

# MCCOOK CITY COUNCIL

## REGULAR MEETING

**Monday, October 17, 2022  
5:30 PM - City Council Chambers**

Roll Call.

Excuse Absences.

Open Meetings Act Announcement.

Invocation - McCook Ministerial Association - Trevor Smith, McCook Evangelical Free Church.

Pledge of Allegiance.

Call to Order.

Items.

1. Announcements & Recognitions.

2. Public Hearings.

A. Public Hearing - Regarding a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook.

1. Adjourn the Public Hearing.

B. Ordinance No. 2022-3054 changing the zoning classification of two lots from Agricultural (AG) to Highway Commercial (HC); said lots legally described as: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook.

1. Chairperson asks Clerk to read Ordinance by title.

2. Consider approval of Ordinance No. 2022-3054 upon its first reading, and advance to a second reading.
3. Consent Agenda.

*\*The Consent Agenda is approved on one motion. Any item listed on the Consent Agenda may, by the request of any single Council member or public in attendance, be considered as a separate item under the Regular Agenda.*

  - A. Approve the minutes of the October 3, 2022 regular City Council meeting, the October 11, 2022 City Council community meeting, and the October 12, 2022 special City Council meeting.
  - B. Approve an application from Telcom Construction to occupy city right-of-way for the purpose of replacing telephone cable for 1406 East "C" Street.
  - C. Approve an application from Telcom Construction to occupy city right-of-way for the purpose of replacing telephone cable for 608 Sunset Road.
  - D. Adopt Resolution No. 2022-15 updating the City of McCook Public Transportation Drug and Alcohol Testing Policy.
  - E. Approve the Addendum to McCook Humane Society Agreement, increasing the contract amount the City of McCook pays for animal services and authorize the Mayor to sign.
  - F. Approve the bid from Cahoj Earthmoving, Inc. of Atwood, Kansas in the amount of \$170,429.30 for the North Highway 83 Drainage Improvements that being the lowest responsible bid.
  - G. Approve the application for a Special Designated Liquor License submitted by Loop Brewing Company, Liquor License #LK-093351, for a Farm Show to be held at the Kiplinger Arena, 1412 West 5th Street, on November 18, 2022 from 10:00 A.M. to 1:00 A.M. and November 19, 2022 from 10:00 A.M. to 6:00 P.M.
  - H. Approve the application for a Special Designated Liquor License submitted by Loop Brewing Company LLC, Liquor License #LK-093351, for a wedding reception to be held at the McCook Municipal Auditorium, 302 West 5th Street, on December 10, 2022 from 3:00 P.M. to 1:00 A.M.
  - I. Receive and file the claims for the month of September 2022, published October 13, 2022.
  - J. Consider request and authorize the use of Community Betterment Funds to cover the rental fees for the "Share the Heat" fundraising event to be held at the Heritage Senior Center on October 23, 2022.
  - K. Recommend approval to the Nebraska Liquor Control Commission the change of location request submitted by Loop Brewing Company LLC, which holds License #LK-093351, changing the address from 404 West "A" Street to 801 West "C" Street, Suite 5B.
  - L. Accept the minutes of the July 13, 2022 Library Advisory Board meeting and the October 10, 2022 Planning Commission meeting.
4. Regular Agenda.
  - A. Discuss additional meetings the McCook City Council may want to hold to answer questions regarding the upcoming local option sales tax ballot question.
  - B. Ordinance No. 2022-3049 changing the zoning classification of Lot Three (3), Block One (1), Happy Hollow Addition, to the City of McCook, Red Willow County, Nebraska, except that tract deeded to the State of Nebraska.

1. Chairperson asks Clerk to read Ordinance by title.
  2. Consider approval of Ordinance No. 2022-3049 upon its third and final reading.
  3. Chairperson declaration after vote, if approved.
- C. Ordinance No. 2022-3050 approving the voluntary annexation of a tract of land located in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska, said tract of land included in the parcel to be referred to as Heritage Pointe Addition Lot 2.
1. Chairperson asks Clerk to read Ordinance by title.
  2. Consider approval of Ordinance No. 2022-3050 upon its third and final reading.
  3. Chairperson declaration after vote, if approved.
- D. Ordinance No. 2022-3051 approving the zoning change request for Heritage Pointe Addition Lot 2, a tract of land located in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska; said zoning change to amend the current zoning designation from Residential Medium Density District (RM) and Agricultural District (AG), to Business Commercial District (BC).
1. Chairperson asks Clerk to read Ordinance by title.
  2. Consider approval of Ordinance No. 2022-3051 upon its third and final reading.
  3. Chairperson declaration after vote, if approved.
- E. Ordinance No. 2022-3047 providing for an amendment of Chapter 38: Fee Schedule - Appendix E, Water Department Rates and Fees.
1. Chairperson asks Clerk to read Ordinance by title.
  2. Consider approval of Ordinance No. 2022-3047 upon its third and final reading.
  3. Chairperson declaration after vote, if approved.
- F. Council Comments.

