the largest shift;
    - b. A physical description of the facility and a site plan drawn to scale that includes, but is not limited to, property boundaries, structures on the site, the location and arrangement of parking spaces, the traffic circulations pattern, loading and unloading areas, fencing, landscaping, play area, and entrances/exits to such facility.
    - c. Prior to occupancy, such facilities shall comply with all applicable state and local laws and regulations.
- F. Civic Clubs and Private Clubs are permitted if it is demonstrated that:
1. An adequate buffer yard and landscaping is provided between the use and residential or industrial uses.
  2. Adequate parking and access is available that does not have a negative impact on residential uses;
  3. Adequate precautions have been taken on behalf of the operator so as to not create an undue burden on neighboring properties via traffic, parking, and noise; and
  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.
- G. Colleges, Universities, and Vocational Schools are permitted if it is demonstrated that:
1. They are located greater than 300 feet from either R, SR, AR, MH, LI, GI, or AV district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a collector or arterial roadway;
  2. Primary access to the site is from a collector or arterial roadway;
  3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
  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.
- H. Educational Facilities are permitted if it is demonstrated that:
1. They are located greater than 300 feet from either MH, LI, GI, or AV district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a collector or arterial roadway;
  2. Primary access to the site is from a collector or arterial roadway;
  3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
  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.
- I. Mental Health Centers and Substance Abuse Treatment Centers are permitted if it is demonstrated that:
1. They are located greater than 300 feet from either R, SR, AR, MH, 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. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

J. Public Assembly facilities are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either GI or AV district boundaries, as measured from the boundary lines nearest each other, unless separated from such district by a type B bufferyard or a local, collector, or arterial roadway;
2. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

Recreation and Amusement Uses

K. Campgrounds are permitted if it is demonstrated that:

1. They are located greater than 300 feet from either SR, AR, MH, GI or AV 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;
2. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise;
4. Plumbing systems and equipment shall be constructed, installed and maintained in accordance with the most recently adopted version of the plumbing code with a minimum number of fixtures provided in accordance with R-2 occupancy classifications (occupancy loads are calculated at a rate of four occupants per site); and
5. 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.

L. Health Club facilities are permitted if it is demonstrated that:

1. They are located greater than 300 feet from any residential, GI or AV 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;
2. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

M. Indoor Commercial Amusement facilities are permitted if it is demonstrated that:

1. They are located greater than 300 feet from any residential, GI or AV 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;
2. Primary access to the site is from a collector or arterial roadway;
3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
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.

N. Indoor Recreation facilities are permitted if it is demonstrated that:

1. They are located greater than 300 feet from any residential, GI or AV 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;
  2. Primary access to the site is from a collector or arterial roadway;
  3. Adequate precautions have been taken on behalf of the operator so as not to create an undue burden on neighboring properties via traffic, parking, and noise; and
  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.
- O. Outdoor Commercial Amusement facilities are permitted if it is demonstrated that:
1. They are located greater than 300 feet from either SR, AR, MH, GI or AV 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;
  2. Primary access to the site is from a collector or arterial roadway;
  3. Activities are limited such that noise levels at the property line do not exceed:
    - a. 70 dBA between the hours of 10:00 a.m. and 9:00 p.m.;
    - b. 60 dBA between the hours of 9:00 p.m. and 11:00 p.m.; and
    - c. 40 dBA between the hours of 11:00 p.m. and 10:00 a.m; and
  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.

## Sec. 11-920. - Definitions.

### **A Terms**

*Access.* The provision for immediate ingress and egress of traffic, including both vehicular and pedestrian, from an abutting property, including rights-of-way both public and private.

*Access Easement.* An easement created for the purpose of providing vehicular or pedestrian access to and/or through a property.

*Accessory Dwelling Unit ("ADU").* A smaller, secondary home on the same lot as a primary dwelling. ADUs are independently habitable and provide the basic requirements of shelter, heating, cooking, and sanitation. There are two types of ADUs:

- C. Garden cottages are detached structures. Examples include converted garages or new construction.
- D. Accessory suites are attached to or part of the primary dwelling. Examples include converted living space, attached garages, basements or attics; additions; or a combination thereof.

*Accessory Building.* A building on the same lot or tract as the principal building, the use of which is incidental to the use of the principal building.

*Accessory Structure.* A structure on the same lot or tract as the principal structure, the use of which is incidental to the use of the principal structure.

*Accessory Use.* A use of land, structure, or building, or portion thereof, that is commonly associated with, incidental, and subordinate to a principal use, and located on the same lot or tract.

*Accidental Discharge.* A discharge prohibited by these regulations which occurs by chance and without planning or thought prior to occurrence.

*Active Recreation.* Recreation requiring some constructed facilities and organized activities.

*Addition* (see Chapter 2 Definitions, International Building Code, as amended from time to time).

*Adult Business* means an adult arcade, adult bookstore, adult cabaret, adult novelty store, adult video store, and nude model studio, adult motel, adult motion picture theater, or sexual encounter center, or any other business or establishment that offers its patrons services or entertainment characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas.

*Adult Day Service* ( see the *Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time* ).

*Adverse Impact.* A negative consequence for the physical, social, or economic environment resulting from an action or project.

*Affordable Housing.* Housing units where the occupant is paying no more than 30 percent of gross income for housing costs, including taxes and utilities.

*Agricultural Use.* The use of land for crop production or raising of livestock.

*Agricultural Sales and Service.* A use primarily engaged in the sale or rental of farm tools and implements, feed, grain, tack, animal care products, and farm supplies. This definition excludes the sale of large implements, such as tractors and combines, but includes food sales and farm machinery repair services that are accessory to the principal use.

*Airport* ( see the *Airport Zoning Act, Neb. Rev. Stat. § 3-101, as amended from time to time* ).

*Alcoholic Beverage Sales.* The retail sale of beer, wine, or other alcoholic beverages for on- or off-premise consumption.

*Alley.* An unnamed public or private right-of-way, 20 feet or less in width, primarily designed for secondary access to the rear or side of those properties whose principal frontage is on another street. Buildings facing an alley shall not be construed as satisfying the requirements of these regulations related to frontage on a dedicated street.

*All-Weather Surface.* An improved, dust free, surface that is constructed of concrete, asphalt or asphaltic concrete, permeable paving, driveway pavers, pavers or similar impermeable material, in accordance with common engineering practices for the associated application, meeting the standards of this Code. Crushed rock, gravel, or other material shall not be considered as an all-weather surface.

*Alteration* ( see Chapter 2 Definitions, International Building Code, as amended from time to time ).

*Amateur [Non-Commercial] Antenna.* An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use and not for the purpose of operating a business and/or for financial gain. A satellite dish antenna not exceeding six feet in diameter shall also be considered as a non-commercial antenna.

*Amateur [Non-Commercial] Communications Operations.* The transmission, retransmission and/or reception of radio, television, electromagnetic, or microwave signals for private or personal use, and not for the purpose of operating a business and/or for financial gain.

*Ambulatory Surgery Center* ( see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time ).

*Animal Feeding Operation ("AFO")* ( see 130 Neb. Admin. Code, as amended from time to time ).

*Animal Grooming Facility.* An establishment, public or private, where animals are bathed, clipped, or combed for the purpose of enhancing their aesthetic value or health and for which a fee is charged. This definition does not including animal boarding facilities or kennels.

*Animated Sign.* Any sign that includes action, motion, or color change on all or any part of the sign facing, requiring electrical energy, or set in motion mechanically or by movement of the atmosphere. This definition includes signs commonly referred to as by-view, tri-view, or multi-view signs which alternate or otherwise change displays whether through mechanical or electrical means. An animated sign does not include a clock and/or thermometer display.

*Appurtenant Structure.* A structure with a GFA of 400 square feet or less, on the same lot or tract of property as the principal structure, the use of which is incidental to the use of the principal structure.

*Architect* ( see the Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 to 81-3455, as amended from time to time ).

*Architectural Details.* Any projection, relief, cornice, column, change of building material, window, or door opening on any building. The phrase does not include wall textures, such as brick, ribbed concrete, split face concrete block, or siding, nor does it include color changes.

*Architectural Feature.* The architectural elements embodying style, design, general arrangements and components of all the outer surfaces of any improvements, including, but not limited to, the kind, color and texture of the building materials and the style and type of all windows, doors, lights, signs, and other fixtures apparent to a structure.

*Architectural Style.* The characteristic form and detail, as of buildings of a particular historic period.

*Area of Shallow Flooding.* A designated AO or AH zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

*Area of Special Flood Hazard* ( see Subpart A, 44 CFR 59.1 Definitions, as amended from time to time ).

*Arterial.* A street that serves or is designed to serve, as a connection between uses which generate heavy traffic volumes or between other arterial streets.

*Assisted Living Facility* ( see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time ).

*Attached Sign.* Any sign which is physically connected to and derives structural support from a building or building appurtenance.

*Attic* ( see Chapter 2 Definitions, International Building Code, as amended from time to time ).*Auto* ( see Automobile ).

*Auto Sales and Service Establishment.* The use of any building or portion thereof, or other premises or portion thereof, for the display, sale, rental, or lease of new motor vehicles, or used motor vehicles as an ancillary use of a zoning lot, and any warranty repair work and other repair service conducted as an accessory use.

*Automated Teller Machine ("ATM").* A mechanized consumer banking device operated by the financial institution for the convenience of its customers, whether outside or in an access-controlled facility. ATM's

located within a building shall be considered accessory to the principal use unless the ATM is likely to generate traffic independent from the principal use.

*Automobile.* Vehicles designed to carry 10 passengers or less and use for the transportation of persons.

*Awning* ( see Chapter 2 Definitions, International Building Code, as amended from time to time ).

*Awning Sign.* A sign that is located or printed on an awning.

## B Terms

*Banner.* A flexible substrate on which copy or graphics may be displayed.

*Bar.* An establishment or part of an establishment open to the general public primarily devoted to the selling or serving of alcoholic beverages and in which the service of food is only incidental to the consumption of such beverages.

*Base Flood* ( see Subpart A, 44 CFR 59.1 Definitions, as amended from time to time ).

*Base Flood Elevation.* The computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles. The BFE is the regulatory requirement for the elevation or floodproofing of structures. The relationship between the BFE and a structure's elevation determines the flood insurance premium.

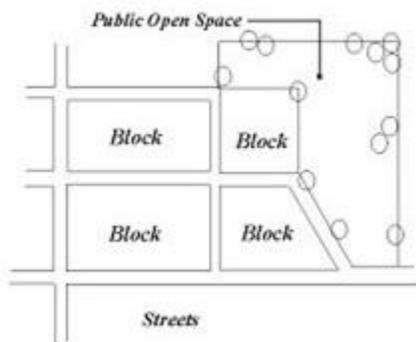
*Basement* ( see Subpart A, 44 CFR 59.1 Definitions, as amended from time to time ).

*Best Management Practices ("BMP's").* Schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to storm water, receiving water, or storm water conveyance systems. BMP's also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.

*Bicycle Lanes.* Areas within the street right-of-way designated specifically for use by bicycles. Bicycle lanes are striped and designated by signs and stenciling on the pavement for one-way traffic in the same direction as motor vehicle traffic.

*Block.* An area of land surrounded on all sides by streets or other transportation rights-of-way or by physical barriers such as water bodies or public open spaces. Blocks are normally divided into lots. See Figure B-1, *Block* .

**Figure B-1**  
**Block**



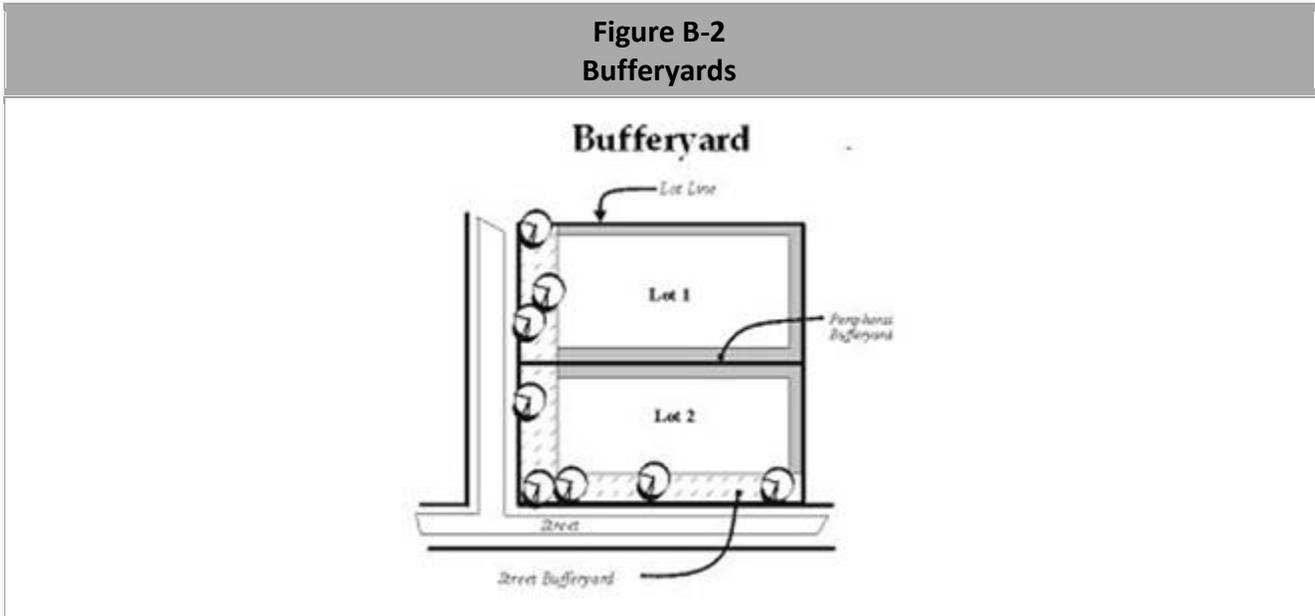
*Block Face.* That portion of a block or tract of land abutting one side of a street and lying between the closest intersecting streets, or intersecting streets and other transportation rights-of-way, physical barrier such as water body, or public open space.

**Block Length.** The distance as measured along front property lines between intersecting streets, or intersecting streets and other transportation rights-of-way, physical barrier such as water body, or public open space.

**Board of Adjustment ("Board").** The City of Fremont Board of Adjustment.

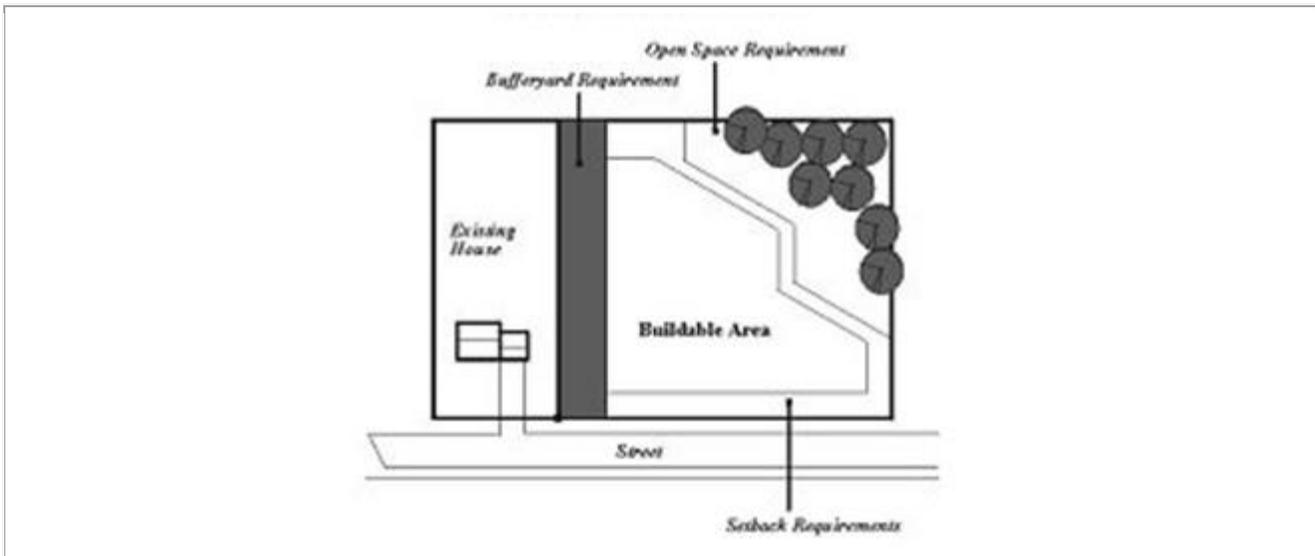
**Buffer.** Open spaces, landscaped areas, fences, walls, berms, or any combination thereof used to physically and visually separate one use or property from another in order to mitigate the impacts of noise, light, or other nuisance.

**Bufferyard.** A strip of land together with open spaces, landscaped areas, fences, walls, berms, or any combination thereof required thereon located between different land uses or zoning districts, or along streets to minimize potential nuisances such as dirt, litter, noise, glare of lights, signs and unsightly buildings, and parking lots, or to provide spacing to reduce adverse impacts of noise, light, or other nuisance. See Figure B-2, *Bufferyards* .



**Buildable Area.** The area of a lot remaining after the minimum yard and open space requirements, have been met. See Figure B-3, *Buildable Area* .

**Figure B-3  
Buildable Area**



*Building* ( see Chapter 2 Definitions, International Building Code, as amended from time to time ).

*Building Code.* The code or codes governing the erection and maintenance of buildings and structures, as adopted and amended from time to time, by the City of Fremont.

*Building Coverage.* The gross horizontal area of all principal and accessory buildings and/or structures on a lot or tract.

*Building Coverage Ratio.* The ratio of the gross horizontal area of all principal and accessory buildings and/or structures on a lot or tract, divided by the total area of the same lot or tract.

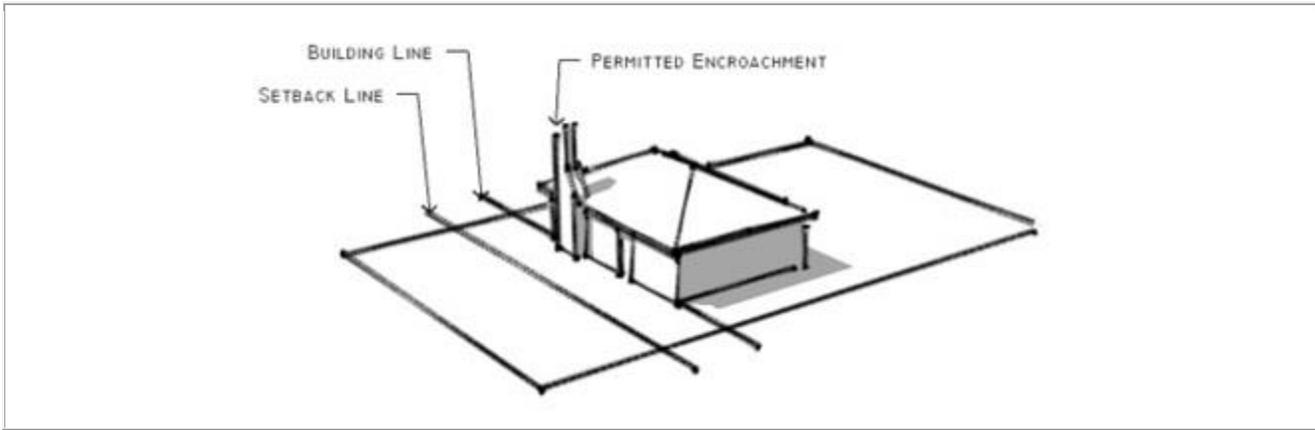
*Building Frontage.* Those building elevations that face upon a road or parking area between the building and the road.

*Building Height* ( see Chapter 2 Definitions, International Building Code, as amended from time to time ).

*Building Integrated SECS.* An SECS that is an integral part of a principal or accessory building, rather than a separate mechanical device, replacing or substituting for an architectural or structural component of the building. Building integrated SECS include, but are not limited to, photovoltaic or hot water solar systems that are contained within roofing materials, windows, skylights or awnings.

*Building Line.* A line that is parallel to a lot line, which runs through the point of the building that is closest to the lot line, excluding portions of the building that are permitted encroachments. The building line may or may not be contiguous with the setback line. See Figure B-4, *Building Line* .

**Figure B-4  
Building Line**



*Building Official* (see Chapter 2 Definitions, International Building Code, as amended from time to time).

*Building Sign* (see Wall Sign).

*Building Phase of Development.* Period of construction activity when a portion(s) of a common plan of development or sale requires a building permit.

### **C Terms**

*Campground.* An area used for transient occupancy or lodging in tents, travel trailers, recreational vehicles ("RV"), campers, or other similar forms of shelter. This definition includes the term "RV Park."

*Canopy Sign.* A sign that is located or printed on a canopy.

*Cemetery.* Shall mean land used or intended to be used for the burial of human or animal remains and dedicated for such purposes, including columbariums, crematoriums, and mausoleums.

*Certificate of Appropriateness.* A certificate, pursuant to the standards set out in Subsection 15-316.07., *Certificate of Appropriateness*, evidencing approval of the particular work it specifies. Certificates of appropriateness are used to protect the integrity and values of historic resources and historic districts within the City.

*Change of Use.* The replacement of an existing use by a new use, or a change in the nature of an existing use, but not including a change of ownership, tenancy, or management where the previous nature of the use, line of business, or other function is substantially unchanged.

*Changeable Copy Message Center.* A sign or portion thereof on which the copy or symbols change, either manually by means of placement of letters or symbols on a panel mounted in or on a track system, or electrically activated by means of remote electrically energized on-off switching combinations of alphabetic or pictographic components arranged on a display surface. Illumination of electrically activated changeable copy message centers may be integral to the components, such as characterized by lamps or light-emitting devices; or it may be from an external light source designed to reflect off the changeable component display.

*Channel.* A natural or artificial depression of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water.

*Charging Station.* A device or station that provides power to charge the batteries of an electric vehicle.

*Child Care Center* (see 391 Neb. Admin. Code, as amended from time to time).

*City.* The City of Fremont, Nebraska.

*City Administrator.* The chief administrator of the City. *City Council* ("Council"). The City of Fremont City Council.

*City Staff ("Staff").* Members of the staff of the City who are authorized by the City Administrator to process or decide applications for development approval.

*Civic Club.* Buildings and facilities, owned or operated by a corporation, association, person, or persons, for a social, educational, or recreational purpose, to which membership is required for participation, and not primarily operated for profit nor to render a service that is customarily carried on as a business.

*Clear-Cutting.* Removal of a stand of trees, shrubs, or other vegetation, not including ordinary maintenance of regulatory groundcover.

*Clearing.* The destruction and/or removal of vegetation by manual, mechanical, or chemical methods.

*Cluster.* A development pattern or design technique in which lots or buildings are concentrated in specific areas on a site allowing the remaining land to be used for recreation, open space, and/or the preservation of natural resources.

*Coarse Aggregate.* A granular material, such as sand, gravel, crushed stone, crushed hydraulic-cement concrete, or similar material, the particles of which are predominantly retained on the 3/8 inch (9.5 mm) sieve.

*Collector.* A street that serves or is designated to serve as the connection from minor streets to the arterial street system, such as the main entrance street of a residential development, or as a secondary connection between arterial streets.

*College.* An institution for post-secondary undergraduate educations, public or private, offering courses in general, technical, or religious education and not operated for profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities, and sororities, but not including colleges or trade schools operated for profit.

*Colocation.* The use of a single support structure and/or site by more than one communications provider.

*Commencement of Construction.* The date that a permit or other written approval required to be issued by the City has been issued, and work has commenced under such permit. This is recognizable upon an inspection of the property and which work is of a nature and character that reflects a good faith intention to continue the work until completion, such as the clearing, -grading or excavation, and/or the placement of erosion and sediment control measures.

*Commercial Antenna.* An antenna or antenna support structure used for the purpose of transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain (e.g., commercial broadcasting, cellular/wireless telecommunications, etc.). A satellite dish antenna that exceeds six feet in diameter shall also be considered as a commercial antenna.

*Commercial Communications Operations.* The transmission, retransmission, and/or reception of radio, television, electromagnetic, or microwave signals primarily for the purpose of operating a business and/or for financial gain.

*Commercial Message.* Any sign wording, logo, or other representation that, directly or indirectly, names, advertises or calls attention to a business, product, service or other commercial activity.

*Commercial Parking Operation.* Parking spaces and adjacent access drives, aisles, and ramps that are located on private property on a lot or in a structure with two or more levels, where parking is the principal use of the premises and where a fee is charged.

*Common Plan of Development or Sale.* A contiguous area where multiple separate and distinct land disturbing activities may be taking place at different times, on different schedules, but under one proposed plan which may include, but is not limited to, any announcement or piece of documentation (including a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, computer design, etc.) or physical demarcation (including boundary signs, lot stakes, surveyor markings, etc.) indicating construction activities may occur on a specific lot or tract.

*Communication Services.* Establishments primarily engaged in the provision of broadcasting and other information relay services accomplished through the use of electronic and telephonic mechanisms. Excluded are facilities classified as major utility services or broadcasting or communication towers. Typical uses include television studios, telecommunication service centers, telegraph service offices, or film and sound recording facilities.

*Composting Facility.* A site on which decomposition processes are used on solid waste (including leaves, grass, manures, and nonmeat food production wastes received from residential, commercial, industrial non-hazardous, and community sources, but not including bio-solids) to produce compost. Composting facilities do not include compost bins that are used exclusively to compost household and/or landscaping waste on, and for, an individual residential lot or tract.

*Comprehensive Plan.* The adopted official statement of a legislative body of a local government that sets forth (in words, maps, illustrations, and/or tables) goals, policies, and guidelines intended to direct the present and future physical, social, and economic development that occurs within its planning jurisdiction and that includes a unified physical design for the public and private development of land and water.

*Concentrated Animal Feeding Operation ("CAFO")* (see 130 Neb. Admin. Code, as amended from time to time).

*Conditional Use.* A use which, because of its potential impacts, may be permitted only after review by the Commission and granting of conditional use approval. Conditional uses are issued for uses of land and may be transferable from one owner of the land to another.

*Condominium.* Real estate, portions of which are designated for separate ownership and the remainder of which is designated for common ownership solely by the owners of those portions. Real estate is not a condominium unless the undivided interests in the common elements are vested in the unit owners.

*Conservation.* The management of natural resources to prevent waste, destruction, or degradation.

*Conservation Area.* Land maintained for conservation purposes.

*Conservation Easement.* A nonpossessory interest of a holder in real property imposing limitations or affirmative obligations for conservation purposes or to preserve the historical, architectural, archaeological, or cultural aspects of real property.

*Construction Activity.* Activities which may or may not be subject to the National Pollutant Discharge Elimination System ("NPDES") construction permits including, but not limited to, clearing and grubbing, grading, excavation, demolition, and other land disturbing activities.

*Construction Site.* Any location where construction activity occurs.

*Contractor.* Any person performing or managing construction work at a construction site, including, but not limited to, any construction manager, general contractor or subcontractor, and any person engaged in any one or more of the following: earthwork, pipework, paving, building, plumbing, mechanical, electrical, landscaping or material supply.

*Copy.* The words, graphic content, or message displayed on a sign.

*County.* The respective county of either Dodge, Nebraska, or Douglas, Nebraska, for which the subject property is located.

*Court.* A cul-de-sac of eight lots or less that is not interrupted by a through roadway.

*Cul-de-Sac.* A street that has only one end open to vehicular traffic and the other end terminates in a vehicular turn-around.

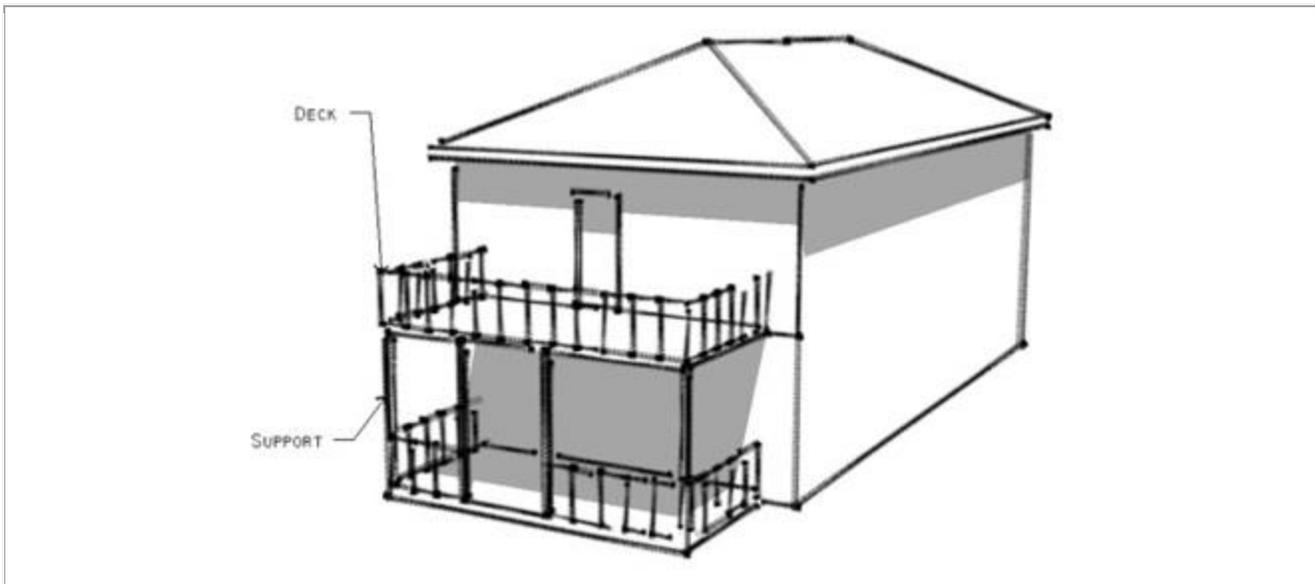
*Cut-Off.* The point at which all light rays emitted by a lamp, light source, or luminaire are intercepted by a shield that prevents their continuation.

## **D Terms**

*Deciduous Tree.* Trees and shrubs that, unlike evergreens, lose their leaves and become dormant during the winter

*Deck.* A structural platform, without a roof, directly adjacent to a principal building, which has an average elevation of 30 inches or greater from finished grade. See Figure D-1, *Deck* .

**Figure D-1**  
**Deck**



*Dedication.* The transfer of private property to public or common ownership for a public purpose. The transfer may be in fee simple interest or less than fee simple interest, including easements. Dedication requires the acceptance of the interest to be complete.

*Density.* The number of dwelling units allowed per acre of land .

*Developer.* The legal or beneficial owner or owners of a lot or tract, or of any land included in a proposed development plan including the holder of an option or contract to purchase, or other persons having enforceable proprietary interest in such land, having the intention of preparing raw land for the construction of buildings or causing to be built physical building space.

*Development.* Any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

*Development Approval.* Any written authorization from a governmental entity that authorizes the commencement of development.

*Director of Planning.* The chief administrator of the City's Planning Department.

*Director of Public Works.* The chief administrator of the City's Public Works Department.

*Directory Sign.* A sign that identifies the names and locations of tenants in a multi-tenant building or in a development made up of a group of buildings.

*Disability.* An individual with a disability is any person who has a physical or mental impairment that substantially limits one or more major life activities; has a record of such impairment; or is regarded as having such an impairment. A physical or mental impairment includes, but is not limited to hearing, mobility and visual impairments, chronic alcoholism, chronic mental illness, AIDS, AIDS Related Complex, and mental retardation that substantially limits one or more major life activities. Major life activities include walking, talking, hearing, seeing, breathing, learning, performing manual tasks and caring for oneself.

*District.* A designated area of the city or its extraterritorial jurisdiction within which certain uniform zoning regulations and requirements, or various combinations thereof, apply as set forth in this title.

*Disturbed Area.* Area of the land's surface disturbed by any work or activity upon the property by means including, but not limited to grading, excavating, stockpiling soil, fill, or other materials, clearing, vegetation removal, removal or deposit of any rock, soil or other materials, or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.

*Double Frontage Lot.* A lot or tract, other than a corner lot, having frontage on two streets, private ways, or courts. Primary access shall be restricted on a double frontage lot to the minor of the two streets or to the front line as determined at the time of platting or as defined by this UDC (also known as a through lot).

*Drainage.* Surface water runoff; and the removal of surface water or groundwater from land by drains, grading, or other means that include runoff controls to minimize erosion and sedimentation during and after construction or development, the means for preserving the water supply, and the prevention or alleviation of flooding.

*Drive.* A curvilinear roadway of more than 1,000 feet in length.

*Drive Aisle.* A vehicular traffic way or lane within an off-street parking area, used as a means of ingress to/egress from parking spaces.

*Drive Approach.* An area of the public right-of-way located between the roadway and property adjacent to the public right-of-way that is intended to provide access for vehicles from the roadway to the adjoining property.

*Driveway.* A vehicular traffic way or lane connecting the drive approach to the off-street parking area for the purposes of ingress to/egress from the lot or tract being served. Dwelling ( see *Chapter 2 Definitions, International Residential Code, as amended from time to time* ).

*Dwelling Unit* (see Chapter 2 Definitions, International Residential Code, as amended from time to time).

## **E Terms**

*Earthen Berm.* A man-made mound of earth used to shield or buffer properties, buildings, or structures from adjoining property or rights-of-way, or to control the direction of surface water flow.

*Earthwork.* The disturbance of soil on a site associated with construction activities.

*Educational Facility.* A public, parochial, or private institution that provides educational instruction to students. This phrase does not include colleges, universities, or vocational schools.

*Effective Date.* The date that this UDC is adopted, amended, or the date land areas became subject to the regulations contained in this UDC as a result of such adoption or amendment.

*Energy Conversion System ("ECS").* Any facility or installation such as a windmill, hydroelectric unit or solar collecting or concentrating array, which is designed and intended to produce energy from natural forces such as wind, water, sunlight, or geothermal heat, or from biomass, for offsite use.

*Engineer* (see the Engineers and Architects Regulation Act, Neb. Rev. Stat. §§ 81-3401 to 81-3455, as amended from time to time).

*Equipment Rental, Sales and Service Establishment.* Establishments primarily engaged in the sale or rental of tools, trucks, tractors, construction equipment, agricultural implements, and similar industrial equipment, and the rental of mobile homes. Included in this use type is the incidental storage, maintenance, and servicing of such equipment.

*Erosion.* The removal of soil through the actions of water or wind.

*Erosion Control.* Measures that prevent soil erosion to the maximum extent practicable.

*Erosion and Sediment Control Plan.* A plan that indicates the specific measures and sequencing to be used for controlling sediment and erosion on a development site during construction activity according to locally approved standards, specification, and guidance.

*Evergreen Tree.* Any plant that retains its leaves throughout the year and into the following growing season.

*Excavating.* The process of altering the natural (grade) elevation by cutting or filling the earth, or any activity by which soil or rock is cut, dug, quarried, uncovered, removed, displaced, or relocated.

*Existing Mobile Home Park or Subdivision.* A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is complete before the effective date of the floodplain management regulations adopted by a community.

*Expansion to an Existing Mobile Home Park or Subdivision.* The preparation of additional sites by the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

*Extraction.* To draw out or forth; hence to derive as if by drawing out; removal of physical matter in a solid, liquid, or gaseous state from its naturally occurring location; the initial step in use of a natural resource; examples include petroleum and natural gas wells, shale and coal mines, gravel pits, timber cutting.

*Extractive Industry.* On-site extraction of surface or subsurface mineral products or natural resources. Typical uses are quarries, borrow pits, sand and gravel operation, mining, and soil mining. Specifically excluded from this use is grading and removal of dirt associated with an approved site plan or subdivision or excavations associated with, and for the improvement of, a bona fide agricultural use. **F Terms**

*Facade.* An exterior wall, or face, of a building exposed to public view from the building's exterior.

*Fall Zone.* The area on the ground within a prescribed radius from the base of a personal wireless service facility within which there is a potential hazard from falling debris (such as ice) or collapsing material.

*Family.* Any group of individuals living together as the functional equivalent of a family where the residents may share living expenses, chores, eat meals together and are a close group with social, economic and psychological commitments to each other. A family includes, for example, the residents of residential care facilities and group homes for people with disabilities. A family does not include larger institutional group living situations such as dormitories, fraternities, sororities, monasteries or nunneries.

*Family Child Care Home I* (see 391 Neb. Admin. Code, as amended from time to time).

*Family Child Care Home II* (see 391 Neb. Admin. Code, as amended from time to time).

*Farm.* Any land or buildings or structures on or in which agriculture and farming operations are carried on, including the residence or residences of owners, occupants, or employees located on such land.

*Farmers' Market.* The seasonal selling or offering for sale at retail of home-grown vegetables or produce, occurring in a pre-designated area, where the vendors are generally individuals who have raised the vegetables or produce or have taken the same on consignment for retail sale.

*Fascia.* The horizontal plain just below the roof or coping, and above the wall or supports.

*Fascia Sign* (see Wall Sign).

*Fence.* A structure serving as an enclosure, barrier, or boundary.

*Filling.* The depositing on land, whether submerged or not, sand, gravel, earth, or other materials of any composition whatsoever.

*Final Drainage Plan.* A plan that indicates the drainage characteristics of the completed project. The plan will also indicate the future conditions post construction BMP's will be maintained under.

*Final Plat.* A map of a land subdivision prepared in a form suitable for filing of record with necessary affidavits, dedications and acceptances, and with complete bearings and dimensions of all lines defining lots and blocks, streets, alleys, public areas, and other dimensions of land.

*Final Stabilization.* When all soil disturbing activities at the site have been completed, and vegetative cover has been established with a uniform density of at least 70 percent of pre-disturbance levels, or equivalent permanent, physical erosion reduction methods have been employed. For purposes of these regulations, establishment of a vegetative cover capable of providing erosion control equivalent to pre-existing conditions at the site is considered final stabilization.

*Financial Institution.* An establishment where the principal businesses are the receipt, disbursement, or exchange of funds and currencies, such as: banks, savings and loans, or credit unions.

*Flag.* A piece of cloth, varying in size, shape, color, and design, usually attached at one edge to a staff or cord, and used as the symbol of a nation, state, or organization. This term does not include flag signs.

*Flag Sign.* A freestanding temporary sign typically constructed of a single plastic or metal shaft with an attached pennant that is vertically elongated and attached to the shaft. Flag signs may also be referred to as advertising flags, feather flags, and feather banners.

*Flood or Flooding.* A general and temporary condition of partial or complete inundation of normally dry land areas.

**Flood Fringe.** That area of the floodplain, outside of the floodway, that has a one percent chance of flood occurrence in any one year.

**Flood Insurance Rate Map (FIRM).** An official map of a community, on which the Flood Insurance Study has delineated the special flood hazard area boundaries and the risk premium zones applicable to the community.

**Flood Insurance Study (FIS).** The official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the Flood Insurance Rate Map and the water surface elevation of the base flood.

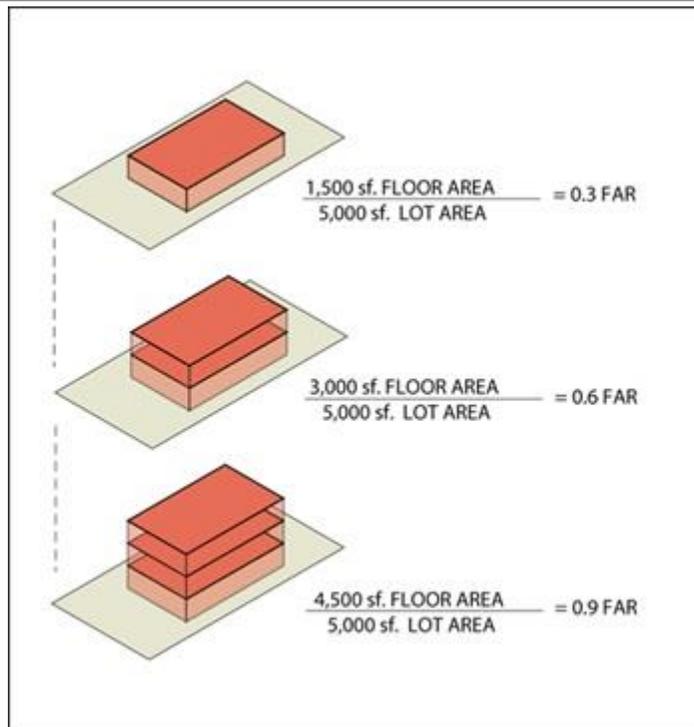
**Floodplain.** Any land area susceptible to being inundated by water from any source (see definition of "flooding"). Floodplain includes flood fringe and floodway. Floodplain and special flood hazard area are the same for use by this ordinance.

**Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, and structures and their contents.

**Floodway or Regulatory Floodway.** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

**Floor Area Ratio ("FAR").** A measure of the allowable size of floor area on a lot compared to the size of the lot. FAR gives developers flexibility in deciding whether to construct a low building covering most of the lot or a tall building covering only a small part of the lot, as long as the total allowable floor area coverage is not exceeded. See Figure F-1, *Floor Area Ratio*.

**Figure F-1  
Floor Area Ratio**



**Freeboard.** A factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, clogged bridge openings, and the hydrological effect of urbanization of the watershed.

*Freestanding Sign.* A sign that is not attached to a building.

*Front Lot Line.* The lot line(s) separating a lot or tract and a public or private street right-of-way or easement.

- E. For an interior lot, the front lot line(s) shall be construed as the lot line(s) separating the lot or tract from the right-of-way or easement.
- F. For a corner lot, the front lot line(s) shall be construed as being the shortest of the lot lines abutting a public or private street or easement. In instances of equal line dimension, the front lot line(s) shall be determined by the Zoning Administrator, or as may be noted on the final plat.
- G. For a double frontage lot, the front lot line(s) shall be construed as being the lot line(s) separating the lot from the right-of-way or easement of the more minor street. In cases where each street has the same classification, the front lot line(s) shall be determined by the Zoning Administrator, or as may be noted on the final plat.

*Front Yard.* Open, landscaped area at grade between the front yard setback line(s) and the front lot line(s), and extending the full width of the lot. The front yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property.

*Front Yard Setback Line.* A line from one side lot line to another side lot line, parallel to the street, and as far back from the front lot line(s) as required herein for the front yard.

*Fueling Station.* A device for dispensing gasoline into the fuel tank of a motor vehicle.

*Funeral Home.* A building or part thereof used for human funeral services. Such building may contain space and facilities for (a) embalming and the performance of other services used in the preparation of the dead for burial; (b) the performance of autopsies and other surgical procedures; (c) the storage of caskets, funeral urns, and other related funeral supplies; (d) the storage of funeral vehicles; and (e) facilities for cremation. **G**

## **Terms**

*Gaming Services.* The charitable gaming activities authorized by the State of Nebraska for nonprofit organizations including bingo, the sale of pickle cards (pull-tabs), ticket drawings for either cash prizes (lotteries) or merchandise prizes (raffles), and keno lotteries.

*Garage Sale.* All general sales which are open to the public and conducted from or on residential property, which are for the purpose of disposing of personal property, including but not limited to all sales entitled "garage," "lawn," "yard," "attic," "porch," "room," "backyard," "patio," or "rummage" sales.

*Glare.* The sensation produced by luminance within the visual field that is sufficiently greater than the luminance to which the eyes are adapted to cause annoyance, discomfort, or loss in visual performance and visibility.

*Grade.* The lowest part of elevation of the finished surface of the ground surface, paving, or sidewalk within the area between the building and the property line, or when the property line is more than five feet from the building, between the building and a line five feet from the building.

*Grading.* The act of excavation or filling or combination thereof or any leveling to a smooth horizontal or sloping surface on a property, but not including normal cultivation associated with an agricultural operation.

*Grid-Interconnected System.* An ECS system producing power for use on a utility company grid system. Such system may or may not be capable of sending power back into the utility grid.

*Gross Density.* A calculation of density acquired by dividing the number of dwelling units by the site area.

*Gross Floor Area ("GFA").* The sum of the horizontal areas of the several floors of a building or buildings, measured from the exterior faces of exterior walls or in the case of a common wall separating two or more buildings or spaces, from the centerline of such common wall, not including space where the floor-to-ceiling height is less than seven feet.

*Ground Sign.* A freestanding sign with no visible support structures.

*Groundcover.* Grasses, shrubs, trees, and other vegetation which hold and stabilize soils.

*Groundwater.* Subsurface water in soils and geologic formations that are fully saturated.

*Guyed Tower.* A structure of tubular or open steel lattice construction anchored by steel ropes (guys), with suitable foundation, with an anchor radius of approximately two-thirds (2/3) the tower height.

## H Terms

*Hazardous Materials.* Any material, including any substance, waste, or combination thereof, which because of its quantity, concentration or physical, chemical or infectious characteristics may cause, or significantly contribute to, a substantial present or potential hazard to human health, safety, property, or the environment when improperly treated, stored, transported, disposed of or otherwise managed.

*Health Clinic* (see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time).

*Health Club.* A facility designed for the major purpose of physical fitness or weight reducing which includes, but is not limited to, running, jogging, aerobics, weight lifting or weight resistance machines, court/field sports, and swimming. Uses may also include whirlpools, saunas, showers, locker rooms, and related accessory uses.

*Heavy Industry.* Manufacturing or other enterprises with significant external effects, or which pose significant risks due to the involvement of explosives, radioactive materials, poisons, pesticides, herbicides, or other hazardous materials in the manufacturing or other process.

*Heliport.* Any landing area used for the landing and taking off of helicopters, including all necessary passenger and cargo facilities, fueling, and emergency service facilities.

*Helistop.* Any landing area used for the taking off or landing of private helicopters for the purpose of picking up and discharging of passengers or cargo. This facility is not open to use by any helicopter without.

*Highest Adjacent Grade.* The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

*Historic Property.* A district, site, building, structure or object significant in American history, architecture, engineering, archeology or culture at the national, state, or local level.

*Historic Structure.* Any structure that is:

- H. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- I. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district preliminarily determined by the Secretary to qualify as a registered historic district;
- J. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- K. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 4. Directly by the Secretary of the Interior in states without approved programs; or
  - 5. By an approved state program as determined by the Secretary of the Interior.

*Home Based Business.* An accessory use of a single-family or two-family residential structure which does not meet the definition of a home occupation, but complies with the requirements of these regulations. A home-based business would consist of service oriented uses and typically be more intense than a home occupation, due to factors such as intensity of use or clients coming to the residence.

*Home Occupation.* An accessory use of a single-family, two-family, or multiple-family dwelling unit which complies with the requirements of these regulations.

*Home Improvement Center.* An establishment providing for the sale or rental of building supplies, construction equipment, or home decorating fixtures and accessories. This term includes a lumber yard or a contractors' building supply business and may include outdoor storage or tool and equipment sales or rental. This term does not include an establishment devoted exclusively to the retail sale of paint, wallpaper, or hardware or activities classified under vehicle/equipment sales and services, including vehicle towing services.

*Hospital.* (see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time).

## I Terms

*Illegal Discharge.* Any direct or indirect non-storm water discharge to the storm drain system, except as exempted in these regulations.

*Illicit Connection.* Any drain or conveyance, whether on the surface or subsurface, which allows an illegal discharge to enter the storm drain system including, but not limited to, any conveyances which allow any non-storm water discharge including sewage, process waste water and wash water to enter the storm drain system and connections to the storm drain system from indoor drains and sinks, regardless of whether said drain or connection had been previously allowed, permitted or approved by an authorized enforcement agency or any drain or conveyance connected from a commercial or industrial land use to the storm drain system which has not been documented in plans, maps or equivalent records and approved by an authorized enforcement agency.

*Illuminated Sign.* A sign that is illuminated by a light source. A sign that is illuminated by a light source that is contained inside the sign may be referred to as an "internally illuminated sign." A sign that is illuminated by a light source that is directed towards, and shines on the face of a sign may be referred to as an "externally illuminated sign."

*Impervious.* Any material which prevents, impedes, or slows infiltration or absorption of storm water directly into the ground at the rate of absorption of vegetation-bearing soils, including but not limited to building, asphalt, concrete, gravel, and other surfaces.

*Improved.* Any man-made, immovable item which becomes part of, is placed upon, or is affixed to land, or has been altered to better suit a particular purpose.

*Improvement.* An act of improving or the state of being improved; a change or addition by which a thing is improved.

*Indoor Commercial Amusement.* The provision of entertainment or games of skill to the general public for a fee and that is wholly enclosed in a building, including but not limited to movie theaters, bowling alleys, billiard parlors, and arcades. This use does not include adult businesses.

*Indoor Recreation.* Uses that provide active or passive recreation opportunities indoors for the public (open to the community) or residents of a subdivision or development.

*Industrial Activity.* Activities subject to NPDES industrial permits as defined in 40 CFR, Section 122.26(b)(14).

*Intensity.* Relative measure of development impact as defined by characteristics such as the number of dwelling units per acre, amount of traffic generated, and amount of site coverage.

## **K Terms**

*Kennel.* An establishment where animals owned by another person are temporarily boarded for either compensation or remuneration of any sort. This use does not include zoos or animal hospitals operated by veterinarians duly licensed under the law.

## **L Terms**

*Land Clearing.* The act of removal or destruction of vegetation by mechanical or chemical means, but does not include normal cultivation associated with an agricultural operation.

*Land Development.* Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

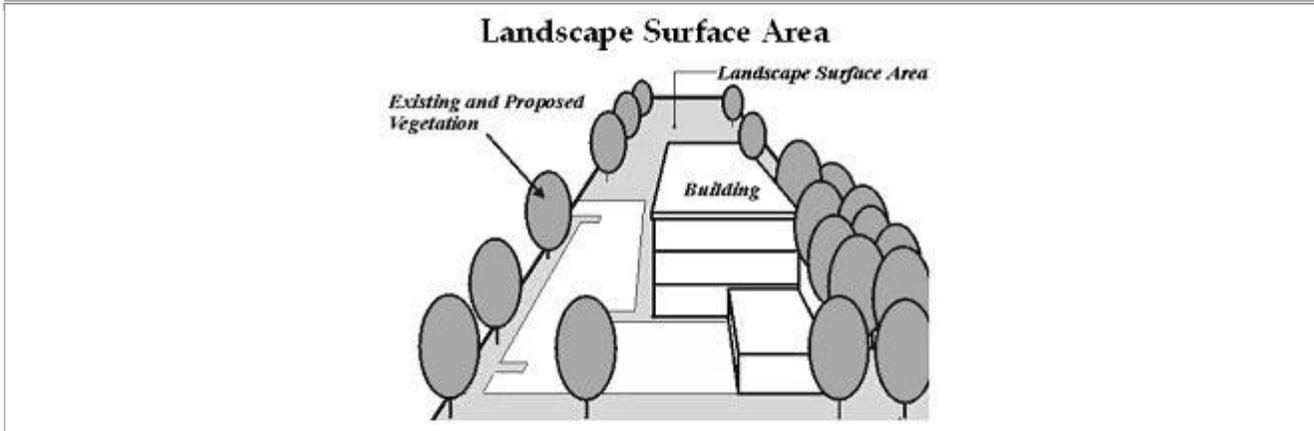
*Land Disturbance Activity.* Any land development that may result in soil erosion from wind, water and/or ice and the movement of sediments into or upon waters, lands, or right-of-way.

*Land Surveyor* (see the Land Surveyors Regulations Act, Neb. Rev. Stat. §§ 81-8,108 to 81-8,127, as amended from time to time)

*Landfill.* A lot or tract, or part thereof, used primarily for the disposal by abandonment, dumping, burial, burning, or other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or nontoxic or non-biodegradable waste material of any kind.

*Landscape Surface Area.* The vegetated surface area of a lot or tract (not covered by buildings, storage areas, pavement, or other impervious surface). See Figure L-1, *Landscape Surface Area* .

**Figure L-1  
Landscape Surface Area**



*Landscape Surface Ratio ("LSR").* The ratio of landscaped surface area to a unit of land area.

*Landscaped Area.* An area of a lot or tract permanently devoted and maintained to the growing of shrubbery, grass, and other plant material.

*Landscaping.* The design and installation of plant material such as living trees, shrubs, and ground cover, in formal or natural arrangements.

*Land Use.* The occupation or use of land or water area for any human activity or any other purpose.

*Lane.* A cul-de-sac of nine or more lots that is not interrupted by a through roadway.

*Large Animal.* An animal larger than the largest breed of dog. This term includes, but is not limited to, horses, cows, and other animals customarily kept in corrals, stables, pens, or similar enclosures.

*Large Animal Boarding Facility.* Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of large animals.

*Large Animal Veterinary Services.* Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to large animals and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

*Large Tree.* Often referred to as shade trees, a large tree is a tree that typically reaches heights of 20 feet or more at maturity.

*Large Utility Service.* Large-scale facilities serving the entire city or region, such as microwave substations, radio/television antennas, 230-kv power transmission lines, natural gas transmission lines, water storage tanks and reservoirs, major water transmission lines or sewer collectors and interceptors over 30 inches in diameter, solid waste disposal or processing, sewage or waste water treatment plants, and generating facilities.

*Laundromat.* A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron.

*Light Industry.* Enterprises engaged in the processing, manufacturing, compounding, assembly, packaging, treatment, or fabrication of materials and products, from processed or previously manufactured materials. Light industry is capable of operation in such a manner as to control the external effects of the manufacturing process, such as smoke, noise, soot, dirt, vibration, odor, etc. A machine shop is included in this category. Also included is the manufacturing of apparel, electrical appliances, electronic equipment, camera and photographic equipment, ceramic products, cosmetics and toiletries, business machines, fish tanks and supplies, food, paper products (but not the manufacture of paper from pulpwood), musical instruments, medical appliances, tools or hardware, plastic products (but not the processing of raw materials), pharmaceuticals or optical goods, bicycles, and any other product of a similar nature. Limited Use. A use that is allowed in a zoning district, subject to

standards that mitigate its impact on other uses in the district or that prevent a concentration of the use in a particular area.

*Loading Space.* A paved, off-street space used for loading and unloading from vehicles, except passenger vehicles, in connection with the use of the property on which such space is located.

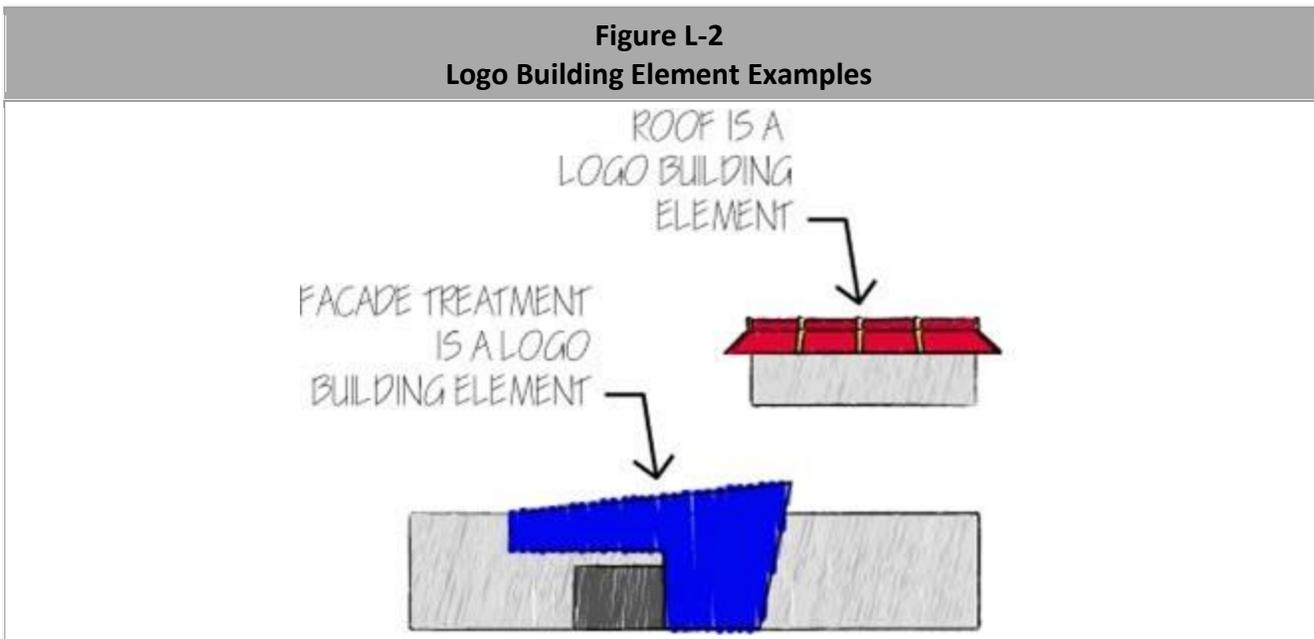
*Local.* A street that is designed and constructed to provide access to individual lots or land uses.

*Lodging House* (see Chapter 2 Definitions, International Residential Code, as amended from time to time).

*Logo.* A design that represents a particular good, identity, or service.

*Logo Building.* A building that has a design that is obviously and readily associated with the brand image of a particular company.

*Logo Building Element.* A portion of a building, such as a roof structure, with a color scheme and architectural style or physical form that is obviously and readily associated with the brand image of a particular company. See Figure L-2, *Logo Building Element Examples*.



*Lot.* A tract of land with boundaries established by a recorded plat, which is recognized as a separate legal entity for purposes of transfer of title. This definition shall not be construed to make lots that were not lawfully created conforming with this UDC.

*Lot Area.* The area of a lot or tract within the lot or tract boundaries.

*Lot Coverage.* The ratio of impervious surface area, to a unit of land area.

*Lot Depth.* The average horizontal distance between the front lot line and the rear lot line.

*Lot Line.* The property line(s) bounding a lot or tract.

*Lot of Record.* A lot that is part of a recorded subdivision that has been recorded at the county recorder's office containing property tax records.

*Lot Width.* The horizontal distance measured between the side lot lines of a lot or tract, at right angles to its depth along a straight line parallel to the front lot line at the minimum required setback line.

*Lowest Floor.* The lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this ordinance.

*Lumberyard.* An establishment where lumber and other building materials such as brick, tile, cement, insulation, roofing materials, and the like are sold at retail. The sale of items, such as heating and plumbing supplies, electrical supplies, paint, glass, hardware, and wallpaper is permitted at retail and deemed to be customarily incidental to the sale of lumber and other building materials at retail.

## **M Terms**

*Mail Services.* A commercial business which conducts the retail sale of stationery products, provides packaging and mail services (both U.S. Postal and private service), and provides mailboxes for lease.

*Maintain.* To preserve and care for a structure, improvement, condition, or area so that it remains attractive, safe, and presentable and carries out the purpose(s) for which it was installed, constructed, or required.

*Major Automotive Repair Services.* General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers, including body work, framework, welding, and major painting service.

*Major Change.* A change to the plan that increases density or floor area, decreases open space, bufferyards, or parking, or which alters the alignment or layout of streets. For conditional approvals granted prior to the effective date of this UDC, any use being proposed which is not otherwise contained in the original advertisement shall be considered a major change.

*Manufactured Home.* Either (a) a factory-built structure which is to be used as a place for human habitation, which is not constructed with a permanent hitch or other device allowing it to be moved other than to a permanent site, which does not have permanently attached to its body or frame any wheels or axles, and which bears a label certifying that it was built in compliance with National Manufactured Home Construction and Safety Standards, 24 C.F.R. 3280 et seq., promulgated by the United States Department of Housing and Urban Development, or (b) a modular housing unit as defined in [NRS] Section 71-1557 bearing a seal in accordance with the Nebraska Uniform Standards for Modular Housing Units Act.

*Marquee.* A permanent canopy often of metal and/or glass projecting over an entrance.

*Marquee Sign.* a) A sign mounted on a permanent canopy, b) a traditional industry term for the variable message section of a canopy sign, 3) an integral sign and permanent canopy.

*Medium Utility Service.* Moderate scale facilities serving a subarea of the city, including power lines, water transmission lines, wireless base stations, sewer collectors and pump stations, sub-regional switching stations (115 kv), and similar structures.

*Mental Health Center* (see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time).

*Menu Board.* A changeable sign that allows a retailer to list products and prices.

*Message Center.* An electronically or manually variable message sign.

*Microwave Reflector/Antenna.* An antenna including the arrangement of wires or metal rods used in transmission, retransmission and/or reception of radio, television, electromagnetic or microwave signals (includes microwave reflectors/antennae), and an apparatus constructed of solid, open mesh, bar-configured, or perforated materials of any shape/configuration that is used to receive and/or transmit microwave signals from a terrestrial or orbitally located transmitter or transmitter relay, and any tower, mast, pole, tripod, box frame, or other structure utilized for the purpose of supporting one or more antennae or microwave reflectors.

*Minor Automotive Repair Services.* The replacement of any part or repair of any part that does not require removal of the engine head or pan, engine transmission or differential; incidental body and fender work, minor painting and upholstery service. Above stated is applied to passenger automobiles and trucks not in excess of 7,000 pounds gross weight.

*Mixed Use.* The development of a lot or tract with two or more different uses such as, but not limited to, residential, office, retail, public, or entertainment, in a compact urban form.

*Mixed Use Building.* A building or structure that contains two or more occupancy groups.

*Mixed Use Development.* Development in which a combination of uses are located on the same lot or tract.

*Mobile Home.* A structure, transportable in one or more sections, which in the traveling mode is 8 body feet or more in width or 40 body feet or more in length or which when erected on-site is 320 or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent

foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in the structure, but not bearing an appropriate seal which indicates that it was constructed in accordance with the standards of the Uniform Standard Code for Manufactured Homes and Recreational Vehicles, the Nebraska Uniform Standards for Modular Housing Units Act, or the United States Department of Housing and Urban Development; or not otherwise satisfying the definition of a Manufactured Home.

*Mobile Home Park.* A lot or tract which has been planned and improved for the placement of mobile homes for residential use, with single control or ownership.

*Mobile Home Subdivision.* A lot or tract which has been planned and improved for the placement of mobile homes for residential use on individual lots with private ownership of said lots.

*Modular Housing Unit* (see the Nebraska Uniform Standards for Modular Housing Units Act, Neb. Rev. Stat. §§ 71-1555 to 71-1568.01, as amended from time to time).

*Modulation.* A dimensional variation in a horizontal or vertical plane, wall, or surface.

*Monopole Tower.* A self-supporting structure of tubular or open steel lattice construction which is anchored in the ground with suitable foundation.

*Monument.* A boundary marker, as required by this UDC, intended to fix the physical location of property lines.

*Monument Sign.* A ground sign with low overall height.

*Motor Vehicle.* Every vehicle that is self-propelled.

*Multifamily Dwelling.* A building or portion thereof arranged, intended, or designed to be occupied by three or more families living independently of each other in which they may or may not share common entrances and/or other spaces. Individual dwelling units may be owned as condominiums, or offered for rent.

*Municipal Separate Storm Sewer System ("MS4").* Publicly-owned facilities by which storm water is collected and/or conveyed, including but not limited to any roads with drainage systems, municipal streets, gutters, curbs, catch basins, inlets, piped storm drains, pumping facilities, retention and detention basins, natural and human-made or altered drainage ditches/channels, reservoirs, and other drainage structures.

## **N Terms**

*National Pollutant Discharge Elimination System ("NPDES") Storm Water Discharge Permit.* A permit issued by the Environmental Protection Agency ("EPA") [or by a state under authority delegated pursuant to 33 USC 1342(B)] that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group or general area-wide basis.

*Neon Sign.* A sign manufactured utilizing neon tubing which is visible to the viewer.

*Net Density.* A calculation of density acquired by dividing the number of dwelling units by the net buildable area, which excludes the area of open space.

*Net Floor Area.* The gross floor area less the floor area not directly devoted to principal or accessory uses such as mechanical rooms, stairwells and elevators, .

*New Construction.* For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced on or after the effective date of the floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

*New Mobile Home Park or Subdivision.* A mobile home park or subdivision for which the construction of facilities for servicing the lots on which the mobile homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by a community.

*Noncommercial Message.* Any sign wording, logo, or other representation that is not defined as a commercial message.

*Nonconforming.* A lot, tract, use, building, structure, or otherwise, which was lawful prior to the adoption, revision, or amendment of these regulations but that fails by reason of such adoption, revision, or amendment to conform to the present requirements of the these regulations.

*Nonstandard Use.* Nonstandard use shall mean the category of nonconformance consisting of premises occupied by buildings, structures or uses which existed immediately prior to the effective date of this UDC or becomes nonconforming through a change in this UDC or district boundaries, which fails to comply with the minimum requirements for the area, density, width, front yard, side yard, rear yard, height, unobstructed open space, or parking for the district in which it is located, even though the use of the premises conforms to the permitted uses within the district as set out in this UDC.

*Non-Storm Water Discharge.* Any discharge to the storm drain system that is not composed entirely of storm water.

*Non-Transient Lodging Services.* Residential occupancies containing sleeping units or more than two dwelling units where occupants are primarily permanent in nature.

*Nursery (Retail and Wholesale).* An enterprise that conducts the retail and/or wholesale sale of plants grown on the premises. The terms also include, as an accessory use, the sale of a limited selection of items (e.g., soil, planters, pruners, mulch, lawn or patio furniture, garden accessories, etc., but not including power equipment) that are directly related to the care and maintenance of landscapes.

*Nursing Home* (see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time).

## **O Terms**

*Occupancy.* The use of land, buildings, or structures.

*Off-Grid System.* A stand-alone generating system not connected to or in any way dependent on the utility grid.

*Office.* A room or group of rooms used for conduction the affairs of a business, profession, service industry, or government.

*Off-Premise Sign.* Any sign that is not appurtenant to the use of the property, a product sold, or the sale or lease of the property on which it is displayed, and that does not identify the place of business as purveyor of the merchandise, services, etc., advertised upon the sign.

*On-Premise Sign.* A communication device whose message and design relates to a business, an event, goods, profession, or service being conducted, sold, or offered at the same location as where the sign is located.

*One-Family Dwelling.* Any building that contains one dwelling unit used, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

*Open Space.* Land that is left undeveloped as part of a natural preservation, recreation, bufferyard, or other open space provision of this UDC. Open space includes common areas like public or private parks, greenbelts, greenways and riparian areas along rivers, creeks, streams, and natural drainageways or around lakes or ponds, and improved storm drainage facilities that are designed as an amenity and accessible and open to the public. Private open space is designed and intended for common use and the enjoyment of the residents of a subdivision or other residential development. Public open space is designed and intended for common use and the enjoyment of the general public.

*Open Space Ratio ("OSR").* The proportion of a development required to be set aside and preserved as open space.

*Operator.* The individual who has day-to-day supervision and control of activities occurring at the construction site. This can be the owner, the developer, the general contractor or the agent of one of these parties. It is anticipated that at different phases of a construction project, different types of parties will satisfy the definition of 'operator' and the pertinent portions of any applicable permit authorization from the state of Nebraska will be transferred as the roles change.

*Outdoor Advertising Sign.* A permanent sign erected, maintained or used in the outdoor environment for the purpose of the display of commercial or noncommercial messages not appurtenant to the use of, products sold on, or the sale or lease of, the property on which it is displayed.

*Outdoor Commercial Amusement.* The provision of entertainment or games of skill to the general public, with or without a fee, where any portion of the activity takes place outside of a building, including but not limited to amusement parks, theme parks, fairgrounds, miniature golf courses, driving ranges, waters slides, and batting cages. This use does not include adult businesses.

*Outdoor Recreation.* Uses that provide active or passive recreation opportunities outdoors for the public (open to the community) or residents of a subdivision or development.

*Outdoor Storage.* The storage of any material for a period greater than 24 consecutive hours, including, but not limited to, items for sale, lease, processing, and repair (including vehicles) not in an enclosed building. This term does not include personal automobiles and light trucks that are parked in a residential driveway or parking lot.

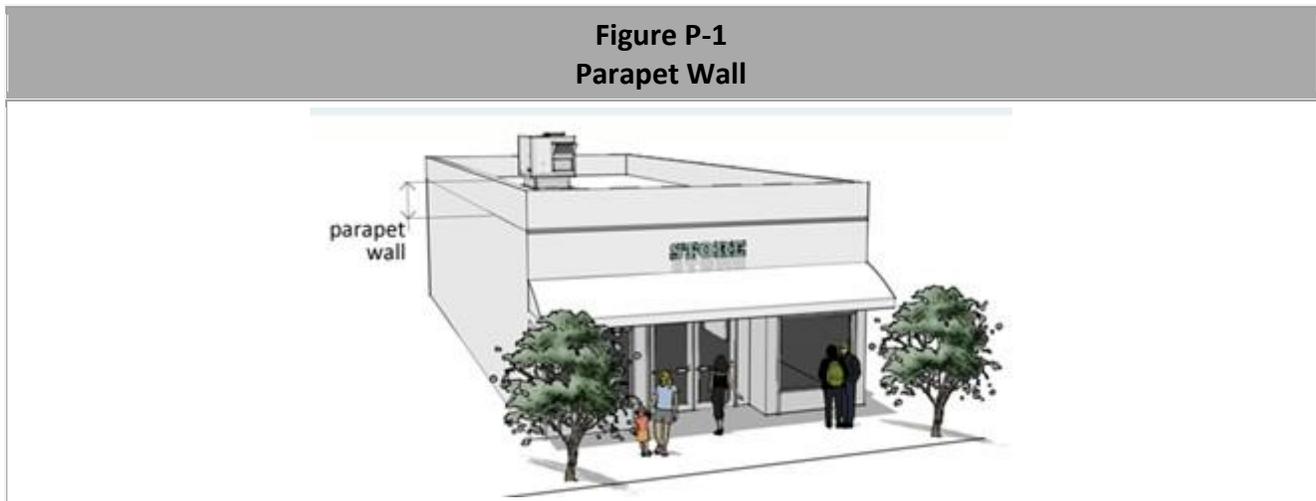
*Outlot.* Shall mean a parcel of real property to be included in a final plat having access to at least one public street or private roadway reserved for future building or occupancy after replatting and subdivision, or reserved for agricultural uses, open space or common facilities. (Ord. No. 5471, 11-13-18)

*Overlay District.* An area where certain additional requirements are superimposed upon a base zoning and where the requirements of the base or underlying zoning district may not be altered.

*Owner.* Any person, agent, firm, corporation, or partnership that alone, jointly, or severally with others: (1) has legal or equitable title to any premises, dwelling, or dwelling unit, with or without accompanying actual possession thereof; or (2) has charge, care, or control of any premises, dwelling or dwelling unit, as agent of the owner or as executor, administrator, trustee, or guardian of the estate of the beneficial owner. The person shown on the records of the recorder of deeds of the county to be the owner of a particular property shall be presumed to be the person in control of that property.

## **P Terms**

*Parapet Wall.* A portion of a building wall that extends above the level of the roof. See Figure P-1, *Parapet Wall*.



*Park.* An area open to the general public and reserved for recreational, educational, or scenic purposes.

*Parking Facility.* An area on a lot or within a building, including one or more parking spaces, along with provision for access circulation, maneuvering, and landscaping, meeting the requirements of this UDC. Parking facilities include parking lots, both public and private, and parking structures, both principal and accessory.

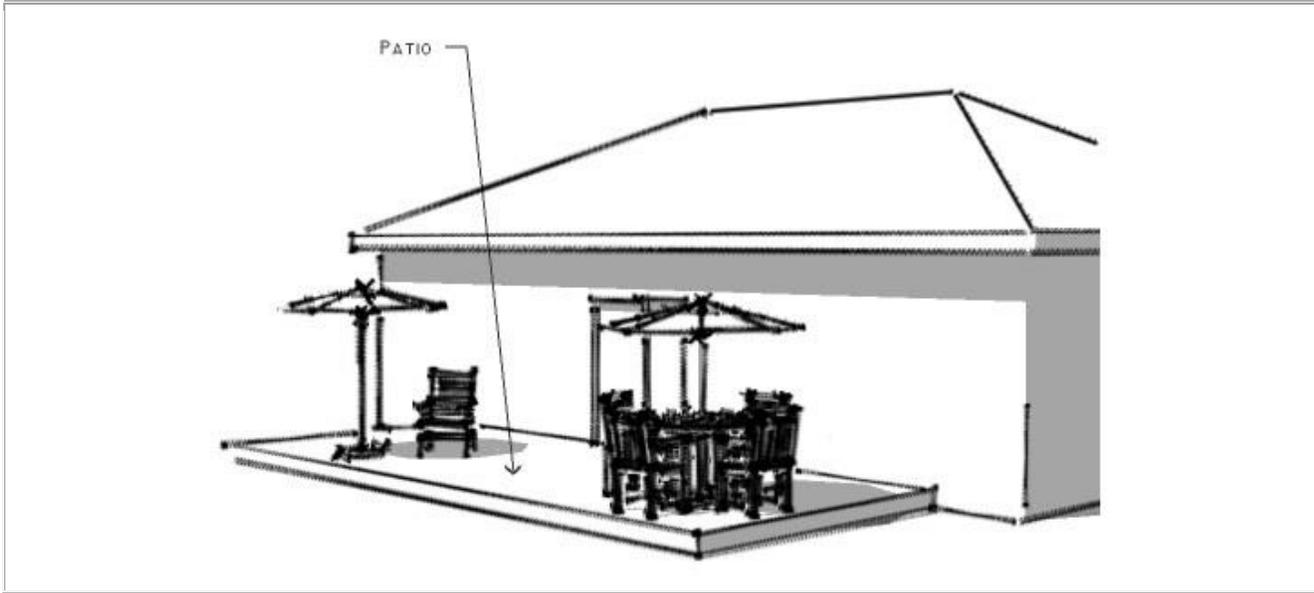
*Parking Lot.* An off-street parking facility, at grade, for the temporary storage of motor vehicles.

*Parking Space.* An area for the purpose of parking one motor vehicle, exclusive of parking facility access, drive aisles, or ramps, and meeting the dimensional requirements for a standard parking space set out in this UDC.

*Passive Recreation.* Recreation that involves existing natural resources and has a minimal impact.

*Patio.* A level surfaced area directly adjacent to a principal building which has an average elevation of not more than 30 inches, and without walls or a roof. See Figure P-2, *Patio*.

**Figure P-2**  
**Patio**



*Paved.* Permanently surfaced with an all-weather surface.

*Permanent Sign.* A sign attached to a building, structure, or the ground in a manner that enables the sign to resist environmental loads, such as wind, and precludes ready removal or movement of the sign.

*Permit.* One or more documents issued by the City allowing a person to begin an activity provided for in this UDC or other codes, ordinances, and regulatory provisions administered by the City.

*Permitted Use.* A use which is or may be lawfully established in a particular zoning district, provided it conforms with all the requirements applicable to that district(s).

*Person.* Any individual, association, organization, partnership, firm, corporation or other entity recognized by law and acting as either the owner or as the owner's agent.

*Pervious.* A surface that allows storm water to infiltrate or percolate into the ground.

*Petition.* A written request for City action or appellate review pursuant to this UDC.

*Place.* A short curvilinear or diagonal roadway less than 1,000 feet in length.

*Planning Commission ("Commission").* The City of Fremont Planning Commission.

*Planning Department.* The City of Fremont Planning Department.

*Planned Development.* A land development project comprehensively planned and developed in a single development operation or a definitively programmed series of development operations or phases, which permits flexibility in building siting, mixtures of building types and land uses, usable open spaces, and the preservation of significant natural features.

*Plat.* A document, prepared by a registered land surveyor or engineer, which delineates property lines, and shows the location of monuments and other landmarks for the purpose of identifying property.

*Playground.* A land use designed principally to offer recreation, passive or active, to the public.

*Pole Sign.* A freestanding sign with visible support structures.

*Pollutant.* Anything which causes or contributes to pollution. Pollutants may include, but are not limited to: paints, varnishes, and solvents; oil and other automotive fluids; non-hazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects, ordinances, and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and

fertilizers; hazardous substances and wastes; sewage, fecal coliform and pathogens; dissolved and particular metals; animal wastes; wastes and residues that result from constructing a building or structure; wastes and residues that result from mobile washing operations; and noxious or offensive matter of any kind.

*Pollution.* The presence in Waters of the State of any substances, contaminants, pollutants, or manmade or man-induced impairment of waters or alteration of the chemical, physical, biological, or radiological integrity of water in quantities or at levels which are or may be potentially harmful or injurious to human health or welfare, animal or plant life, or property or which unreasonably interfere with the enjoyment of life or property, including outdoor recreation unless authorized by applicable law.

*Porch.* A roofed structure projecting from an exterior wall of a building and having no enclosed features more than 30 inches above its floor.

*Portable Sign.* A sign not permanently attached to the ground or building and readily removable either by hand, or by using ordinary hand tools.

*Portable Storage Container.* A portable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, building materials or merchandise. This term shall not include roll-off containers or storage containers having storage capacity of less than 150 cubic feet.

*Post-Construction.* The general time period referenced in perpetuity from the approval of final acceptance of the construction phase of any construction activity.

*Post-FIRM Structure.* A building that was constructed or substantially improved after December 31, 1974 or on or after the community's initial Flood Insurance Rate Map dated {FIRM effective date}, whichever is later.

*Pre-FIRM Structure.* A building that was constructed or substantially improved on or before December 31, 1974 or before the community's initial Flood Insurance Rate Map dated {FIRM effective date}, whichever is later.

*Preliminary Plat.* A map of a proposed land subdivision, showing the character and proposed layout of each lot or tract, in sufficient detail to indicate the suitability of the proposed subdivision of land.

*Premises.* A lot or tract or other division of land, contiguous and under common ownership or control, together with the buildings and structure thereon.

*Primary Access.* The point at which a lot or tract takes access to a public street system, ordinarily by a drive that connects to the street. Where there are several possible access points, the one located or configured to have the most traffic shall be considered the primary access.

*Principal Building.* A building in which is conducted the primary or predominant use of the lot or tract on which it is located.

*Principal Structure.* A structure in which is conducted the primary or predominant use of the lot or tract on which it is located.

*Principal Use.* The primary or predominant use of land, structure, or building.

*Principally Above Ground.* At least 51 percent of the actual cash value of the structure is above ground.

*Private Club.* Buildings and facilities owned or operated by a corporation, association, person, or persons for a social, educational, or recreational purpose, but not primarily for profit which inures to any individual and not primarily to render a service which is customarily done as a business.

*Private Restrictions.* Restrictive codes, covenants, conditions, deed restrictions, servitudes, easements, and other like arrangements between property owners, whether recorded in the public records or not.

*Private Street.* Any street right-of-way that is not dedicated to public use.

*Projecting Sign.* A building mounted sign with the faces of the sign perpendicular to the building fascia.

*Property Line.* A boundary line of a lot or tract.

*Property Owner* (see Owner).

*Property Owners' Association ("POA").* A private, nonprofit association of homeowners of properties in a fixed area, established for the purpose of owning, operating, and maintaining various common elements and facilities.

*Public Assembly.* A place where people assemble for civic, community, or cultural purposes. The term includes the following:

- L. Civic centers; community centers;
- M. Cultural or arts centers; museums; and aquariums; and
- N. Places of worship.

*Public Improvement.* Any improvement, facility, or service together with its associate public site or right-of-way necessary to provide transportation, drainage, public or private utilities, energy, or similar essential services.

*Public Street.* Any street right-of-way dedicated to public use or maintained by a Federal, State, or local unit of government.

*Pylon Sign.* A freestanding sign with visible support structure or with the support structure enclosed with a pole cover.

## **R Terms**

*Railroad Use.* The occupation and use of land, buildings, and structures for purposes directly connected with rail transportation of articles, goods, and passengers, including such facilities as tracks, sidings, signal devices and structures, shops and yards for maintenance and storage of rail machinery, loading platforms, and passenger and freight terminals, but excluding freight terminals and yards, and similar facilities, which are maintained and operated by the owning railroad or by a lessee for the purposes auxiliary to rail transportation, or by a lessee for the purposes auxiliary to rail transportation; provided, however, that the operation of such facilities as a hobby or as part of an amusement business shall not be considered a railroad use.

*Rear Lot Line.* A lot line(s) not abutting a street which is opposite and most distant from the front lot line(s).

*Rear Yard.* Open, landscaped area at grade between the rear] yard setback line(s) and the rear lot line(s) extending the full depth of the lot. The rear side yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property.

*Rear Yard Setback Line.* A line from one side lot line to another side lot line, parallel to the rear lot line(s), and as far forward from the rear lot line(s) as required herein for the rear yard.

*Receiving Waters.* Any Waters of the State, including any and all surface waters that are contained in or flow in or through the state of Nebraska; all watercourses, even if they are usually dry, irrigation ditches that receive municipal storm water, and storm sewer systems owned by other entities.

*Recreational Vehicle.* A vehicle built on a single chassis containing 400 square feet or less, or fifth wheels containing 430 square feet or less, when measured at the largest horizontal projections, and designed to be self-propelled or towed by another vehicle. A recreational vehicle is not designed or intended for use as a permanent dwelling, but as temporary living quarters for recreational camping, travel or seasonal use.

*Recycling Facility.* A facility or land use, regardless of name or title, at which recoverable resources, such as newspapers, magazines, glass, metal, plastic materials, tires, grass and leaves, and similar items, except hazardous waste and medical waste are collected, cleaned, sorted, stored, flattened, shredded, dismantled, crushed, bundled, or separated by size, grade, quality, or type, and compacted, baled, or packaged for shipment or delivery for the eventual manufacture of new products.

*Redevelopment.* The destruction of a principal building to an extent that is equal to or greater than 50 percent of its assessed value, followed by reconstruction or repurposing of the land, structure, or building for a type of use for which the original land, structure, or building was not designed.

*Regulatory Flood Elevation.* The base flood elevation (BFE) plus a freeboard factor as specified in this ordinance.

*Resource.* Natural elements relating to land, water, air, plant and animal life, including but not limited to soils, geology, topography, surface and subsurface waters, wetlands, vegetation, and animal habitats.

*Restaurant.* An establishment in which the principal use is the preparation and sale of food and/or beverages.

*Resubdivision.* The subdivision of existing lots or tracts created by a previous subdivision. This term shall also include the consolidation of two or more lots or tracts, or other divisions of land into one or more lots or tracts, or other divisions of land.

*Retail Sales Establishment.* Establishments selling commodities directly to the consumer.

*Retail Service Establishment.* Establishments providing services or entertainment, as opposed to products, to the general public for personal or household use.

*Rezoning* (see Zoning Change).

*Right-of-Way.* An area of land, either public or private, on which an irrevocable right of passage has been dedicated, recorded, or otherwise legally established for the use of vehicles or pedestrians or both.

*Right-of-Way Manual.* The most current version of the technical standards promulgated by the director of public works, however titled, for the development of infrastructure such as streets, sidewalks, storm water management, water quality, and wetland management.

*Roof Line.* The top of a roof or building parapet, excluding any cupolas, pylons, chimneys, or other minor projections.

*Roof Sign.* A building mounted sign erected on the roof of a building.

*Runoff.* Rainfall, snowmelt, or irrigation water that has not evaporated or infiltrated into the soil, but instead flows over the ground surface.

*Runway.* An area of prescribed dimension available for aircraft takeoffs and landings.

## S Terms

*Salvage Yard.* Any site, or portion of a site, that is used for storing, keeping, selling, dismantling, shredding, compressing, or salvaging scrap or discarded materials or equipment.

*Satellite Dish.* A type of antenna for receiving communications via satellite relay.

*Sediment.* Any material that is in suspension, is being transported, or has been moved from its site of origin by wind, water, or gravity as a result of erosion.

*Sediment Control.* Measures that prevent eroded sediment from leaving the site.

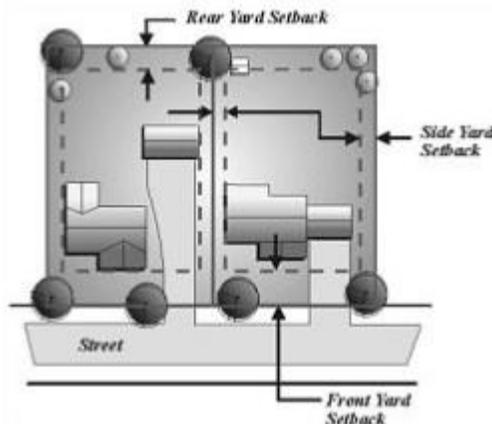
*Self-Service Storage Facility.* A building or group of buildings that are used for the storage of personal property or records, where individual owners or tenants control individual storage spaces.

*Screening.* A method of visually shielding or obscuring an abutting or nearby use or structure from another by fencing, walls, berms, or densely planted vegetation as may be permitted by the landscape provisions of these regulations.

*Service Station.* Any building, structure or land used primarily for the dispersal, sale, or offering for sale of automotive fuels, oils or accessories, including lubrication of automobiles and replacement or installation of minor parts and accessories, but not including major repair work, such as motor replacement or rebuilding, body and fender repair, or painting. This term includes facilities providing automotive cleaning or washing.

*Setback.* The minimum distance by which any building, structure, or use must be separated from a street right-of-way or lot line. See Figure S-1, *Setback*.

**Figure S-1**  
**Setback**



**Sewer.** A system of mains, pipes, and laterals, that either 1) receive and carry sewage to a waste water treatment plant where it is filtered, treated, and discharged, or 2) receive and carry storm water runoff and other drainage into local streams, rivers, or other surface water bodies.

**Shopping Center.** A group of retail, service, or restaurant establishments that are planned, developed, owned, or managed as a unit, with off-street parking, landscape areas, and pedestrian malls or plazas that serves all of the uses located on the lot or tract proposed for development.

**Side Lot Line.** Any lot line not otherwise construed as being a front lot line or a rear lot line; a side lot line(s) separating a lot from a street may also be referred to as a street [side] lot line(s); and, a side lot line(s) separating a lot from another lot may also be referred to as an interior [side] lot line.

**Side Yard.** Open, landscaped area at grade between the side yard setback line(s) and the side lot line(s), and extending the full depth of the lot. The side yard shall be reserved as a landscaped area, however it may be crossed by a sidewalk or driveway serving the property, however it may be crossed by a sidewalk or driveway serving the property, including a driveway along the length of the side yard.

**Side Yard Setback Line.** A line from the front lot line to the rear lot line, parallel to the side lot line(s), and as far from the side lot line(s) as required herein for the side yard.

**Sidewalk.** An improved pedestrian way extending along, parallel to, and within an easement or the right-of-way of a public or private street.

**Sidewalk Sign.** A moveable sign not secured or attached to the ground or surface upon which it is located, but supported by its own frame and most often forming a cross-sectional shape of an "A."

**Sight Distance Triangle.** The triangular area formed by a diagonal line connecting two points located on intersecting street right-of-way lines, or a right-of-way line and the curb or edge of a driveway.

**Sign.** Any visual display with words or symbols designed to convey information or attract attention.

**Sign Face.** The area of a sign on which copy is intended to be placed.

**Sign Structure.** Any structure supporting a sign.

**Significant Stand.** A stand of trees with interconnected canopies that cover an area of at least 10,000 square feet.

**Single-Family Attached Dwelling.** Two or more dwelling units, each of which is owned in fee and located on individual lots but joined along a common lot line, each of which is also totally separated from the other by a fire-resistance-rated wall assembly extending from ground to roof.

**Single-Family Detached Dwelling.** A dwelling unit owned in fee and located on an individual lot which is not attached to any other dwelling unit by any means.

**Site.** A lot or tract or series of adjoining lots or tracts on which a use is or will locate and that is otherwise subject to the provisions of this code.

**Site Plan.** A plan, drawn to scale, showing the location of uses and structures proposed for a lot or tract of land as required by these regulations.

**Sleeping Unit** (see Chapter 2 Definitions, International Building Code, as amended from time to time).

**Small Animal.** An animal no larger than the largest breed of dog. This term includes fish, birds, reptiles, and mammals customarily kept in tanks, cages, kennels, or similar enclosures.

**Small Animal Boarding Facility.** Any structure, land, or combination thereof used, designed, or arranged for the boarding, breeding or care of small animals.

**Small Animal Veterinary Services.** Any facility maintained by or for the use of a licensed veterinarian in the diagnosis, treatment, or prevention of animal diseases wherein the animals are limited to small animals and wherein the overnight care of said animals is prohibited except when necessary in the medical treatment of the animal.

**Small Tree.** Often referred to as ornamental trees, a small tree is a tree that typically reaches heights less than 20 feet at maturity.

*Small Utility Services.* Small-scale facilities serving a local area, including power lines, water and sewer lines, storm drainage facilities, transformers, pump stations and hydrants, switching boxes, and other structures normally found in a street right-of-way to serve adjacent properties.

*Solar Access.* A southern view of the sun from any point on the collector surface that is not obscured by any vegetation, building or object located on lots or tracts of land other than the lot or tract upon which the solar collector or module is located, between sunrise and sunset on any day of the year.

*Solar Array.* Any number of solar collectors or photovoltaic modules.

*Solar Collector.* A device, structure or a part of a device or structure for which the primary purpose is to transform solar radiant energy into thermal or electrical energy.

*Solar Energy Conversion System ("SECS").* A device or structural design feature, a substantial purpose of which is to provide daylight for interior lighting or to provide for the collection, storage and distribution of solar energy for heating, cooling, or generation of electrical power.

*Solar Hot Water System.* A system that includes a solar collector and a heat exchanger that heats or preheats water for building heating systems or other hot water needs, such as residential domestic hot water or hot water for commercial processes.

*Solid Waste Facility.* All contiguous land, including structures, appurtenances, and other improvements on the land, used for processing, storing, or disposing of solid waste. The phrase "solid waste facility" includes a publicly or privately owned facility consisting of one or several processing, storage, or disposal operational units such as landfills, surface impoundments, or a combination of units.

*Solid Waste Transfer Station.* A solid waste facility or site at which temporary storage and transference of solid waste from one vehicle or container to another, generally of larger capacity, occurs prior to transportation to a point of processing or disposal. A transfer station is an intermediary point between the location(s) of waste generation (e.g., households, businesses, industries and the site(s) of ultimate processing or disposal.

*Special Flood Hazard Area (SFHA).* The land in the floodplain within a community subject to one percent or greater chance of flooding in any given year.

*Spill.* A release of solid or liquid material, which may cause pollution of the MS4 or Waters of the State.

*Stabilization.* The use of practices that prevent exposed soil from eroding.

*Stacking Lane.* An area for temporary queuing of motor vehicles.

*Stand.* A contiguous grouping of trees with interconnected canopies.

*State.* The State of Nebraska.

*Storage Yard.* Any site, or portion thereof, that is used for storage of equipment and/or construction materials for the purpose of future use or sale. If a storage yard is located on the same site as another use, the storage yard shall be considered a separate freestanding use, even if it serves all or a portion of another use.

*Storefront.* The facade of a building, regardless of the use type of the space, having an entrance from the exterior of the building through the facade. Only facades that face upon a road or parking area between the building and the road shall be considered storefronts.

*Storm Water.* The flow of water which results from precipitation and which occurs immediately following rainfall or snowmelt.

*Storm Water Management.* The mitigation of the hydrological impacts of lost natural runoff storage by the use of constructed storage facilities.

O. For water quantity control, a system of vegetative, structural, and other measures that may control the volume and rate of storm water runoff which may be caused by land disturbing activities or activities upon the land; and

P. For water quality control, a system of vegetative, structural, and other measures that control adverse effects on water quality that may be caused by land disturbing activities or activities upon the land.

*Storm Water Pollution Prevention Plan ("SWPPP").* A document which describes the BMP's and activities to be implemented by a person during the construction activities, which identifies sources of pollution or contamination at a site and the actions to eliminate or reduce pollutant discharges to storm water, storm water conveyance systems, and/or receiving waters.

*Story* (see Chapter 2 Definitions, International Building Code, as amended from time to time).

*Street*. A public thoroughfare intended for use as a means of vehicular and/or pedestrian circulation providing access to adjoining properties. As it relates to local street specifications, a street is characterized as a roadway aligned in either a north-south direction, or an east-west direction, conforming to the appropriate address gridline.

*Street Frontage*. The linear measurement of a lot or tract along a street line, private road, or right-of-way to which the lot or tract abuts.

*Street [Side] Lot Line*. A side lot line(s) separating a lot from a street.

*Street Side Yard*. Open, landscaped area at grade between the street [side] yard setback line(s) and the street [side] lot line(s) extending the full depth of the lot. The street side yard shall be reserved as a landscaped area.

*Street [Side] Yard Setback Line*. A line(s) from the front lot line to the rear lot line, parallel to the street [side] lot line(s), and as far from the street [side] lot line(s) as required herein for the side yard.

*Street Right-of-Way*. The area of right-of-way that includes an existing or future public street, which may be represented on a plat, deed, or other conveyance, or acquired by prescription. The street right-of-way may also include areas for sidewalks, utilities, parkways, medians, and drainage.

*Structure* (see Chapter 2 Definitions, International Building Code, as amended from time to time).

*Subdivider*. Any person, firm, partnership, corporation or other entity, acting as a unit, subdividing or proposing to subdivide land.

*Subdivision*. The division or redivision of a lot or tract, or other division of land, by any means, including by means of a plan or a description by metes and bounds, into two or more lots or tracts, or other divisions of land, for the purpose, whether immediate or future, of lease, of the transfer of ownership, or of building development.

*Subdivision Development*. Includes activities associated with the platting of any tract of land into two or more lots and all construction activities taking place thereon.

*Substance Abuse Treatment Center* (see the Health Care Facility Licensure Act, Neb. Rev. Stat. §§ 71-401 to 71-459, as amended from time to time).

*Substantial Damage* (see Subpart A, 44 CFR 59.1 Definitions, as amended from time to time).

*Substantial Improvement*. Any combination of repairs, reconstruction, rehabilitation, addition, or other improvement of a structure taking place within 1 year preceding the date of the floodplain development permit and shall include any costs resulting from substantial damage, the cost of which equals or exceeds 50 percent of the market value of the structure before the work is started. This term includes structures that have incurred 'substantial damage,' regardless of the actual repair work performed. This term does not, however, include:

- Q. Any work for which a permit is not otherwise required;
- R. Any project for improvement of a structure to comply with existing state or local health, sanitary or safety code specifications which are solely necessary to assure safe living conditions; or
- S. Any preservation, rehabilitation, restoration, or reconstruction of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places, as set forth in the Secretary of the Interior's Standards for the Treatment of Historic Properties. (Ord. No. 5443, 4-24-18)

*Surface Water*. Water on the earth's surface exposed to the atmosphere such as rivers, lakes, and creeks.

*Surveyor* (see Land Surveyor).

## **T Terms**

*Tavern*. An establishment used primarily for the serving of alcoholic beverages by the drink to members and their guests and where food or packaged alcoholic beverages may be served or sold only as accessory to the principal use.

*Telecommunications*. Any origination, creation, transmission, emission, storage-retrieval, or reception of signs, signals, writing, images, sounds, or intelligence of any nature, by wire, radio, television, optical, or other means.

*Telecommunications Tower.* A structure that acts as an antennae or to which telecommunications equipment is attached.

*Temporary Sign.* A sign of a transitory or temporary nature. Signs not permanently embedded in the ground, or not permanently affixed to a building or sign structure that is permanently embedded in the ground, are considered temporary signs.

*Temporary Use.* A use that is established for a short period of time with the intent to discontinue such use automatically upon the expiration of such time.

*Text Amendment.* A change to the text of the UDC, adopted by Ordinance of the City Council, including amendments that supplement, modify, or repeal any of this UDC's present or future provisions.

*Through Lot.* A lot or tract having frontage on two streets, private ways, or courts, not including a corner lot.

*Townhouse* (see Chapter 2 Definitions, International Residential Code, as amended from time to time).

*Tract.* All contiguous land under common ownership.

*Transient* (see Chapter 2 Definitions, International Building Code, as amended from time to time).

*Transient Lodging Services.* Residential occupancies containing sleeping units where the occupants are primarily transient in nature.

*Transit Station.* Any structure or transit facility that is primarily used, as part of a transit system, for the purpose of loading, unloading, or transferring passengers or accommodating the movement of passengers from one mode of transportation to another.

*Transit Stop.* All real and personal property necessary or useful in rendering transit service by means of rail, bus, water, and any other mode of travel including, without limitation, tracks, rights-of-way, bridges, tunnels, subways, rolling stock for rail, motor vehicles, stations, terminals, areas for parking, and all equipment, fixtures, buildings and structures, and services incidental to or required in connection with the performance of transit service.

*Transit Terminal.* A facility or location where the principal use is the handling, receiving, and transfer of passenger traffic, and may include as an accessory use the loading, unloading, storing, receiving, assembling, dispatching, weighing, consolidating, classifying, switching, distribution, movement, or transfer of freight, as well as all equipment and facilities used to accomplish the foregoing activities.

*Two-Family Dwelling.* Any building that contains two dwelling units, intended, or designed to be built, used, rented, leased, let or hired out to be occupied, or that are occupied for living purposes.

## **U Terms**

*Under-Canopy Sign.* Double face signs designed to be mounted underneath a canopy.

*University.* An institution for post-secondary undergraduate and graduate educations, public or private, offering courses in general, technical, or religious education and not operated for profit. It operates in buildings owned or leased by the institution for administrative and faculty offices, classrooms, laboratories, chapels, auditoriums, lecture halls, libraries, student and faculty centers, athletic facilities, dormitories, fraternities, and sororities, but not including colleges or trade schools operated for profit.

*Utility.* A commodity or service which is of public consequence and need such as water, waste water, gas, electricity, or drainage.

*Utility Agency/Contractor.* Private utility companies, public utility departments, or other utility providers contractors working for such private utility companies, or public entity utility departments, or other utility providers engaged in the construction or maintenance of utility lines and services, including water, sanitary sewer, storm sewer, electric, gas, telephone, television and communication services.

## **V Terms**

*Variable Message Sign.* A sign that includes provisions for message changes.

*Variance.* Allowance for deviation from the dimensional (i.e. bulk, area, height) requirements/regulations of the UDC.

*Vending Kiosk.* Any equipment, apparatus, trailer, vehicle, cart, or other conveyance, other than a vending machine, located outdoors, from which a vendor displays, sells, offers for sale, gives away, or offers to give away anything of value including any food, beverage, goods, wares, merchandise, or services.

*Vocational School.* A specialized instructional establishment that provides on-site training of business, commercial, and/or trade skills such as accounting, data processing, and computer repair. This classification excludes establishments providing training in an activity that is not otherwise permitted in the zone. Incidental instructional services in conjunction with another primary use shall not be considered a business and trade school.

## **W Terms**

*Wall Sign.* A sign that is in any manner affixed to any exterior wall of a building or structure including signs affixed to architectural projections from a building provided the copy area of such signs remains on a parallel plane to the face of the building facade or to the face or faces of the architectural projection to which it is affixed.

*Warehouse.* A use engaged in storage, wholesale, and distribution of manufactured products, supplies, and equipment, excluding bulk storage of materials that are inflammable or explosive or that present hazards or conditions commonly recognized as offensive.

*Waste Water.* Any water or other liquid, other than uncontaminated storm water discharged from a facility.

*Water Body.* Any watercourse, lake, or pond that is defined by a bank or shore, in which water can be found on a year-round basis.

*Water Quality.* Those characteristics of storm water runoff, that relate to the chemical, physical, biological, or radiological integrity of water.

*Watercourse.* A natural or artificial channel through which water can flow.

*Waters of the State.* Any and all surface and subsurface waters that are contained in or flow in or through the state of Nebraska. The definition includes all watercourses, even if they are usually dry.

*Wind Energy Conversion System ("WECS").* Any device, such as a wind charger or wind turbine, which converts wind to a form of usable electric energy. For the purposes of these regulations, there are five types of WECS:

- T. Single Use Residential Production WECS. One or more WECS, on an individual lot or tract, used to produce energy primarily for residential consumption on the property where the WECS is located;
- U. Shared Residential Production WECS. WECS used for residential consumption that is shared by more than one property owner and placed within an easement area on private property, or a common area (jointly owned property) within a larger development;
- V. Single Use Nonresidential Production WECS. One or more WECS, on an individual lot or tract, used to produce energy primarily for nonresidential consumption on the property where the WECS is located;
- W. Shared Nonresidential Production WECS. WECS used for nonresidential consumption that is shared by more than one property owner and placed within an easement area on private property, or a common area (jointly owned) property within a larger development; and
- X. Energy Production (Wind Farm) WECS. One or more WECS located together and used for production of electric power to be interconnected into the local utility electrical grid and primarily for consumption by on-grid utility customers located off the property. Energy production WECS may only be approved by Conditional Use Permit on individual lots or tracts, zoned AG Agricultural, greater than three acres.

*Wind Generator.* Blades and associated mechanical and electrical conversion components mounted on top of a tower, building, or other appurtenance.

*Window Sign.* A sign affixed to the surface of a window with its message intended to be visible to and readable from the public way or from adjacent property.

*Wellhead Protection Area ("WPA").* The surface and subsurface area surrounding a water well or well field supplying a public water system through which contaminants are reasonable likely to move toward and reach such water well or well field.

*Wholesale Establishment.* An establishment that is primarily engaged in selling and / or distributing merchandise to retailers; to industrial, commercial, institutional, or professional business users; or to other

wholesalers. The term "wholesale" does not include wholesale membership clubs that offer memberships to the general public.

*Woodland.* A naturally occurring forest or stand of trees on a lot or tract or portion thereof that is not developed; or a stand of trees that was planted for the purposes of forestation or reforestation.

*Wrecking Yard.* Any site, or portion of a site, where damaged, inoperable, or obsolete machinery such as cars, trucks and trailers, or parts thereof, are stored, bought, sold, accumulated, exchanged, disassembled, or handled.

## **Y Terms**

*Yard.* Open space at grade between a building or structure and the adjoining lot line(s), unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided for herein. In determining a yard width or depth, the minimum horizontal distance between the building or structure and the lot line shall be used.

**Z Terms** *Zoning Administrator* (see Director of Planning).

*Zoning Amendment.* A change in the provisions of this UDC including those portions incorporated by reference. This term includes Conditional Use approval.

*Zoning Change.* The legislative act of reclassifying one or more lots or tracts.

*Zoning District.* An area or areas of the territory of the City within which certain uniform zoning regulations and requirements, or various combinations thereof, apply as set forth in this UDC.

*Zoning Map.* The Official Zoning Map of the City of Fremont, Nebraska, which is incorporated into this UDC by operation of Section 11-406, *Official Zoning Map*, and which shows the location and boundaries of the various zoning districts established by this UDC.

(Ord. No. 5484, § 1, 2

## STAFF REPORT

**TO:** Honorable Mayor and City Council  
**FROM:** David Goedeken, P.E., Director of Public Works/City Engineer  
**DATE:** April 28, 2020  
**SUBJECT:** Award Construction Contract for Luther Road South Project to the lowest responsible bidder.

**Recommendation:** Approve Resolution 2020-081 to award project to the lowest responsible bidder.

### Background:

On March 12, 2020 at 2:00 p.m., bids were accepted and opened for the Luther Road South Project. There were seven (7) interested contractors and three (3) bid proposals were received. The Luther Road South project consists of paving an extension of Luther Road from Morningside Road to Samuel Drive. Project includes concrete roadway paving, storm sewer, curb ramps, adjusting utility structures, relocating inlets, sod and erosion control measures. Yong Construction has satisfactorily completed projects in Fremont in the last five years.

<u>Interested Contractors:</u>	<u>Proposal Submitted</u>
Yong Construction, Inc.	\$387,867.50
Sawyer Construction	\$395,789.00
M.E. Collins Contracting Co., Inc.	\$431,188.80

### Fiscal Impact:

Yong Construction, LLC. of Valley, Nebraska was the lowest responsible bidder with a bid amount of \$387,867.50 with the funds coming from LB840 Funds.

400 East Military Avenue, Fremont, NE 68025-5141

**BID TABULATION**

**PROJECT:** Luther Road South; P-181-19

**LOCATION:** Fremont, Nebraska

**BID DATE:** Thursday, March 12, 2020

**TIME:** 2:00 p.m.

BIDDER	BID	Anticipated Start Date	Bond / Certified Check
Yong Construction, Inc	\$387,867.50	07/01/2020	<input checked="" type="checkbox"/>
Sawyer Construction	\$395,789.00	06/15/2020	<input checked="" type="checkbox"/>
M.E. Collins	\$431,188.80	07/13/2020	<input checked="" type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
			<input type="checkbox"/>
<b>ENGINEER'S ESTIMATE =</b>	<b>\$435,000.00</b>		

**RESOLUTION NO. 2020-081**

**A Resolution of the City Council of the City of Fremont, Nebraska accepting and awarding the bid to Yong Construction, Inc. for the construction of the Luther Road South project. The project is located on Luther Road starting at Morningside Road with 405 feet new paved road heading south.**

**WHEREAS,** Sealed bids were publically opened, read and tabulated in the Council Chambers on the 12<sup>TH</sup> day of March 2020 at the hour of 2:00 pm; and

**WHEREAS,** The Public Works Director reviewed the bids received and recommended that the bid of Yong Construction, Inc. be accepted as the lowest bidder for the Luther Road South project.

**NOW THEREFORE BE IT RESOLVED:**

That the Mayor and City Council accept the recommendation of the Public Works Director to approve the award of the Luther Road South project in the amount of \$387,867.50 to Yong Construction, Inc.

PASSED AND APPROVED THIS 28<sup>TH</sup> DAY OF APRIL 2020

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

**TO:** Honorable Mayor and City Council  
**FROM:** Shane Wimer, Assistant City Administrator (City)  
**DATE:** April 28, 2020  
**SUBJECT:** Joint Law Enforcement Center Architect Selection

<b>Recommendation:</b> Approve Resolution 2020-083 for the selection of Police Facility Design Group as the architect for the Joint Law Enforcement Center and Mayor to sign contract appropriating up to 35% of the total cost for design phase services.
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### Background:

In 2017, discussions between City Officials and County Officials began to consider a Joint Law Enforcement Center. Both entities agreed to build together on a City owned green site at 32<sup>nd</sup> and Yager Road. An agreement was made between the City and County officials that Dodge County would purchase half of the 12 acres, making the County partners with the City in the ownership of the land for a Joint Law Enforcement Center.

In the 2020 budget, the City of Fremont budgeted \$1.12 million for the architectural drawings for the Joint Law Enforcement Center. The City of Fremont and Dodge County have moved forward together in the selection process for an architect that would build the Police Department and Communications Center with the intent that Dodge County will build on at a later date.

A subcommittee of County and City officials selected Police Facility Design Group to move forward with the project. Police Facility Design Group was the only architectural company that designs only law enforcement centers and came in at the lowest bid.

On April 22, 2020, the County Board of Supervisors approved to appropriate 35% of their total cost to hire Police Facility Design Group to design the Joint Law Enforcement Facility contingent upon the Fremont City Council approval of the same. These funds will hire Police Facility Design Architectural Group to complete schematic designs and design development services. These documents will be brought to the public for review before going to the general election vote in November 2020 to determine if the project should move forward.

Architect Group	Cost
Police Facility Design Group	\$817,291.68
Carlson West Povondra	\$997,500.00
Prochaska	\$1,218,563.00

**Fiscal Impact:** Approximately 35% (**\$151,252.00**) of **\$432,146.00** of the total \$817,292.00 is the City's responsibility.

**Fee Proposal Police Facility Design Group**

Scope	½ Common Area	All Police	Sheriff	½ PSAP	½ Garage	Total
Task No. 1						\$0.00
Task No. 2	\$70,500.00	\$28,200.00	\$18,800.00	\$8,860.00	\$31,900.00	\$158,260.00
Task No. 3	\$193,875.00	\$77,550.00	\$51,700.00	\$24,365.00	\$87,725.00	\$435,215.00
SUBTOTAL	\$264,375.00	\$105,750.00	\$70,500.00	\$33,225.00	\$119,625.00	<b>\$593,475.00</b>
Task No. 4	\$17,625.00	\$7,050.00	\$4,700.00	\$2,215.00	\$7,975.00	\$39,565.00
Task No. 5	\$70,500.00	\$28,200.00	\$18,800.00	\$8,860.00	\$31,900.00	\$158,260.00
GRAND TOTAL	\$352,500.00	\$141,000.00	\$94,000.00	\$44,300.00	\$159,500.00	<b>\$791,300.00</b>

<b>Estimate of Reimbursable Expense</b>	<b>½ \$25,992.00</b>
Total	<b>\$817,292.00</b>

 **AIA<sup>®</sup> Document B101<sup>™</sup> – 2017****Standard Form of Agreement Between Owner and Architect**

**AGREEMENT** made as of the    day of April    in the year 2020  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:  
*(Name, legal status, address and other information)*

City of Fremont Nebraska  
400 East Military Avenue  
Fremont, NE 68025  
Telephone Number: 402-727-2630

and the Architect:  
*(Name, legal status, address and other information)*

Police Facility Design Group  
500 Grand Boulevard Suite 201A  
Kansas City Missouri 64106  
Telephone Number: 816-298-6700

for the following Project:  
*(Name, location and detailed description)*

Fremont / Dodge Joint Law Enforcement Center  
27<sup>th</sup> & Yager (Approximate location, precise address to be determined)  
Fremont, NE 68025

A facility of new construction to, roughly 48,000 – 60,000 square feet, to be built in phases yet to be determined. Facility will accommodate the Fremont Police Department, Dodge County Sheriff, 911/PSAP, and specialty vehicle parking garage.

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

## TABLE OF ARTICLES

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12	SPECIAL TERMS AND CONDITIONS
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### ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

*(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)*

A final program will be developed following a review of the initial program and concepts presented in the "New Facility Assessment" completed in March 2018 by Prochaska & Associates. The review will be conducted with input from the Fremont Police, Dodge County Sheriff and PSAP personnel.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*

New construction including building and site needs of roughly 48,000 – 60,000 square feet, final size to be determined.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

*(Provide total and, if known, a line item breakdown.)*

Per the New Facility Assessment with Adjustments:

<b>Total Project Budget</b>	<b>\$16,631,440</b>
A/E Fees (Tasks 1-5)	-\$ 791,300

Init.

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Reimbursable Expense	-\$	25,992
Construction Testing	-\$	30,000
Survey & Soils Testing	-\$	15,000
<b>Cost of Work</b>		<b>\$15,769,148</b>

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

- Mid-April, 2020: Notice to proceed
- May 1, 2020: Program document review completion
- June 19, 2020: 20% Design Completion (Schematic Design)
- July 1, 2020: 50% Design Completion (Design Development)
- September 18, 2020: 75% Design Completion (Construction Documents)
- October 16, 2020: 95% Design Completion (Construction Documents)
- October 30, 2020: 100% Design Completion (Construction Documents, bid ready)

.2 Construction commencement date:

TBD

.3 Substantial Completion date or dates:

TBD

.4 Other milestone dates:

TBD

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Competitive Bid

§ 1.1.6 The Owner’s anticipated Sustainable Objective for the Project:

*(Identify and describe the Owner’s Sustainable Objective for the Project, if any.)*

Non-LEED Certified. Architect will incorporate sustainable methodologies that result in energy savings that reflect good long-term value.

§ 1.1.6.1 Sustainable Projects Exhibit, N/A

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

*(List name, address, and other contact information.)*

Lt. Shane Wimer, Assistant City Administrator  
 400 East Military Avenue  
 Fremont, NE 68025  
 Telephone Number: 402-727-2630

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:

*(List name, address, and other contact information.)*

Init.

§ 1.1.9 The Owner shall retain the following consultants and contractors:  
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

Refer to Architects Scope

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

N/A

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

James Estes  
500 Grand Boulevard Suite 201A  
Kansas City Missouri 64106  
Telephone Number: 816-298-6700, x302

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

Bob D. Campbell & Company  
4338 Belleview Ave.  
Kansas City, MO 64111  
816-531-4144

.2 Mechanical Engineer:

Hoss & Brown Engineers  
11205 W. 79<sup>th</sup> Street, Suite 102  
Lenexa, KS 66214  
913-362-9090

.3 Electrical Engineer:

Hoss & Brown Engineers  
11205 W. 79<sup>th</sup> Street, Suite 102  
Lenexa, KS 66214  
913-362-9090

§ 1.1.11.2 Consultants retained under Supplemental Services:

N/A

Init.

§ 1.1.12 Other Initial Information on which the Agreement is based:

Architect will provide low voltage (security and access control, a/v, etc.), landscape, and furnishings design in house.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Protocols governing the transmission and use of Instruments of Service or documentation in digital form. (N/A).

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one-million ( \$ 1,000,000 ) for each occurrence and two-million ( \$ 2,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one-million ( \$ 1,000,000 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

Init.

§ 2.5.5 Employers' Liability with policy limits not less than one-million ( \$ 1,000,000 ) each accident, one-million ( \$ 1,000,000 ) each employee, and one-million ( \$ 1,000,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than two-million ( \$ 2,000,000 ) per claim and two-million ( \$ 2,000,000 ) in the aggregate.

§ 2.5.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and identified in the Owners RFP dated December 9, 2019, and include usual and customary structural, mechanical, electrical, and civil engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ Task one:

- 1) Review of existing "Assessment for New Facility on Greenfield Site"
- 2) Review and Update of Estimated Construction Costs

§ Task two: (Schematic Design Phase)

- 1) Preliminary site layout and conceptual design
- 2) Review of Conceptual Design with City Staff
- 3) Open Meeting with Public to discuss conceptual design
- 4) Final Conceptual Design using Staff and Public input

§ Task three: (Design Development and Construction Documents Phases)

- 1) Final Site Layout and Engineering Design
- 2) Update meetings with staff at 30% and 75% design including brief update on costs.
- 3) Open meeting with Public at 75% design including brief update on costs.
- 4) Final meeting with staff at 95% design incorporating staff and public comments
- 5) Delivery of 3 Full-Size and 1 Digital Copy of 100% Plans

§ Task four: (Bidding Phase)

- 1) Public Bidding Process including advertisement, contacting potential firms, answering questions, issuing addenda, evaluating bids, recommendation of award to staff and to City Council, and any other tasks needed to publicly bid for construction.
- 2) Conducting 1 pre-bid meeting with potential Contractors
- 3) Conducting 1 pre-construction meeting with Staff and selected Contractor

§ Task five: (Construction Administration Phase)

- 1) Construction Administration Services including construction inspections, testing, recommending change orders, processing pay estimates, resolving disputes with contractors, punch list walk through, providing city with 1 full size and 1 digital copy of as-built drawings, and any other tasks required for construction administration services.

§ 3.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall

Init.

provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, making adjustments as required to meet updated Owner input. Architect shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

### § 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### § 3.5 Procurement Phase Services

#### § 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### § 3.5.3 Negotiated Proposals (N/A)

*(Paragraphs deleted)*

## § 3.6 Construction Phase Services

### § 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

### § 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

## ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

### § 4.1 Supplemental Services. (N/A)

*(Paragraphs deleted)*

*(Table deleted)*

*(Paragraphs deleted)*

§ 4.1.3 Sustainability Services required in AIA Document E204™–2017, (N/A)

## § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
  - .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
  - .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
  - .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
  - .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
  - .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- (Paragraphs deleted)
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
  - .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Bi-weekly ( ) visits to the site by the Architect during construction
- .3 Two ( 2 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two ( 2 ) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ( ) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.6 Owner Supplemental Services, (N/A).

§ 5.7 Sustainable Objective, (N/A).

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

## ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

[ X ] Arbitration pursuant to Section 8.3 of this Agreement

[ ] Litigation in a court of competent jurisdiction

[ ] Other: (Specify)

Init.

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

### § 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

### § 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the

interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination.

§ 9.7

*(Paragraphs deleted)*  
Termination Fee, (N/A).

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7.

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

## ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

- .1 Stipulated Sum  
(Insert amount)

*(Paragraphs deleted)*

**For Tasks 1-3:** Five-hundred-ninety-three-thousand, four-hundred-seventy-five dollars (\$593,475), plus reimbursable expenses estimated to be nine-thousand, two-hundred-ninety-four dollars (\$9,294) for those Basic Services associated with Tasks 1 – 3 in the Request for Proposal dated December 9, 2019.

**For Tasks 4 and 5, (If Scope is engaged):** One-hundred-ninety-seven-thousand, eight-hundred-twenty-five dollars (\$197,825), plus reimbursable expenses estimated to be sixteen-thousand, six-hundred-ninety-eight dollars (\$16,698).

§ 11.2 For the Architect's Supplemental Services designated in Section  
*(Paragraphs deleted)*  
4.1.1, (N/A).

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation.)*

A fee equal to seven percent (7%) of the value of the construction work, or a stipulated sum based on the service performed, method of fee calculation to be mutually agreeable to both Parties to this Agreement.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus  
*(Paragraphs deleted)*

Init.

ten percent ( 10%).

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows, based on total compensation for all services, Tasks 1-5:

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	forty	percent (	40	%)
Procurement Phase	five	percent (	5	%)
Construction Phase	twenty	percent (	20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth  
(Paragraphs deleted)  
below, (N/A).

**§ 11.8 Compensation for Reimbursable Expenses**

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;  
(Paragraphs deleted)
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery, or the subscription cost of an Electronic Document Exchange service;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent ( 0 %) of the expenses incurred.

§ 11.9 **Architect's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect, (N/A).

**§ 11.10 Payments to the Architect**

**§ 11.10.1 Initial Payments**

§ 11.10.1.1 An initial payment of zero ( \$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification, (N/A)

**§ 11.10.2 Progress Payments**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable  
*(Paragraphs deleted)*  
within 45 days of the Architect’s invoice.

**§ 11.10.2.2** The Owner shall not withhold amounts from the Architect’s compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

**§ 11.10.2.3** Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are as follows:  
*(Include other terms and conditions applicable to this Agreement.)*

The Scope of Work identified as Tasks 4 and 5 in the Owner’s RFP and Article 3.1 of this Agreement become part of this Agreement only at the Owner’s discretion and require written notification to the Architect to authorize the service and the Architect to proceed. In the event the Owner chooses to engage this service, the Scope adheres to all other conditions of this Agreement.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

**§ 13.1** This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

**§ 13.2** This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect  
*(Paragraphs deleted)*

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
*(Printed name, title, and date)*

\_\_\_\_\_  
**ARCHITECT** *(Signature)*

James P Estes, President, PFDG

\_\_\_\_\_  
*(Printed name, title, date)*

**RESOLUTION NO. 2020-083**

**A Resolution of the City Council of the City of Fremont, Nebraska to authorize and approve the Agreement with Police Facility Design Group, for professional architectural services in construction design and administration for the Joint Law Enforcement Center Project.**

**WHEREAS,** A group of City Staff, City Officials and County Officials had a selection process of four architectural groups; and,

**WHEREAS,** City Staff, City Officials and County Officials reviewed the proposals received and recommended that the firm of Police Facility Design Group, be accepted for the Joint Law Enforcement Center Project; and,

**WHEREAS,** The resolution be approved to pay \$151,252.00 of the total \$432,146.00 to Police Facility Design Group to complete Schematic Designs, and Design Development services for a new Joint Law Enforcement Center.

**NOW THEREFORE BE IT RESOLVED:**

That the Mayor and City Council accept the recommendation of the City and County group and approve the agreement with Police Facility Design Group for the design phase for the Joint Law Enforcement Project in the amount of \$151,252.00.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

TO: Honorable Mayor and City Council  
FROM: Jennifer L. Dam, AICP, Planning Director  
DATE: April 28, 2020  
SUBJECT: Change to Section 11-601.A of the UDC

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**Recommendation:** Hold first reading of Ordinance 5532

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### **Background:**

The initial drafting of the Unified Development Code began in 2013. At that time the draft code proposed more housing types and zoning districts than the Unified Development Code that was finally adopted and took effect in 2019. In 2013, the proposed residential zoning districts included Agriculture (AG), Rural Residential (RR), Suburban Residential (SR), Neighborhood Conservation (NC), General Residential (GR), High Density Residential (HR), and Urban Residential (UR). Some of the drafts included a planned development overlay district and some did not.

The above mentioned draft included “Lot/Neighborhood Types” of single family detached, zero lot line, cluster planned, manufactured home, duplex, townhouse, executive townhouse, executive apartment, urban townhouse, and, urban loft. There was not a category called “multi-family.” The code didn’t define any of the above. Additionally, there was a “Planned” lot/neighborhood type specified in the Rural Residential, Suburban Residential, and General Residential districts, but there was not a separate “Planned Development” district proposed in the draft.

Table 15-402.03, which later became Table 11-602.03 in the adopted code, refers to a mix of housing types in cluster, planned and traditional neighborhoods. However, when the code was adopted the “executive townhouse, executive apartment, urban townhouse and urban loft were removed. A “planned neighborhood” is referenced, but not defined in the drafts. It is mentioned in the tables analogous to 11-601.A, even when the draft did not contain a planned development district.

The table was ill-defined in the drafts, and remains ill-defined in the adopted UDC.

The City Attorney proposes the following change to Section 11-601.A in order to provide clarity:

11-601.A *Purpose*. The purpose of this article is to establish the general standards for the character, scale, density (residential), and intensity (nonresidential and mixed use) of development that is allowed within each zoning district set out in Section 11-403, *Zoning Districts*, except Planned Developments. See Section 11-405.07.D for standards of Planned Developments.

The existing sections of the UDC, 11-405 related to planned developments, and 11-601 to 11.602.03 are attached for reference. Also attached are excerpts from one of the drafts of the UDC to provide context.

## **Exhibit A, Planned Development District Requirements (emphasis added to sections)**

Sec. 11-405.07. - Planned Development (PD) District.

- A. *General Purpose and Description.* The purpose of the planned development regulations is to encourage flexibility in the use and development of land in order to promote its most appropriate use; to provide a high level of urban amenities; to preserve the quality of the natural environment; and to provide flexibility in the development of land subject to development standards coordinated with the provisions of necessary public services and facilities.
- B. *Pre-Application Review.* Prior to filing an application, the application shall be reviewed by the zoning administrator. Zoning administrator review is for the purpose of providing information to the applicant prior to their entering into binding contractual commitments or incurring substantial expense in the preparation of plans, surveys or other data.
- C. *Application of Planned Development (PD) District Provisions.* An application for a planned development district is considered the same as a zoning change, and is therefore made to the planning commission and city council in the same manner that an application for zoning change is made according to these regulations.
1. The application for PD zoning shall be accompanied by a development site plan, the appropriate filing fee, along with a list of supplemental development regulations, which will become a part of the amending ordinance and be referenced on the zoning map. Changes in the development site plan or supplemental development regulations shall be considered the same as changes in the zoning map. The proposed application and site plan shall be processed as required except that minor changes, which do not cause any of the following circumstances to occur, may be authorized by the zoning administrator, or his/her designee:
    - a. A five percent or greater increase in the gross floor areas of structures;
    - b. Any substantial and material changes in external effects on adjacent property, such as noise, heat, light, glare and vibration;
    - c. A five percent or greater increase in the height of structures;
    - d. A five percent or greater reduction in the originally approved setbacks from property lines; and/or
    - e. A five percent or greater reduction in the ratio of off-street parking and loading spaces.
  2. The zoning administrator may prepare a written report analyzing the development site plan, and such report may be provided to the planning commission and the applicant prior to the public hearing. Upon recommendation by the planning commission, the request shall be forwarded to the city council for consideration.
  3. Approval of a PD district shall constitute an amendment to the zoning ordinance. Designation of a property as a PD district, in accordance with an approved development plan, shall supersede all existing and prior zoning classifications. Such property shall for zoning purposes be identified by the letters "PD" followed by an identifying number, said number coinciding with the ordinance enacting the same.
- D. *Standards.* All PD districts shall, at a minimum, satisfy the following standards and requirements:
1. *Uses Permitted.* The development plan shall specify, both for the project as a whole and/or for subareas within the project, as appropriate, those principal and accessory uses as are to be permitted, identified as permitted uses, conditional uses, and prohibited uses. The city council may include or exclude uses from the development plan or include uses with attached conditions as appropriate to achieve the intent of these provisions.

In making its determinations of the uses to be permitted within the PD district, the city council may consider the compatibility and relationship of uses within the project, the compatibility and relationship of permitted uses adjoining or in proximity to the PD district, the appropriateness of

permitted uses for the area in general and their overall impact on the community, and the consistency of the permitted uses with other adopted plans and policies.

2. ***Intensity of Development.*** The development plan shall contain provisions to regulate the intensity of development within the PD district. Such provisions may apply to the project as a whole or to subareas within the project, as appropriate.
  - a. For residential development, the density of residential dwelling units within a PD district shall be computed in accordance with a formula identified as part of the development plan. Such density formula shall be accompanied by supporting documentation and logic behind the density formula.

The permitted number of dwelling units may be distributed in any manner over the residential portion of the project consistent with the intent and provisions of these regulations. The development plan shall specify distribution of residential density for the project as a whole or for subareas within the project as appropriate. In making its determination regarding the distribution of residential densities, the city council may consider compatibility of residential densities with other uses within the district as well as outside the district, the impact of residential densities on public facilities and services, and the consistency with the master plan, the comprehensive plan, and/or other adopted plans and policies.
  - b. For non-residential development, the intensity of development may be regulated:
    1. By specifying an appropriate FAR;
    2. By specifying maximum square footage or gross leasable area;
    3. By specifying setbacks, height and bulk restrictions; or
    4. By a combination of such restrictions for the project as a whole or for components or subareas within the project.
3. ***Bulk, Area and Height Requirements.*** The development plan shall specify bulk, area and height restrictions for the project as a whole and for subareas and/or components of the project as appropriate. The city council may impose alternate or additional standards or restrictions to achieve the intent of these regulations. In making its determination regarding such standards or restrictions, the city council may consider the character and scale of the proposed development as it relates to other uses and structures both within the district and outside the district, the general character and scale of similar developments within the area of the proposal, and the consistency with adopted plans and policies.
4. ***Public Facilities.*** The development plan shall specify conditions, restrictions and standards relating to the timely provisions of necessary public facilities as appropriate. The city council may impose conditions, restrictions and standards as appropriate to achieve the intent of these regulations. In making its determination regarding such conditions, restrictions and standards, the city council may consider the adequacy of existing facilities, the timely provision of adequate facilities and the overall cost to the community.
5. ***Access to Public Thoroughfares.*** The development plan shall specify the location and general design of ingress and egress to the project along with access restrictions as appropriate. The city council may impose such access standards and restrictions as necessary to protect the integrity and function of the city's thoroughfare system and to otherwise achieve the intent of these regulations. In making its determination regarding such access standards and restriction, the council may consider the classification and function of the thoroughfare system, existing and projected traffic volumes, the condition and design of the affected thoroughfares, the effect of the proposed development on traffic flow and circulation patterns on other adopted plans and policies.
6. ***Off-Street Parking and Loading Requirements.*** Unless specifically modified by the development plan, the off-street parking and loading requirements contained within these regulations shall apply. Reductions in off-street parking and loading standards shall be approved only if it can be

demonstrated that parking demand will be less due to density and/or occupancy characteristics of the project and/or the availability of public transportation.

7. *Signs.* Unless specifically modified by the development plan, the sign regulations contained within these regulations shall apply. Modifications to the sign regulations shall be approved only if the general intent to the sign regulations regarding size, location, illumination, structural integrity and relation to surrounding uses is satisfied.
8. *Perimeter Treatment.* The development plan shall specify any special treatment of perimeter areas designed to mitigate the impact of the project upon adjoining properties and/or to achieve an appropriate transition between land uses and densities. The city council may impose those standards and requirements for perimeter treatment it deems necessary to protect adjoining properties from adverse effects and to achieve an appropriate transition of land uses and densities.

E. *Application process.*

1. *Procedure.* Applications for PD district designation shall be processed pursuant to a three-step review process as specified in this subsection. The three-step procedure shall include:
  - a. A pre-application conference with the zoning administrator;
  - b. A preliminary development plan (planning commission); and
  - c. A final development plan (city council).
2. *Pre-application conference.* The pre-application conference is an informal procedure to assist the applicant in meeting various requirements of the city and to provide an early preview of the application.
3. *Preliminary development plan.* Upon satisfying the pre-application conference requirement, an applicant may submit an application to the planning commission. The following information shall, at a minimum, be included in the application:
  - a. A legal description of the site proposed for PD designation, including a statement regarding present ownership and present zoning;
  - b. A master conceptual plan that indicates lot or tract locations and dimensions; density per gross and per net acres in the development and in each land use component, if appropriate; the intensity of land use in the development and each land use component, if appropriate; the amount of land in common area open space, recreation use or public use, if appropriate; and the treatment of project boundaries;
  - c. Written text which includes supporting graphics describing the overall concept of the plan; the uses included and any limitations upon uses; building types and prototypical site layouts, if appropriate; provisions for maintenance of common areas; any proposed agreements, dedications or easements; any proposed private covenants and restrictions; and any other information required by this subsection or pertinent to a determination of compliance with this subsection;
  - d. A circulation plan that indicates roads adjoining the property; the location of access from public roads into the project; and vehicular and pedestrian circulation systems within the project (the circulation plan may be included as part of the master conceptual plan);
  - e. An improvement plan that indicates water supply and distribution facilities as well as the source of the water supply; sewage collection and disposal including method and location of sewage discharge; methods and facilities for the management of storm water runoff; improvements to streets and roads; and any other physical improvements required to support the project;
  - f. A statistical summary that indicates the number of acres in the project; the number of acres allocated to each land use within the project; the gross and net residential density within the project and within each land use component of the project; and floor area, FAR's, open space

ratios, and other data relating the intensity of the development to the site size and location;  
and

- g. A parking analysis showing that the total parking demand for uses in the Planned Development District does not exceed the total supply of available parking spaces.
  - h. The following elements may be required at the request of the planning commission:
    - 1. A sign plan which indicates the location, size and design and other pertinent provisions relating to signs within the project;
    - 2. A parking plan which shows the number of parking spaces as well as their general location and design; and/or
    - 3. An environmental impact statement indicating possible problem areas within the site as well as solutions to these problems as intended by the developer.
4. *Final development plan.* The city council, after public hearing and proper notice to all parties affected, and after recommendation from the planning commission, shall review the planned development zoning request for final approval.

**Exhibit B 11.602.01- 11.602.03**

Sec. 11-602.01. - Development standards.

- A. *Generally.* The minimum or average lot size, minimum open space ratio, maximum gross density, minimum area of development, and utility requirements for each district and neighborhood type are as set out in Table 11-602.01., *Residential Development Standards* .
- B. *Application.* These standards apply to all subdivisions or resubdivisions of property and to all residential developments including but not limited to single-family detached, single-family attached, and multiple family developments.
- C. *Interpretation of Table.* The table may be interpreted as follows:
  - 1. District and Neighborhood Type sets out the zoning districts (shaded in gold) and the individual neighborhood types permitted within them.
  - 2. Minimum or Average Lot Size sets out the minimum or average lot size that is used to establish the gross density for each neighborhood type. (See Table 11-602.02.01., *Single-Family Detached Lot and Building Standards* and Table 11-602.02.02., *Single-Family Attached and Multiple Family Lot and Building Standards* for the lot dimensions, setbacks, and building heights and coverage ratios.)
  - 3. Repealed.
  - 4. Maximum Gross Density sets out the maximum number of dwelling units per acre for each district and neighborhood type.
  - 5. Minimum Area of Development sets out the minimum area of land required to develop a neighborhood.
  - 6. Utility Requirement sets out whether on-site utilities (well and septic) are allowed or whether public utilities are required for each neighborhood type. This requirement is based on the minimum lot size and gross density of development.

<b>Table 11-602.01. Residential Development Standards</b>				
District and Neighborhood Type	Development Standards			
	Minimum or Average Lot Size	Maximum Gross Density	Minimum Area of Development	Utility Requirement
Farm	20 ac.	0.05	n/a	Public <sup>2</sup>
Acreage	10 ac.	0.10	n/a	Public <sup>2</sup>
Ranchette	3 ac.	0.33	n/a	Public <sup>2</sup>
Planned	1 ac.	1.00	3 acres	Public
Lake	n/a <sup>3</sup>	1.00	3 acres	Public <sup>2</sup>
Estate	3 ac.	0.33	n/a	Public <sup>2</sup>
Cluster	1 ac.	1.00	3 acres	Public
Planned	14,000 sf.	3.11	1 acre	Public
Standard I	11,000 sf.	3.69	23,610 sf.	Public

Standard II	8,000 sf.	4.27	20,403 sf.	Public
Duplex	4,500 sf.	4.84	18,000 sf.	Public
Townhouse	3,500 sf.	5.42	24,111 sf	Public
Multifamily	2,750 sf.	6.00	1 acre	Public
Auto-Urban Residential (AR), Suburban Commercial (SC), General Commercial (GC), and Campus/University (CU)				
Cluster	1 ac.	1.00	3 acre	Public
Planned	12,000 sf.	3.63	1 acre	Public
Standard I	8,750 sf.	5.30	17,500 sf.	Public
Standard II	5,750 sf.	6.98	12,481 sf.	Public
Duplex	3,250 sf.	8.65	10,072 sf.	Public
Townhouse	2,500 sf.	10.33	12,651 sf	Public
Multifamily	1,750 sf.	12.00	21,780 sf.	Public
Urban Residential (UR), and Downtown Commercial (DC)				
Planned	10,000 sf.	4.36	1 acre	Public
Standard I	6,750 sf.	8.28	13,500 sf.	Public
Standard II	3,500 sf.	12.21	7,135 sf.	Public
Duplex	2,250 sf.	16.14	5,398 sf.	Public
Townhouse	1,500 sf.	20.07	6,511 sf.	Public
Multifamily	1,000 sf.	24.00	10,890 sf.	Public
Mobile Home (MH)				
Mobile Home <sup>4</sup>	4,500 sf.	9.68	3 acres. <sup>4,5</sup>	Public

**TABLE NOTES:**

1. In certain circumstances, a greater open space ratio may be required to protect floodplains. In each district, the planned neighborhood offers the highest density with the greatest amount of open space for resource protection purposes. See Section 11-405.02., Floodway (FW) Overlay and Flood Fringe (FF) Overlay Districts.
2. On-site utilities (well and septic) are allowed where approved by the zoning administrator as part of the site plan approval process.
3. Unit area requirements shall be set forth by a Condominium or Property Owners Association as part of Condominium or Property Owners Declaration, and shall be governed by the same, so long as all other development standards identified herein are satisfied.
4. The maximum size of a mobile home park or subdivision is 15 acres.
5. Tornado shelters shall be provided in mobile home parks and subdivisions. The shelter(s) shall be built according to the recommendations of the Civil Defense authority and of sufficient size to meet the specific needs of the park and its residents.

Sec. 11-602.02. - Lot and building standards for individual housing types.

The lot and building standards for each district and housing type are set out in Table 11-602.02.01., *Single-Family Detached Lot and Building Standard*; and Table 11-602.02.02., *Single-Family Attached and Multiple Family Lot and Building Standards*.

<b>Table 11-602.02.01. Single-Family Detached Lot and Building Standards</b>									
District and Neighborhood Type	Minimum						Maximum		
	Lot Dimension		Setbacks				Building		Impervious Coverage Ratio
	Area <sup>1</sup>	Width <sup>1</sup>	Front Yard	Side Yard	Street Yard	Rear Yard	Height	Coverage Ratio	
<b>Rural (R)</b>									
Farm	20 ac.	600'	50'	15'	25'	25'	45'	5%	10%
Acreage	10 ac.	500'	50'	15'	25'	25'	45'	5%	10%
Ranchette	3 ac.	250'	50'	15'	25'	25'	35'	15%	20%
Planned	1 ac.	125'	50'	12'	25'	25'	35'	25%	30%
Lake	N/A <sup>2</sup>						35'	25%	30%
<b>Suburban Residential (SR)</b>									
Estate	3 ac.	250'	50'	15'	25'	25'	35'	15%	20%
Cluster	1 ac.	125'	50'	12'	25'	25'	35'	25%	30%
Planned	14,000 sf.	90'	35'	8'	18'	18'	35'	35%	40%
Standard I	11,000 sf.	70'	25'	5'	13'	15'	35'	40%	50%
Standard II	8,000 sf.	55'	20'	5'	10'	15'	35'	40%	50%
<b>Auto-Urban Residential (AR), Suburban Commercial (SC), General Commercial (GC), and Campus/University (CU)</b>									
Cluster	1 ac.	100'	50'	12'	25'	25'	35'	25%	30%
Planned	12,000 sf.	75'	35'	8'	18'	18'	35'	35%	40%
Standard I	8,750 sf.	55'	25'	5'	13'	15'	35'	40%	50%
Standard II	5,750 sf.	40'	20'	5'	10'	15'	35'	40%	50%
<b>Urban Residential (UR), and Downtown Commercial (DC)</b>									
Planned	10,000 sf.	65'	25'	5'	13'	15'	35'	35%	40%
Standard I	6,750 sf.	45'	20'	5'	10'	15'	35'	40%	50%
Standard II	3,500 sf.	30'	15'	5'	8'	10'	35'	40%	50%

<b>Mobile Home (MH)</b>									
Mobile Home (Single-Wide)	4,500 sf.	45'	15'	6'	10'	10'	20'	40%	50%
Mobile Home (Double-Wide)	5,500 sf.	55'	15'	6'	10'	10'	20'	40%	50%
Mobile Home (Triple-Wide)	6,500 sf.	65'	15'	6'	10'	10'	20'	40%	50%

**TABLE NOTES:**

1. For single-family detached housing types, lot area and lot width are measured per dwelling.
2. Unit building standards shall be set forth by a Condominium or Property Owners Association as part of Condominium or Property Owners Declaration, and shall be governed by the same, so long as all other development standards identified herein are satisfied.

(Ord. No. 5443, 4-24-18)

<b>Table 11-602.02.02. Single-Family Attached and Multiple Family Lot and Building Standards</b>									
District and Neighborhood Type	Minimum						Maximum		
	Lot Dimension		Setbacks				Building		Impervious Coverage Ratio
	Area <sup>1</sup>	Width <sub>1</sub>	Front Yard	Side Yard	Street Yard	Rear Yard	Height	Coverage Ratio	
<b>Suburban Residential (SR)</b>									
Duplex	4,500 sf.	35'	25'	5'	13'	15'	35'	40%	50%
Townhouse	3,500 sf.	30'	20'	0'	10'	15'	35'	55%	60%
Multifamily	2,750 sf.	90'	35'	8'	18'	18'	35'	65%	70%
<b>Auto-Urban Residential (AR), Suburban Commercial (SC), General Commercial (GC), and Campus/University (CU)</b>									
Duplex	3,250 sf.	27'	25'	5'	13'	20'	35'	40%	50%
Townhouse	2,500 sf.	20'	20'	0'	10'	15'	35'	55%	60%
Multifamily	1,750 sf.	75'	35'	8'	18'	18'	45'	65%	70%
<b>Urban Residential (UR), and Downtown Commercial (DC)</b>									
Duplex	2,250 sf.	22'	20'	5'	10'	15'	35'	40%	50%
Townhouse	1,500 sf.	20'	20' <sup>3</sup>	0'	10' <sup>3</sup>	15'	35'	55%	60%

Multifamily	1,000 sf.	65'	25' <sup>3</sup>	5'	13' <sup>3</sup>	15'	55'	65%	70%
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**TABLE NOTES:**

1. For duplex and townhouse types, lot area and lot width are measured per unit.
2. A setback of 20 feet is required from the building line to the face of garage doors.
3. Townhouses and multifamily dwellings may be required to be built on the front and side property line (the "build-to lines"), in accordance with subsection 11-503.01.D. *DC District Setbacks* , and subsection 11-624.03.O., *Relationship to Adjacent Properties* .

**Sec. 11-602.03. - Mix of housing types in planned neighborhoods.**

Planned neighborhoods shall include a mix of housing types, subject to the number of dwelling units in the development. Set out in Table 11-602.03., *Housing Mix Requirements*, is the mix of housing types that are allowed in planned neighborhoods. When calculating the percentage of each housing type in a proposed development, normal rounding is allowed. Individual housing types that may be included in the mix are set out in Table 11-602.02.01., *Single-Family Detached Lot and Building Standards* and Table 11-602.02.02., *Single-Family Attached and Multiple Family Lot and Building Standards* above.

<b>Table 11-602.03. Housing Mix Requirements</b>			
Number of Dwelling Units in Planned Neighborhoods	Number of Housing Types	Percentage of Any Housing Type	
	Minimum	Maximum	Minimum
Less than 15	1	100	20
16 to 30	2	75	25
31 to 89	3	55	15
90 to 149	4	50	10
150 or more	4	50	10

## Exhibit C- excerpt from online draft of the UDO- Note the highlighted paragraphs were not included in the adopted UDC

### Sec. 15-402 Standards for New Neighborhoods

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- A. **Purpose.** The purpose of this Section is to set out the standards for the development of new residential neighborhoods.
- B. **Application.** The development yield and lot and building standards for each residential district are determined as follows:
1. *Development Yield.*

*Application.* The standards set out in Subsection [15-402.01.](#), *Development Standards*, shall be used to determine the buildable area and maximum number of dwelling units that may be developed for each district and neighborhood type. This is derived by multiplying the size (in acres) of the parcel proposed for development by the required minimum open space and maximum gross density.

    - a. *Standards.* The standards set out in Table [15-402.01.](#), *Residential Development Standards* include:
      1. Minimum or average lot size;
      2. Minimum open space ratio;
      3. Maximum gross density;
      4. Minimum area of development; and
      5. Utility requirements.
    2. *Lot and Building Dimensions.*
      - a. *Standards.* The standards set out in Table [15-402.02.01](#), *Single-Family Detached Lot and Building Standards* and Table [15-402.02.02](#), *Single-Family Attached and Multiple Family Lot and Building Standards* which include:
        1. Minimum lot area and width;
        2. Minimum front, interior and street side, and rear yard setbacks; and
        3. Maximum building height and coverage ratio.
      - b. *Application.* Once the total allowable number of dwelling units is determined for the applicable district and neighborhood type, the lot and building standards for the applicable housing type establish the required dimensions for their construction. ***(This paragraph not included in adopted version)***
    3. *Accessory Buildings and Structures.* Set out in Subsection [15-414.03.](#), *Accessory Buildings and Structures*, and Section [15-416](#), *Height and Area Exceptions*, are additional standards and exceptions that may apply in both new and established neighborhoods.

#### 15-402.01. Development Standards.

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- A. **Generally.** The maximum gross density and average lot size, open space, and utility requirements for each district and neighborhood type are as set out in Table 15-402.01., *Residential Development Standards*.
- B. **Application.** These standards apply to all subdivisions or resubdivisions of property that create at least two buildable lots and to all single-family attached or multiple family developments with at least two dwelling units on a single parcel. ***(The adopted UDC has different language)***

**C. Use of Neighborhood and Housing Types.** Each low density residential district (including RR, SR, and GR) includes alternative neighborhood types and the high density residential (HR) District includes alternative housing types. Any neighborhood or housing type within a district may be developed by-right, subject to the standards of this Section. The allowable housing types in each district are set out in Table 15-402.02.01, Single-Family Detached Lot and Building Standards and Table 15-402.02.02, Single-Family Attached and Multiple Family Lot and Building Standards. **(This paragraph was not included in the adopted UDC)**

*15-402.02. Lot and Building Standards for Individual Housing Types.*

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The lot and building standards for each district and housing type are set out in Table 15-402.02.01, *Single-Family Detached Lot and Building Standards* and Table 15-402.02.02, *Single-Family Attached and Multiple Family Lot and Building Standards*.

**A. Low Density Residential.** Single-family detached dwellings are permitted in the AG, RR, SR, and GR Districts. The lot area and width; front, interior and street side, and rear setbacks; building height and coverage ratio; and impervious coverage ratio are established for each neighborhood type within these districts. Zero lot line dwellings are permitted in cluster and planned developments in the GR District.

**B. Moderate and High Density Residential.** Single-family attached and multiple family dwellings are permitted in the cluster and planned neighborhoods in the GR District, as well as in the HR and UR Districts. The lot area and width; front, interior and street side, and rear setbacks; building height and coverage ratio; and impervious coverage ratio are established for each neighborhood type in the GR District and each housing type in the HR and UR Districts. **(These paragraphs were not included in the adopted UDC)**

*15-402.03. Mix of Housing Types in Cluster and Planned Neighborhoods.*

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Cluster neighborhoods may and planned and traditional neighborhoods shall include a mix of the housing types, subject to the number of dwelling units in the development. Set out in Table 15-402.03., *Housing Mix Requirements*, is the mix of housing types that are allowed in cluster and required in planned and traditional neighborhoods. When calculating the percentage of each housing type in a proposed development, normal rounding is allowed. Individual housing types that may be included in the mix are set out in Table 15-402.02.01, Single-Family Detached Lot and Building Standards and Table 15-402.02.02, Single-Family Attached and Multiple Family Lot and Building Standards above. **(Highlighted areas not included in the UDC)**

**ORDINANCE NO. 5532**

**AN ORDINANCE OF THE CITY OF FREMONT, NEBRASKA, AMENDING EXHIBIT B OF ORDINANCE 5427, SPECIFICALLY PORTIONS OF THE UNIFIED DEVELOPMENT CODE (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 April 20, 2020 and subsequently by the City Council on April 28, 2020; 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.** Amendment to Chapter 11 section 11-601.A of the Fremont Municipal Code pertaining to the standards of development to exclude Planned Developments is hereby adopted as attached in Exhibit A.

**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 26<sup>th</sup> DAY OF May, 2020**

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Scott Getzschman, Mayor

ATTEST:

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Tyler Ficken, City Clerk

## EXHIBIT A

### Sec. 11-601. - Purpose and Application.

A. *Purpose.* The purpose of this article is to establish the general standards for the character, scale, density (residential), and intensity (nonresidential and mixed use) of development that is allowed within each zoning district set out in Section 11-403, *Zoning Districts*, except Planned Developments. See Section 11-405.07.D for standards of Planned Developments.

B. *Application.* This article establishes regulations for lots or tracts proposed for development or redevelopment, which is organized for new and established residential neighborhoods and nonresidential and mixed use development.

## STAFF REPORT

TO: Honorable Mayor and City Council  
FROM: Brian Newton, City Administrator  
DATE: April 28, 2020  
SUBJECT: Waiver of penalties and disconnects

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**Recommendation:** Approve Resolution 2020-093 to temporarily waive utility penalties and disconnects

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**BACKGROUND:** The U.S., Nebraska, and Fremont are in the middle of a COVID-19 pandemic that is affecting people in many ways, including the inability to pay utility bills.

While we encourage customers to continue to pay their regular monthly utility bill, we, like most of the other utilities across the U.S., have temporarily waived penalties and stopped disconnecting accounts for nonpayment due to the pandemic. We will continue to mail disconnect notices (as required by law) to those that do not pay but will not be disconnecting them at this time.

Customers who are unable to pay their utility bills at this time due to having been impacted by the COVID-19 pandemic are encouraged to contact the Customer Services Department to set up payment arrangements as we are not waiving the charge for utilities consumed.

The Utility and Infrastructure Board met April 14, 2020 and voted unanimously (5-0) to recommend City Council ratify the decision to waive penalties on the March 15, 2020 utility bills (due April 3) and extend the waiver of penalties through the June 5, 2020 utility bills (due June 26) and to ratify the decision to waive utility disconnects through the June 5th utility billing.

These waiver periods represent equal forgiveness for all customers.

**FISCAL IMPACT:** Non-budgeted expenditure of ~\$100,000

**RESOLUTION NO. 2020-093**

**A Resolution of the City Council of the City of Fremont, Nebraska, approving waiver of utility penalties and disconnects for billing cycles March 15, 2020 through June 5, 2020.**

WHEREAS, The COVID-19 Pandemic is affecting the entire nation; and,

WHEREAS, Some customers have experienced a loss of income due to the Pandemic and are unable to pay their utility charges at this time; and,

WHEREAS, March 15, 2020 through June 5, 2020 covers an equal amount of billing cycles for all customers; and,

WHEREAS, Customers will be responsible for setting up a payment plan as charges for utilities consumed will not be waived.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council approve the waiver of utility penalties and disconnects for billing cycles March 15, 2020 through June 5, 2020.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020.

\_\_\_\_\_  
Scott Getzschman, Mayor

ATTEST:

\_\_\_\_\_  
Tyler Ficken, City Clerk

## STAFF REPORT

**TO:** Honorable Mayor and City Council

**FROM:** Jody Sanders, CPA, Director of Finance

**DATE:** April 28, 2020

**SUBJECT:** Declaration of Official Intent to reimburse certain expenses from the proceeds of the Highway Allocation Pledge Bonds yet to be issued

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**Recommendation:** Move to approve Resolution 2020-066 to declare the City's intent to reimburse expenses from bond proceeds.

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**Background:** In October 2018, City Council Resolution (CCR) 2018-229 authorized the Mayor to sign a financial agreement with the Nebraska Department of Transportation (NDOT) to construct the Southeast Beltway, a 3.2-mile four-lane divided expressway to connect U.S. Highway 77 with U.S. Highway 275. Under terms of the agreement, the City is responsible for up to \$20 million of the projected \$40 million project. The City has expended reserves on this project; however, in order to allow the City to reimburse the reserves for a portion of the project from bond proceeds, the Council must declare its intent to do so. Once this declaration is in place, the City can go back 60 days (to February 29, 2020), to reimburse for amounts spent after that date.

The City Council also passed Resolution 2019-120 in July 2019; however, that only obligated the first \$1,500,000 of the \$8,000,000 in anticipated bond proceeds. This obligates the balance of the bonds, \$6,500,000 for reimbursement. Staff had expected to issue the bonds prior to the July 1, 2020 final payment to the State; however, due to Covid-19; the municipal bond market is currently very volatile. We will continue to monitor the situation and will request the bond issue when prices are more stable.

Please note that the amount in the resolution does not obligate the City to issue Highway Allocation Pledge Bonds, and in fact limits the amount of the future bond issue to \$8,000,000.

The Utility and Infrastructure Board considered this resolution at its April 14, 2020 meeting, and voted in favor of forwarding the resolution to the City Council by a vote of 5-0.

**Fiscal Impact:** Approximately \$6,500,000 in project costs can be reimbursed from the proposed bond proceeds.

## RESOLUTION NO. 2020-066

A RESOLUTION DECLARING THE OFFICIAL INTENT OF THE CITY OF FREMONT, NEBRASKA, TO REIMBURSE CERTAIN EXPENSES FROM THE PROCEEDS OF THE CITY'S HIGHWAY ALLOCATION FUND PLEDGE BONDS ISSUED IN CONNECTION WITH THE CONSTRUCTION OF CERTAIN ROAD IMPROVEMENTS.

Section 1. The Mayor and Council of the City of Fremont, Nebraska (the "City") hereby find and determine that the City desires to construct certain road improvements consisting of the Southeast Beltway, which will connect U.S. Highway 77 and U.S. Highway 275 (the "Project"). The Mayor and Council of the City hereby find and determine that it is necessary and appropriate to declare their official intent to issue tax-exempt bonds on behalf of the City and in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such bonds as proposed to be issued by the City in connection with the proposed projects as described below.

NOW THEREFORE BE IT RESOLVED AS FOLLOWS:

1. It is the intention of the City to issue its Highway Allocation Fund Pledge Bonds in a principal amount of not to exceed \$8,000,000 to pay costs of the Project. The Mayor and the Director of Finance of the City (each, an "Authorized Officer") each are hereby authorized to take such actions in furtherance of the issuance of such bonds as may be necessary or appropriate in connection therewith.

2. It is necessary and appropriate to declare an official intent of the City to issue tax-exempt obligations for the purposes described in Section 1 and, in addition, the City's reasonable expectations to reimburse certain expenditures with the proceeds of such tax-exempt obligations as proposed to be issued by the City. This resolution shall stand as a statement of the official intent of the City under Regulation Section 1.150-2 and for such purpose the following information is hereby given:

a. A general functional description of the project for which expenditures may be made and reimbursement from tax-exempt obligations may be had is the construction of certain road improvements consisting of the Southeast Beltway, which will connect U.S. Highway 77 and U.S. Highway 275.

b. The principal amount of tax-exempt obligations expected to be issued by the City for that portion of improvements pertaining to this reimbursement resolution is estimated to be not more than \$6,500,000.

3. The terms and conditions upon which the bonds are to be issued for the purposes described in this resolution shall be set out in an authorizing ordinance to be presented at a future meeting of the City Council.

4. The adoption of this resolution shall not in any way be construed as a commitment, contractual or otherwise, on the part of the City to provide any funding related to the Project or to issue any such bonds and the Mayor and Council shall retain full discretion to determine when and whether to issue any such bonds as requested.

5. All resolutions and orders or parts thereof in conflict herewith are, to the extent of such conflict, hereby repealed, and this resolution shall be in full force and effect immediately upon its adoption.

Passed and approved this 28th day of April, 2020.

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Mayor

ATTEST:

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City Clerk

(SEAL)

# Staff Report

**TO:** Mayor and City Council  
**FROM:** Jennifer McDuffee, Director of Human Resources  
**DATE:** April 28, 2020  
**SUBJECT:** Salary Ordinance for Nonunion Government Officers and Employees

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**Recommendation:** Hold first reading of Ordinance 5533 and request Council suspend the rules and move to final reading.

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## **Background:**

The salary ordinance needs to be adjusted to add a classification for Library Technology Specialist. Through a reorganization of responsibilities, this position will replace the IT Specialist-Library classification and will focus on library related duties. The City IT department has assumed network related tasks.

The pay grade was established using a salary comparison study performed by Capital City Concepts.

We are requesting that this be placed on final reading so that we may proceed with recruiting for this position as soon as possible.

**Fiscal Impact:** Will vary based on starting wage. This expense is within the approved budget.



**ORDINANCE NO.5533**

An Ordinance of the City of Fremont, Nebraska pertaining to pay plan for nonunion officers and employees, repealing Ordinance No. 5500 and all other ordinances and parts of ordinances in conflict herewith; providing for publication in pamphlet form and providing for an effective date.

Be it ordained by the Mayor and City Council of Fremont, Nebraska:

**SECTION I.** That the following schedule of Pay Grades be used for pay purposes in place of those originally stated in all other ordinances and parts of ordinances in conflict herewith are hereby repealed.

**SECTION II.** That the Class Title and Pay Grade of each non union position for the City shall be as follows:

	Job Title	Pay Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
<b>Subsection A. Non Union Exempt</b>	<b>City Administrator</b>	<b>45.5</b>	75.7079	79.4934	83.4681	87.6415	92.0235	96.6247	101.4559	106.5287
	<b>Assistant City Administrator-City</b>	<b>37.5</b>	51.2404	53.7969	56.4908	59.3147	62.2827	65.4028	68.6743	72.1120
	<b>Director of Public Works</b>	<b>34.0</b>	43.1734	45.3327	47.6006	49.9837	52.4827	55.1041	57.8557	60.7516
	<b>City Engineer</b>	<b>33.5</b>	42.1552	44.2640	46.4739	48.7993	51.2404	53.7969	56.4908	59.3147
	<b>Police Chief</b>	<b>33.0</b>	41.1224	43.1734	45.3327	47.6006	49.9837	52.4827	55.1041	57.8557
	<b>Fire Chief</b>	<b>31.0</b>	37.2946	39.1650	41.1224	43.1734	45.3327	47.6006	49.9837	52.4827
	<b>Director of Planning</b>	<b>30.5</b>	36.4135	38.2335	40.1473	42.1552	44.2640	46.4739	48.7993	51.2404
	<b>Director of Parks and Recreation</b>	<b>30.0</b>	35.5180	37.2946	39.1650	41.1224	43.1734	45.3327	47.6006	49.9837
	<b>Library Director</b>	<b>27.5</b>	31.4592	33.0264	34.6802	36.4135	38.2335	40.1473	42.1552	44.2640
	<b>Assistant Fire Chief</b>	<b>26.5</b>	29.9641	31.4592	33.0264	34.6802	36.4135	38.2335	40.1473	42.1552
	<b>Chief Building Inspector</b>	<b>26.5</b>	29.9641	31.4592	33.0264	34.6802	36.4135	38.2335	40.1473	42.1552
	<b>Civil Engineer</b>	<b>26.0</b>	29.2277	30.6863	32.2175	33.8279	35.5180	37.2946	39.1650	41.1224
	<b>City Clerk</b>	<b>25.5</b>	28.5342	29.9641	31.4592	33.0264	34.6802	36.4135	38.2335	40.1473
	<b>Superintendent of Public Services</b>	<b>25.5</b>	28.5342	29.9641	31.4592	33.0264	34.6802	36.4135	38.2335	40.1473
	<b>Recreation Superintendent</b>	<b>23.5</b>	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264	34.6802	36.4135
<b>Director of Communications</b>	<b>21.0</b>	22.8939	24.0424	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175	

	Job Title	Pay Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
<b>Subsection B. Non Union Hourly</b>	<b>Police Lieutenant</b>	<b>27.0</b>	30.6863	32.2175	33.8279	35.5180	37.2946	39.1650	41.1224	43.1734
	<b>Executive Asst- Comm &amp; Grants</b>	<b>23.5</b>	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264	34.6802	36.4135
	<b>Park Maintenance Supervisor</b>	<b>23.0</b>	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175	33.8279	35.5180
	<b>Building Inspector II</b>	<b>21.5</b>	23.4716	24.6415	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264
	<b>Fire Captain/EMT-P</b>	<b>21.5</b>	23.4716	24.6415	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264
	<b>Job Title</b>	<b>Pay Grade</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>
	<b>IT Specialist-Library</b>	<b>21.5</b>	23.4716	24.6415	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264

Automotive Maintenance Supv	21.0	22.8939	24.0424	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175
Street Construction Supervisor	21.0	22.8939	24.0424	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175
City Attorney Investigator	20.0	21.8034	22.8939	24.0424	25.2482	26.5121	27.8336	29.2277	30.6863
Building Inspector I	19.5	21.2905	22.3523	23.4716	24.6415	25.8765	27.1763	28.5342	29.9641
Library Technology Specialist	18.5	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765	27.1763	28.5342
Legal Secretary	18.0	19.7740	20.7633	21.8034	22.8939	24.0424	25.2482	26.5121	27.8336
Human Resources Technician I	17.0	18.8277	19.7740	20.7633	21.8034	22.8939	24.0424	25.2482	26.5121
Cemetery Sexton	16.5	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765
Events Maintenance Supervisor	16.5	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765
Evidence/Equipment Tech	16.5	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765
Senior Center Director	16.0	17.9250	18.8277	19.7740	20.7633	21.8034	22.8939	24.0424	25.2482
Deputy City Clerk	15.5	17.5133	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415
Senior Office Associate	15.0	17.0730	17.9250	18.8277	19.7740	20.7633	21.8034	22.8939	24.0424
Dispatcher I- Part-time	HD1	16.1933	17.0780	17.9624	18.8471	19.7318	20.6163	21.5009	22.3857
Transfer Station Cashier-Part-time	11.0	14.0540	14.7475	15.4842	16.2641	17.0730	17.9250	18.8277	19.7740
Custodian- Part time	HT1	10.0071	10.5075	11.0329	11.5846	12.1637	12.7719	13.4104	14.0809
Library Aide- Part time	HT1	10.0071	10.5075	11.0329	11.5846	12.1637	12.7719	13.4104	14.0809

<b>Subsection C. Temporary/ Seasonal Hourly</b>	Admissions Attendant
	Admissions Supervisor
	Aquatic Supervisor
	Concessions Attendant
	Concessions Supervisor
	Custodian Helper
	After Hour Custodian Helper
	Head Guard
	Head Water Safety Instructor
	Library Aide
	Lifeguard (w/CPO)
	Lifeguard I
	Lifeguard II
	Office Trainee
	Park Ranger
	Rec: Arts & Crafts Instructor
	Rec: Baseball/ Softball Instruct
	Recreation: Chief Instructor
Recreation Leader	

9:00-9:50
9:00-10:00
10.00-12.00
9.00-9.50
9.00-10.00
9.00-10.55
10.00-11.00
9.00-12.00
9.00-9.50
9.00-10.25
9.00-12.00
9.00-11.00
9.00-11.00
9.00-10.80
10.00-12.00
9.00-9.50
9.00-9.50
9.00-10.00
9.00-11.25

Rec: Playground Asst Director	9.00-9.50
Recreation: Playground Director	9.00-10.00
Recreation: Playground Leader	9.00-9.50
Rec:Umpire/Scorekeeper Supv	9.00-9.50
Relief Dispatcher	10.50-12
Reserve Police Officer	15.00-20.00
Reserve Firefighter	9.00
Senior Center Assistant Manager	9.00-11.25
Splash Station: Head Maint	10.00-12.00
Splash Station: Maintenance Asst	9.00-12.00
City Utility Worker	9.00-12.70

<b>Subsection D.</b> Temporary and Part-Time Hourly	City Council Member	\$500/mo
	City Physician	\$50/mo
	City Prosecutor	\$377.75/mo
	Mayor	\$1000/mo
	Civil Defense Director	\$333/mo

**SECTION III.** That the Class Title and Pay Grade of each union position for the City shall be as follows:

	Job Title	Pay Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8	
<b>Subsection E.</b> AFSCME Hourly	Engineering Associate II	23.0	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175	33.8279	35.5180	
	Librarian II	22.5	24.6415	25.8765	27.1763	28.5342	29.9641	31.4592	33.0264	34.6802	
	Engineering Associate	22.0	24.0424	25.2482	26.5121	27.8336	29.2277	30.6863	32.2175	33.8279	
	Librarian I	19.0	20.7633	21.8034	22.8939	24.0424	25.2482	26.5121	27.8336	29.2277	
	Heavy Equipment Mechanic	18.5	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765	27.1763	28.5342	
	Equipment Mechanic I	17.5	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765	27.1763	
	Maintenance Worker III	17.0	18.8277	19.7740	20.7633	21.8034	22.8939	24.0424	25.2482	26.5121	
	Equipment Operator	16.5	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	25.8765	
	Maintenance Worker II	15.5	17.5133	18.3875	19.3117	20.2795	21.2905	22.3523	23.4716	24.6415	
	Senior Office Associate	15.0	17.0730	17.9250	18.8277	19.7740	20.7633	21.8034	22.8939	24.0424	
	Office Associate	13.5	15.8814	16.6756	17.5133	18.3875	19.3117	20.2795	21.2905	22.3523	
	Library Assistant III	13.0	15.4842	16.2641	17.0730	17.9250	18.8277	19.7740	20.7633	21.8034	
		Job Title	Pay Grade	Step 1	Step 2	Step 3	Step 4	Step 5	Step 6	Step 7	Step 8
		Code Enforcement Assistant	11.5	14.4008	15.1230	15.8814	16.6756	17.5133	18.3875	19.3117	20.2795
	Library Assistant II	11.5	14.4008	15.1230	15.8814	16.6756	17.5133	18.3875	19.3117	20.2795	
	Custodian	11.0	14.0540	14.7475	15.4842	16.2641	17.0730	17.9250	18.8277	19.7740	
	Transfer Station Cashier	11.0	14.0540	14.7475	15.4842	16.2641	17.0730	17.9250	18.8277	19.7740	

<b>Library Assistant I</b>	<b>8.0</b>	12.1332	12.7396	13.3824	14.0540	14.7475	15.4842	16.2641	17.0730
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	<b>Job Title</b>	<b>Pay Grade</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>
<b>Subsection F. FOP Union</b>	<b>Police Sergeant</b>	<b>PS1</b>	27.6184	28.8201	30.0218	31.2234	32.4251	33.6267	34.8286	36.0303
	<b>Police Detective</b>	<b>PT1</b>	22.9093	24.1767	25.4438	26.7115	27.9788	29.2462	30.5138	31.7810
	<b>Police Officer</b>	<b>PO1</b>	22.1614	23.3800	24.5984	25.8168	27.0351	28.2537	29.4721	30.6904
	<b>Dispatcher I</b>	<b>PD1</b>	16.3915	17.2870	18.1822	19.0776	19.9731	20.8685	21.7640	22.6595
	<b>Dispatcher I- Lead</b>	<b>PD2</b>	17.2396	18.0999	19.0114	19.9669	20.9659	22.0161	23.1172	24.2770

	<b>Job Title</b>	<b>Pay Grade</b>	<b>Step 1</b>	<b>Step 2</b>	<b>Step 3</b>	<b>Step 4</b>	<b>Step 5</b>	<b>Step 6</b>	<b>Step 7</b>	<b>Step 8</b>
<b>Subsection G. IAFF Union</b>	<b>Fire Lieutenant/EMT-P or I *</b>	<b>FP6</b>	19.9025	20.8050	21.7529	22.7462	23.7849	24.8804	26.0270	27.2305
	<b>Firefighter/EMT-P or I *</b>	<b>FP5</b>	17.2058	17.9724	18.7783	19.6234	20.5133	21.4480	22.4273	23.4515
	<b>Firefighter/EMT</b>	<b>F05</b>	15.0331	15.7851	16.5758	17.4050	18.2779	19.1948	20.1555	21.1604

**SECTION IV.** All ordinances and parts of ordinances in conflict herewith are repealed.

**SECTION V.** The above salary adjustments are effective October 1, 2019. Employees whose current pay is above their current pay grade shall have their salaries frozen.

**SECTION VI.** That this ordinance be effective from and after its passage and publication according to law.

**SECTION VII.** This ordinance shall be published in pamphlet form by the City Clerk.

**PASSED AND APPROVED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2020.**

\_\_\_\_\_  
Scott Getzschman, Mayor

**ATTEST:**

\_\_\_\_\_  
Tyler Ficken, City Clerk

# *Making Connections with the Community of Fremont*

## Keene Memorial Library 2018-2019 Annual Report



Miss Susan, the Elf, Santa Storytime



# Message from the Director

This 2018-19 was yet another stellar year for the staff and patrons of the Keene Memorial Library. The staff continues to accomplish many tasks on the 2017-2020 Strategic Plan. We had set four goals to reach before September 2020. These goals are: 1) Establish the library as the community hub, 2) improve communication of library services through collaboration, 3) provide diverse resources, programs, and services and 4) increase the use of the library. During our last review of this plan, we had completed almost all of the goals and actions.

Our first goal included increasing partnerships, expanding diversity in programming, improving signage, and rebranding the library. I think all the staff has done a wonderful job getting outside the walls of the library and partnering with various organizations in town. We have shared our knowledge and experiences with them and, in turn, learned how to improve our services and programs to better serve the community. We updated our logo and handouts to reflect fresh, new content. We also started “Roaming Circulation” where staff takes our catalog out to the public via iPads and wireless jetpacks from Verizon.

The second goal was something we hit really hard and worked very hard to accomplish. This included creating new partnerships, changing marketing campaigns, attending community events, increasing social media use, including Spanish language documents, increasing communication with the school systems, weekly articles in the Tribune, interviews at the radio KHUB, and planning marketing materials for give-aways. These were accomplished through teamwork of many library staff members.

The next goal of increasing diverse resources, programs, and services included changing collection development policies, increasing electronic resource education, adding more diversity to our displays, and growing the availability of library cards with businesses and organizations. As we learn more about the community needs and how we can impact or help the community, we grow our services to match those needs. For example, during the 100-year flood in March 2019, we tried to evaluate how we could best help the community. We found that some people needed access to computers, along with help navigating certain websites for needs like disability, unemployment, and FEMA related items. Some just needed a place to work from or hang out during the day. We also allowed different organizations to come be present in the library to answer questions like the Veteran Affairs folks and FEMA. We also partnered with other businesses to provide cash assistance to patron families in need.

As part of our plan and the fourth goal, we continue to grow services and programs, including outreach and adult programming. We also have grown the number of visits to the library. We believe 2018-19 is the first year we have exceeded 100,000 visitors. The security gates were not functioning properly, so they only counted 98,173, but by estimating we can confidently say we exceeded 100,000 visitors. Our average daily visitors were right at 300 people a day. Each and every day, the staff is working hard to attain or surpass our goals. We all believe in providing the best possible service to each and every community member. In partnership with the Friends of the Library and various organizations and businesses, we can provide the best service and programs possible!

By Tina J. Walker, Library Director



# Youth Services



Santa and Mrs Claus Storytime



Cookie decorating at Santa Storytime

October 2018 started out with a new event for us: Astronaut Storytime, where we heard a story read from the International Space Station by a real astronaut. We also hosted our first Haunted Library Extravaganza, which was two evenings of a haunted maze upstairs through the stacks and kid-friendly activities downstairs. December brought our first Santa Storytime, which was attended by over 150 people. Third Grade Tours took place from February 2019 – April 2019, some being rescheduled due to weather. Day in the Past (where fourth graders come learn about what it was like growing up in Fremont in the 1900's) was held in March, right as the flooding started. By April, we were back up and running and showcasing solar powered robotics projects from the tweens at Get Your Tech On at the annual Eco-Fair.

Summer Reading Program kicked off with a bang May 23, 2019 with an indoor party due to rain. A Universe of Stories was the theme, and our activities were spread out throughout the summer. Mondays we hosted performers at the City Auditorium again, including Jeff Quinn (Magician), Wildlife Encounters, SAC Museum's Under Pressure science demonstration, Dino O'Dell (singer-songwriter) and Dr. Oxygen's science demonstration. Tuesdays saw activities for the younger set (ages 2-6) as well as teenagers. Five weeks of classes were held following the themes of A Universe of Stories for kids and Art & The Cosmos for teens.

Cont'd



# Youth Services cont'd

Cont'd

Wednesdays were reserved for the Summer Lunch Program storytimes that have been a staple for the past four years. We go to the Fremont Public School SLP at Linden, Washington and Bell Field to share stories and simple crafts as part of their afternoon STEAM activities. Thursdays was Susan's Space, a class full of interactive science experiments for kids ages 6-12. Friday was Train Like an Astronaut, where kids got moving and active for 45 minutes, following simplified astronaut exercises. New this year was our participation in the Fremont Public School's Summer Success Academy. We took our science-based storytime to three schools (Washington, Linden and Bell Field) and shared NASA videos from the moon landing.

In July, Director Tina Walker and Youth Services Librarian Laura England-Biggs took part in a week-long dyslexia tutoring project in Lincoln. They emerged as certified tutors for students with Dyslexia, and have brought some of the training into our regular programming (Ready for Kindergarten Storytime in particular). Our usual programming continued throughout the year, including 238 storytimes, 50 sessions of Baby and Toddler Time, 11 monthly Teen Book Clubs, 52 meetings of Get Your Tech On, 47 Lego Clubs, 35 After School Chess meetings and 50 outreach events including the Moon Landing Anniversary event and HeadStart Storytime. We engaged almost 8,100 people with our programs this past year.

By Laura England-Biggs, Youth Services Librarian



SRP Programming Dino O'Dell

Pumpkin decorating contest



# Processing and Cataloging Services

Cataloging and processing materials is a large part of the Technical Services team. These folks are the ones that make sure items arrive, get processed and catalogued, and are ready to be placed on the new shelves. This means that for each item that is on our shelf someone has:

1. submits orders for the materials
2. received the materials
3. processed the receipt
4. applied security measures to materials
5. imported records if available
6. catalogued if records not available
7. prepared with labels/barcodes/book covers
8. placed the book on the new shelves

Another way to think about how a library processes materials is to think about a regular grocery store. They have to decide which items to buy, make the order, verify the receipt of merchandise, catalog the items into their system so they know how many they have, and put the items out for customers to buy. It is pretty similar, except our cataloging is much more complicated and in-depth. But all the same, we get products to the patrons. Below you can see from the statistics, that we weeded 8,819 items (reverse processing) and added over 5600 items to the collection. In total we processed 14,419 items into or out of our collection. The Technical Services team has been very busy this year. Processing is yet another aspect to librarianship many people don't think about. In addition to providing materials, programs, and services to the community, we also have to handle the "front-end" duties of making materials available.

2018-19 cataloging statistics

Total Items held	84658
# of items removed	8819
# of items added	5602
# donated	300
Total Items in Collection	<b>81741</b>



# *S.T.E.M. Education*

During the 2018-2019, fiscal year we did a lot of education for the children with the Tween Tech Time program using different technologies - high tech and low tech. For adults, we did Digital Drop-Ins, where patrons were able to stop in during a designated time to get help with various technology related questions and a partnership with Uniquely Yours Stability Support where library staff helped with technology instruction once a month at UYSS. While it got off to a strong start, we eventually transitioned to doing Book-A-Librarian sessions so that patrons could have more dedicated time getting help with their questions. We are always trying new things to meet the needs of patrons in the best ways possible.

For Tween Tech Time, we were able to add some new technology to learn with as well as using existing technology and computers to expand learning opportunities for the tweens. The Friends of Keene Memorial Library provided the funding for 5 Turing Tumbles that we used for a 4 week learning cycle in Tech Time about how mechanical computing works and how that applies to the computers that the tweens use every day.

In October 2018 we did a 6 week cycle learning how to code using the Scratch block coding program. This allows people to learn how parts fit together before learning the specifics of a coding language. We used Coding Dojo for the lesson plans and built week by week on the complexity of the coding being done. The final project that they learned to code and customize was a 2D arcade game where they had to jump to avoid being hit by dangers. They learned how these type games randomize when the obstacles appear. This was a very popular program with the Tweens.

Throughout the year we also worked with Osmo, a learning program that uses the iPads to extend instruction off of the screen and LittleBits, devices that connect together to make different kinds of circuits. With Osmo, they learned about following instructions and making change, how to do block coding and how different sounds and rhythms go together to make music.

By Dorlissa Beyer, Library Assistant II



3D printing

Tech Open House



# Saying Goodbye to a Long-time Friend/Co-Worker



In December of 2019 (I know this is the wrong annual report year, but we don't want to wait to acknowledge her), Susan Allen, a Library Aide for the Children's Department, finally decided the hang up her elf-shoes and costume, and retire from the library. Miss Susan started at Keene Memorial Library in 1998. She is a teacher during the daytime, so she has always worked evenings and weekends. Miss Susan was instrumental in getting our Thursday evening and Saturday morning storytimes off the ground. Her dedication to keeping active led to many years of *Moving with Susan* during the Summer Reading Program, where kids of all ages did fun dances and worked up a sweat to music from all genres.

Her big heart made her a favorite among kids and parents. Miss Susan's passion for literacy allows her to continue to be a powerful library advocate in the community. We know Miss Susan's absence will be felt by many, but we look forward to working with her on other projects and events as she is a phenomenal library supporter and she believes that what we do makes a difference to the community.

By Tina Walker, Library Director



# Adult Services Programming

The 2018-19 year brought many challenges and opportunities for the Keene Memorial Library staff. As a library, we were pleased to continue with our endeavors to bring literacy, education, and cultural programming and materials to the community of Fremont. The first of many challenges that the community faces is the ever-increasing demand to understand technology in order to live in today's online world. To help with this, our team worked hard to offer digital literacy sessions for those who have struggled to adapt to technology. These sessions, including Book-a-Librarian and monthly classes, have allowed patrons to ask questions, use digital tools, and begin to feel more confident in using a myriad of technology. We also joined Grow with Google, which is an online learning platform to use the Google Suite for digital pursuits. Using these tools, librarians taught patrons how to create and use email, make and save resumes, and save photos/documents. This has been a terrific start for our mission to provide opportunities for digital readiness in the 21st Century.

A second challenge that Fremont encountered were the historic floods that devastated the area in March of 2019. As many remember, this was an unprecedented time of fear and uncertainty. The library pulled together to cultivate a collection of reliable and useful resources for the community's use. Staff also donated time, hygiene items, and reading materials to neighbors who found themselves suddenly without homes and much hope. We also remained open to the public during this catastrophic time in order to offer a diversion and safe space for our community. The library was proud to host groups and events that later helped the city heal from this exceptionally difficult experience.

While there were tough times faced in our area during the 2018-19 year, Keene Memorial Library also had many opportunities to bring many educational and cultural events to our visitors. Keene hosted many local authors and are always proud to play a part in promoting these writers and creators in our state including Tosca Lee and Tom Adamson. We also hosted several poetry readings in our library to honor this special literary form. Not only did we offer poetry in the library, but we also brought these literature programs to Fremont seniors in places such as Shalimar, Premier Estates, and both Nye locations. It was rewarding and entertaining to see how this audience interacted with our staff and the poetry.

Cont'd



Jerry Barlow, celtic guitarist

Sisters of the Outlaw Trail



## Adult Services cont'd

In addition to doing community engagement by using poetry, we also brought library services to people in many other ways. Mobile library services, which started in 2017, continued and increased in 2018-19. Reading materials are provided to elderly, disabled, and homebound individuals on a monthly basis. The homebound and elderly also enjoyed the convenience of communicating with us when their reading needs arose. The joy that large type books and home-delivered materials provides these library supporters is second-to-none.

Keene Memorial Library staff is dedicated to providing an abundance of reading materials for a variety of interests. To that end, collection development was a key goal and point of pride for our library. We introduced new books to our shelves on relevant and important topics such as mental health, self-care, technology, and leadership. The non-fiction collection grew to include more diverse and current information. This endeavor along with maintaining the popular fiction areas kept the circulation librarian busy all throughout the year.

We have also had the privilege to offer a variety of events that support culture and history. Our library hosted two live musical performances, Jerry Barlow and Claude Bourbon, which drew an appreciative crowd and made for a fun afternoon for visitors of all ages. During the year, KML also hosted “Sisters of the Outlaw Trail” and “Aprons, Hats, Skirts, and Flirts” which brought history, poetry, and music to Keene. Patrons’ entertained faces made us proud to be able to offer these programs for the Fremont area.

History, music, and digital education were a bulk of our events in the 2018-19 year, but our staff also found creative ways to provide safe spaces and entertainment for adults and families. Such events included Bilingual Yoga, Bilingual Conversation Tables, upcycling craft programs, and all-ages game nights. Game nights were wildly successful and fun—we’re proud and happy to be able to provide these types of events for visitors from all walks of life. In this fiscal year, adult programming welcomed over 685 visitors to Keene Memorial Library and we only hope to continue increasing our reach to meet the needs and interests of the Fremont area.

By Elisa Cruz, Adult Services Librarian



Family Game Night

John Mullen Halloween Poetry Reading



# Library Volunteers

Volunteering is a great way to include the community in the working of the library. At Keene we have a wonderful dedicated group of volunteers that help us. These volunteers are very helpful in assisting staff in extra duties around the library. Most of the time it is fairly easy to manage the volunteers. We have adults that have regularly scheduled tasks such as story time preparation help or dusting and alphabetizing. Two of these amazing volunteers, Shirley and Joleen are well-known faces as they are a staple to the library. Counting on these ladies weekly to help keep the Youth Services staff organized with weekly story time themed crafts and summer crafts is essential! We are especially sad to see Joleen leave us after many years of volunteering. Thank you so much, Joleen!!

Managing summertime volunteers is a different story. This year we had 28 kids signed up. These kids ranged in age from 5th grade-12th graders. Over the course of May, June, and July, they worked 604.75 hours. Organizing this many volunteers was definitely not easy. It took months of planning. Scheduling and supervising 4 shifts of volunteers working 2 hours per day in addition to the large Monday events, 4 different summer-themed group activities weekly and regular duties made for a very hectic time. Luckily, with all the advance planning and great volunteers, it all worked with very few problems!

This year to streamline overseeing volunteers, we tried using duties cards. The kids were able to choose from a selection of duties needed to be done. This allowed for some autonomy and staff knew at a glance where each volunteer was supposed to be. This cut down on the persistent question of “What am I supposed to do?” Overall, an excellent experience and one we are looking forward to next year!

By Sonia Vanderworth, Volunteer Coordinator

VOLUNTEER STATISTICS	
# of volunteers	155
# of hours	1183
Library Visits	531



Joleen Cameron, A++ volunteer



Tina Walker, Ann Stephens, Mary Lou Carlson



# Expansion Project Update

As many of you already know, the expansion project was kicked off in 2017 with city council voting to move forward with the project. The Friends of Keene Memorial Library have taken the lead on this project and they have worked with Alley Poyner Machietto Architects to design the initial drawings for the project. Then they hired Paul Strawhecker LLC, out of Omaha, to assist with the fundraising. At this point in 2018, with the bond issue, city funds, and private funds, approximately \$3.5 million was available for the project. The two houses on the library block, were being sought for purchase by the A Trust group. Once purchased, the properties will be donated to the city for the project.

Many of you know that Spring 2019 really put a hold on this project as the Platte River and Elkhorn River ravaged the area. This 100-year flood was nothing like any of us had ever seen before. Some of us lost homes, property, and had no place to live. With these dire circumstances we had to put the project on hold, so we could help the community in other ways. Fundraising for this project didn't get started back up until mid-August 2019. Then we had to regroup, rethink, and redesign as we had lost many board members and committee members due to the floods.

Ending 2018-19 fiscal year in September 2019, the funds were almost at \$4 million. The initial phases of fundraising had begun and the groundwork was being laid for informational sessions and actually acquiring funds for the project. The project continues on even in the face of adversity. This is a project we adamantly want to see through to the finish.

If anyone wishes to donate to the project, they can do so at the Fremont Area Community Foundation, in person or online.

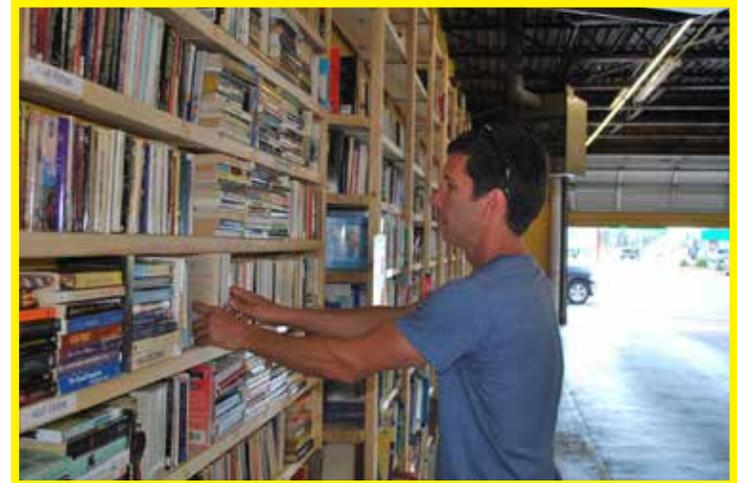
By Tina J. Walker, Library Director



# Friends of Keene Memorial Library

The Friends of Keene Memorial Library have really outdone themselves this past year. The Friends of Keene Memorial Library exists to inspire the community to fully utilize Keene Memorial Library facilities and resources, provide supplemental support, and encourage life-long learning. One of the Friends members, Jeff Rise, owns Dave's Liquor on Military Ave. This liquor store is a drive-thru, and he had a lot of empty space on the south wall (see right picture). Jeff built these shelves and began running a perpetual book donation site for the Friends. Jeff's employees have been taking donations and providing the money to the Friends monthly. In the first 14 months, they raised \$10,000 for the Friends. We can't be more proud of Jeff and his staff for helping to fund the Friends, which in turn helps support the library programming. The Friends are an invaluable organization and they provide amazing support to all aspects of the library, including staff development. THANK YOU FRIENDS!

By Tina Walker, Library Director



Jeff Rise busy shelving books at Dave's Liquor



2018 Book Sale  
Christensen Field

2018-19 OFFICERS:  
President - Janet Lowe  
Vice President - Denise Kay  
Secretary - Molly Grimes  
Treasurer - Gary Overfield

BOARD MEMBERS:  
Mary Lou Carlson  
Meg Ronspies  
Christine Morse  
Jennifer Swanson  
Vicki Hunzeker



# *Library Board Members*

The Library Board (hereinafter the “Board”) exists by virtue of the provisions of § 16-251 of the Revised Statutes of the State of Nebraska and Article 2, §2-201 of the City of Fremont Code. The Board shall exercise the powers and authority and assume the responsibilities delegated to it under said statutes and Code. The Board shall be composed of five (5) members who are to be appointed for individual terms of four (4) years by the Mayor and City Council of Fremont, pursuant to law. The officers of the Board shall include a President, a Vice-President, a Secretary and such other officers as may be deemed necessary who shall be elected from among the appointed members. Regular meetings of the Board shall be held no less than quarterly at a time agreed upon by the Board. Currently, the Board meets the third Monday of the month at 5:30 pm. There must be a quorum of Board members to hold the meetings, which is 3 members (Board Bylaws passed 11-13-12).

The members of the Keene Memorial Library Board for 2018-19 fiscal year were:

Larry Jirsak - President - expires 11/2020  
Earl Underwood - expires 10/2020  
Shari Kment - expires 1/2024  
Mandy Ostdiek (resigned Nov 2019)  
Lori Dahl (resigned July 2019)  
Tom Adamson (August 2019) - expires 7/2022

The board has been absolutely wonderful to work with and have been extremely supportive of the library and the staff. Each member is highly aware of the happenings of the library and the work we do each day. We salute them for their service to the Keene Memorial Library Board and the volunteer time they dedicate to helping the library function each and every day.

By Tina Walker, Library Director



# Return on Investment - The Value of the Library

Library Annual Statistics	Library Materials & Services	Value of Use
57048	Computer Use	\$684,576
41760	Children's Books Borrowed	\$709,920
39384	Adult Books Borrowed	\$669,528
17300	eBooks Downloaded	\$259,500
11853	Movies Borrowed	\$47,412
11503	Children's Program Attended	\$80,521
6759	YA Books Borrowed	\$81,108
4397	Reference Assistance	\$30,779
3553	Audiobooks Borrowed	\$35,352
2636	CDs Borrowed	\$26,228
2317	Magazines Read	\$11,585
1981	Newspapers Read	\$18,819
1400	Meeting Room Use (per hour)	\$35,000
1291	Music Downloaded	\$1,291
1061	Database Searches	\$21,166
915	Adult Program Attended	\$13,725
839	Interlibrary Loan Requests	\$20,975
96	Young Adult Program Attended	\$1,152
<b>GRAND TOTAL</b>		<b>\$2,748,637</b>

This chart was created using the Library Value Calculator from the American Library Association. These values represent the return on investment for these specific resources and services provided to the community.

The library's expenditures each year are just over \$1 million dollars and this chart shows that patrons received \$2.7 million in services and resources for these statistics for 2018-19 fiscal year. We do provide other resources and services not included here, but the calculator did not accommodate for those statistics.

When people ask, "what do we get for taxes paid to run the library", you can tell them, the community benefits \$2.7 million in services and resources. It seem like a win-win for the community.

[http://www.ala.org/advocacy/advleg/advocacyuniversity/toolkit/makingthecase/calculator\\_new](http://www.ala.org/advocacy/advleg/advocacyuniversity/toolkit/makingthecase/calculator_new)



# Children's Statistics

Name of Program	Number Held	Attendance
Storytimes	204	1,934
Baby Toddler Time	50	797
Ready for Kindergarten Storytime	34	271
Teen Book Club	11	41
Tween Tech Time	52	313
Lego Thursdays	47	392
After School Chess	35	214
Fremont Reads Outreach	4	6
Learning Center Book Club	10	30
Special Events includes:	34	3,774
NASA Downlink		
Haunted Hysteria Storytime		
Christmas Walk Storytime		
Halloween Haunted Maze		
Tree Lighting		
Upcycling Events		
Literacy Nights at Schools		
Keep Fremont Beautiful Eco-Fair		
Summer Reading Program School Visits		
Headstart Storytimes	16	192
Third Grade Tours	10	396
	<b>507</b>	<b>8,360</b>

Summer Reading Program by the Numbers		
Name of Program	Number Held	Attendance
Jeff Quinn Magician June 3	4	521
Wildlife Encounters June 10	4	579
SAC Museum - Under Pressure June 17	4	348
Dr Oxygen June 24	4	280
Dino O'Dell July 1	4	236
Universe of Stories (ages 2-6)	5	81
Art and the Cosmos (teens)	5	26
Susan's Space (ages 6-13)	4	86
Train Like an Astronaut (ages 6-13)	5	75
Stuffed Animal Sleepover	1	22
Summer Lunch Program Outreach	8	351
Summer Success Academy Outreach	6	409
	<b>54</b>	<b>3,014</b>



# Adult Statistics

Adult programming is an area we have identified as a strong need in the community. Our staff recognized this is an opportunity for the library to better serve the community of Fremont. From adding new programs in the library such as Upcycling and Book Clubs to outreach and homebound services. We have added programs and extended our reach outside the library to many in the community. In 2018-19 we saw 112 Adult Programs with total attendance of 915 community members.

With almost 20% of the population over 65 years old and many assisted living and full-care facilities in our community, we have a patron group that would be best served with outreach services so our Adult Services Librarian, Elisa Cruz, is in charge of providing resources to many local facilities. She also directs the homebound program where we deliver materials to patrons that cannot physically leave their homes. They are very grateful for this service. The staff logged 88 outreach visits this year.

The Digital Drop-In is a chance for community members to get help with any technology devices and have 1:1 time with staff for 1 hour. We ask staff which devices they can educate people on, and they cover this request. Just call and ask about this service or schedule your time.

The most attended adult program of 2018-19 was the FCC Presentation by Ajit Pai with 53 attendees. The second most attended program was the staff Souper Bowl Party with 52 attendees. And a close third was the Sisters of the Outlaw Trail program with 42. Some of these programs were so well attended, we had to rotate people in and out so there was a place to sit! That's a good thing.

Staff has definitely gone above and beyond to find new and inspiring events for the adult population. Too often libraries only focus on their children in the community and forget that adults need literacy interaction and programming as well. We are glad we have the staff and opportunity to provide these resources to adults of Fremont and the surrounding areas.

## Programs

General Programming  
Book-A-Librarian  
Book Clubs  
Literature Outreach  
Chess Night for adults  
Homebound Services  
Dept Labor Job Search  
Language Exchange  
Senior Story Hour  
Bilingual Yoga  
Grow with Google  
Mardi Gras Game Night  
Smithsonian Workshop  
FCC Presentation  
Yoga for Everyone  
Yoga for Desk Workers  
Upcycling CDs

By Tina Walker, Library Director

<https://www.census.gov/quickfacts/fremontcitynebraska>



# Technology Statistics

This year our technology statistics were very informative as usual. We collect data on many aspects of technology use in the library and use that data to determine future patron resources and services. These statistics also tell us which resources the community may not be familiar with and provide us the opportunity to market these resources to increase usage. Our largest use this year was public printing at 28,895. Next was the use of Overdrive, our online ebook and audiobook platform, at 16,849. Coming in a close third was Wi-Fi usage at 15,158 uses. If there are resources listed here that you are not familiar with, please feel free to contact us and we will walk through the resources with you. This can be done during our 1:1 “Book-A-Librarian” program. We schedule one hour with patrons to discuss any technology needs you have such as cell phone, iPad, Iphone, tablets, e-resource usage, etc... As is with most libraries, the use of technology and the training required to use these technologies is ever growing and will continue to grow exponentially in the future.

By Tina Walker, Library Director

DATABASE USAGE	
AllData	44
Ancestry	183
Freegal	225
Gale Vir Ref/Nat Geo/Encyclopedia	10
Lynda	80
Mango / Lil Pim	161
Morningstar	72
OneClick Digital	250
Overdrive	16849
Reference USA	158
Testing Ed Ref Center	15
Universal Class	291
Zinio	166

TECHNOLOGY STATISTICS	
Web Visits	4590
On-line Learning Sessions	555
Database searches	506
Who's on my Wi-fi	15158
Internet/Computer Use	12995
Public Printing (pages)	28895
# of internet public computers	15
Library H3lp Chat usage	120



# Upcoming 2019-2020

We have many important projects coming up in the next year. Some are continuation projects and others are new projects:

1. Continuing Expansion updates, fundraising, and removing the 2 houses
2. Strategic Planning for 2020-2023
3. Technology Planning 2020-2023
4. Filling all the open staff positions
5. Finishing the weeding on the Non-fiction Collection
6. Getting mobile circ up and running with self-registration
7. Getting the new copier, printer, scanning system up and running
8. Updating all the computers to Windows 10 - staff and patrons
9. Getting the new Christmas Tree landscaping installed
10. Finishing the LED lighting project for whole library
11. Installing new security gates on both west and east entrances
12. Reviewing county-wide library cards



**MainStreet Fremont Executive Director Activities/City Related December 19**

**Month**

**Activities**

December

Downtown merchant promotions via social media and website  
    BID Newsletter Creation to all business and building owners  
    Website updates completed and community events added  
Created and emailed out Quaterly Newsletter to members, city officials and county officials - includes city  
    announcements, opportunities, memo's, etc  
Website updates that reflect newsletters and upcoming events/meetings

January

Met with Gallery 92 west and Katy from Midland University to plan an artwalk in downtown  
    Website updates completed and community events added  
Organized a MS Townhall meeting: Instragram? The know how!- rescheduled for april 1st  
    Website updates that reflect newsletters and upcoming events/meetings  
    Organized Community banners with FPS 4th graders and Gallery 92 West  
    Performed a BID Greenspace survey amongst 11 building/business owners

Febuary

Website updates that reflect newsletters and upcoming events/meetings  
Met with Gallery 92 west and Katy from Midland University to plan an artwalk in downtown  
    Website updates completed and community events added  
    Organized a MS Townhall meeting: Instragram? The know how!- rescheduled DTB  
    Website updates that reflect newsletters and upcoming events/meetings  
Letter sent to Parks Department for use of John C Fremont Parks for Concerts in the Park  
    Obtaining sponsors for Concert in the Park- Community Event  
    Schedule placement of FPS banners for April 5th

## STAFF REPORT

**TO:** Honorable Mayor and City Council  
**FROM:** Troy Schaben, Assistant City Administrator - Utilities  
**DATE:** April 28, 2020  
**SUBJECT:** Wastewater Engineering Agreement

<b>Recommendation:</b> Approve Resolution 2020-094 authorizing the Mayor to sign the agreement
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### Background:

Wholestone Cooperative Farms (WholeStone) is proposing to invest \$300,000,000 to expand the plant, upgrade portions of the plant, and build new facilities to the plant including a City required dissolved air flotation (DAF) system to remove oil and grease. Their expansion will generate additional wastewater volume causing the City to make additional improvements to the Wastewater Treatment Plant, specifically adding another basin and possibly two additional anaerobic lagoons. The City is requiring WholeStone to make a significant contribution in aid of construction (CIAC) to pay for their portion of the improvements.

At the March 31, 2020, the City Council approved Resolution 2020-072 that authorized the Mayor to execute an agreement with Wholestone for CIAC charges related to Wholestone's share of the improvements to the City's wastewater treatment facilities. This agreement requires Wholestone to pay 50%, capped at \$1.75 million, of the engineering costs the City will occur to engineer the requirement improvements.

The UIB Board will consider this matter at the April 28, 2020, but due to the urgency of the matter, staff is bringing the item to City Council on the same day.

**Fiscal Impact:** Wholestone to reimburse the City 50%, capped at \$1.75 million for engineering costs.

**REIMBURSEMENT AND  
INDEMNIFICATION AGREEMENT  
FOR WASTEWATER ENGINEERING**

This Reimbursement and Indemnification Agreement (the "Agreement") is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2020, between the City of Fremont, a municipal political subdivision of the State of Nebraska ("City"), whose address for the purposes of this Agreement is 400 East Military Avenue, Fremont NE 68025, and WholeStone Farms, Inc. a Nebraska corporation ("WholeStone"), whose address for the purposes of this Agreement is 900 South Platte Ave, Fremont, NE 68025.

**PRELIMINARY STATEMENT**

The City has engaged the services of HDR Engineering, Inc. to assist the City in the design of additional wastewater treatment facilities at the existing City treatment plant for the added wastewater volumes related to a second shift proposed by WholeStone. The City and Wholestone have agreed to two shift discharge quantities (the "Future (Two Shift) Wastewater Discharge" volumes in a Wastewater Services and Cost Share Agreement) requiring need for additional wastewater engineering services. WholeStone has agreed to reimburse and indemnify the City for fifty percent (50%) of its expenses to engage HDR Engineering, Inc. for the design of additional wastewater treatment facilities to satisfy the Future (Two Shift) Wastewater Discharge volumes, subject to the terms and conditions set forth below.

**TERMS AND CONDITIONS**

Now, therefore, in consideration of the foregoing Preliminary Statement which is included herein by this reference and the mutual covenants of the parties hereto, it is agreed as follows:

1. WholeStone shall reimburse the City for fifty percent (50%) of its expenses to engage the services of HDR Engineering, Inc. in designing additional wastewater treatment facilities that satisfies the Future (Two Shift) Wastewater Discharge volumes, not to exceed \$1,750,000.00. WholeStone shall pay the City within thirty (30) days of its receipt of an invoice from the City, including a commercially reasonable level of detail describing the service provided in such a manner that Wholestone can determine that the wastewater treatment facilities are being constructed in accordance with the Future (Two Shift) Wastewater Discharge volumes and the costs related thereto. If WholeStone (a) elects to discontinue its pursuit of expanded wastewater volumes for a second shift, whether because the additional wastewater facilities are not being constructed in accordance with the Future (Two Shift) Wastewater Discharge volumes or for any other reason, and (b) notifies the City

(in writing) of such election, then WholeStone shall only be responsible for the City's out-of-pocket expenses that accrued prior to the City's receipt of WholeStone's notice (not to exceed \$1,750,000.00 in any event).

2. WholeStone hereby agrees to indemnify and hold the City harmless from and against any and all liabilities, expenses including reasonable attorneys' and engineers' fees, orders, lawsuits, causes of actions, claims, damages, costs, penalties, fines, interest and demands whatsoever suffered, threatened against, or paid, or incurred by the City in connection with, or arising from, WholeStone's failure to reimburse the City in accordance with the terms of this Agreement.

3. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

4. All notices or other communications required or permitted by this Agreement shall be in writing and in all cases addressed to the party at the location or address indicated above. Such notice shall be considered to be properly given by and received by a party (i) whenever delivered in person, or (ii) on the date a return receipt is signed by a party when sent by certified mail, regardless of when received or delivered. A party shall have the right to change its address for notice or other communication to any other person or location within the continental United States by giving prior written notice to the other party.

5. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one agreement. Each counterpart may be delivered by facsimile or computer-scanned image transmission. The signature page of any counterpart may be detached therefrom without impairing the legal effect of the signature(s) thereon provided such signature page is attached to any other counterpart identical thereto.

6. No amendment of this Agreement shall be valid unless it is in writing and is signed by the parties or by their duly authorized representatives, and unless it specifies the nature and extent of the amendment.

7. The City and WholeStone each agree to abide by all federal, state, and local laws, statutes, ordinances and regulations governing the activities discussed herein. WholeStone shall comply with, and indemnify the City against any violations of applicable regulations promulgated by the Environmental Protection Agency or other government agencies regulating any activities engaged in by WholeStone.

8. This Agreement, and the rights and duties of the parties arising from or relating in any way to the terms, covenants, or conditions of this Agreement shall be governed by, construed and enforced in accordance with the laws of the State of Nebraska.

9. Wholestone 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. 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.

IN WITNESS WHEREOF, this Agreement was executed on the date as first written hereinabove.

**WHOLESTONE FARMS, INC.**

A Nebraska Corporation,

**CITY OF FREMONT, NEBRASKA,**

A municipal political subdivision of the State of Nebraska,

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

By: \_\_\_\_\_  
Scott Getzschman, Mayor

Name: \_\_\_\_\_

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

ATTEST

APPROVED AS TO FORM

\_\_\_\_\_  
Tyler Ficken, City Clerk

\_\_\_\_\_  
Travis Jacott, City Attorney

**RESOLUTION NO. 2020-094**

**A Resolution of the City Council of the City of Fremont, Nebraska, to authorize the execution of Reimbursement and Indemnification Agreement with WholeStone Farms Inc. for of wastewater engineering costs.**

**WHEREAS**, City Council approved Resolution 2020-072 authorizing the Mayor to execute an agreement with Wholestone Farms for contribution in aid of construction (CIAC) costs for improvements to the City's wastewater treatment facilities; and,

**WHEREAS**, In addition to CIAC costs, the City is requiring WholeStone Farms Inc. to pay 50% of the engineering costs, not to exceed \$1.75 million.

**NOW, THEREFORE BE IT RESOLVED**, the Mayor and City Council approve the Reimbursement and Indemnification Agreement for 50% of the wastewater engineering costs (capped at \$1.75 million) with Wholestone Farms, Inc. and authorize the Mayor to sign the attached agreement.

PASSED AND APPROVED THIS 28<sup>th</sup> DAY OF APRIL, 2020.

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Scott Getzschman, Mayor

ATTEST:

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Tyler Ficken, City Clerk