Adjournment.

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 MCCOOK CITY COUNCIL MEETING**

**2.A.**  
ITEM NO. \_\_\_ Public Hearing - Consider a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6<sup>th</sup> P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6<sup>th</sup> P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700).

**2.B.**  
ITEM NO. \_\_\_ Approve on first reading, and advance to a second reading, Ordinance No. 2022- 3054 allowing for a rezone from Agricultural (AG) to Highway Commercial (HC) for two lots, said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6<sup>th</sup> P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6<sup>th</sup> P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700).

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**BACKGROUND:**

An application for a zone change has been filed by Northrop Grumman, by and through its agent, Jennifer Hiatt of Baird Holm, LLP, for two lots Northrop Grumman owns located at 38672 U.S. Highway 6, McCook, Nebraska, said lots legally described and identified by their parcel numbers above. Ms. Hiatt has requested that the lots be rezoned from Agricultural (AG) to Highway Commercial (HC). Ms. Hiatt is requesting the zoning change so the property can be marketed for future development in a way that is compatible with current development trends and the City's intention for the U.S. Highway 6 corridor.

At one time, both lots at issue were zoned HC. In 1996, the City Council rezoned the lots to AG at the request of the owners, Delyla Weskamp and Lee Janssen. Since Northrop Grumman came into ownership of the lots, commercial buildings have been constructed in the vicinity of the lots. Additionally, the National Guard located their facility in the vicinity of the lots. With respect to McCook's Comprehensive Plan, the Future Land Use Map shows that the lots at issue are zoned for future commercial use. A zoning change will not create a "spot zone" issue, as adjacent properties are zoned HC.

At the October 10, 2022 McCook Planning Commission meeting, the Commission voted 8-1 to recommend approval of the request.

**APPROVALS:**

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 12, 2022

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

**EXHIBIT #1**

**PAGE(S) - 1**

**NOTICE OF PUBLIC HEARING  
REZONING**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the City of McCook Planning Commission on October 10, 2022, at 5:15 P.M. and by the McCook City Council on October 17, 2022 at 5:30 P.M. The hearings will be held in the City Council Chambers, 505 West "C" Street, McCook, Nebraska, to consider the rezoning of two tracts of land located in Willow Grove Precinct 28-3-29 Part of the SE/4, 7.82 acres (Red Willow County Parcel Identification No. 000299500) and Willow Grove Precinct 28-3-29 Part of the SE/4, 2.48 acres (Red Willow County Parcel Identification No. 000299700), all in Red Willow County, Nebraska; from Agricultural (AG) to Highway Commercial (HC) District; Project Sponsor - Jennifer Hiatt, Baird Holm LLP. Land Owner - Northrop Grumman Systems Corporation. Any and all persons desiring to comment may attend said public hearing and will be given an opportunity to be heard. For additional information regarding this notice please contact Nate Schneider, City of McCook City Manager, at 345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: September 30, 2022.

**EXHIBIT #2**

**PAGE(S) -1**

**NOTICE OF PUBLIC HEARING  
REZONING**

NOTICE IS HEREBY GIVEN that public hearings will be held to rezone the following described property from Agricultural (AG) to Highway Commercial (HC) District, to-wit:

Willow Grove Precinct 28-3-29 Part of the SE/4, 7.82 acres (Red Willow County Parcel Identification No. 000299500) and Willow Grove Precinct 28-3-29 Part of the SE/4, 2.48 acres (Red Willow County Parcel Identification No. 000299700), all in Red Willow County, Nebraska.

Project Sponsor/  
Developer: Jennifer Hiatt, Baird Holm LLP

Project Land Owner: Northrop Grumman Systems Corporation

Public Hearings on the above-described Rezoning will be held on the Dates, Times, and at the places listed below:

October 10, 2022 - 5:15 P.M.  
McCook Planning Commission  
City Council Chambers  
505 West "C" Street

October 17, 2022 - 5:30 P.M.  
McCook City Council  
City Council Chambers  
505 West "C" Street

ANY AND ALL PERSONS desiring to comment on the above-described request will be given an opportunity to be heard. Please direct all inquiries to Nate Schneider, City of McCook City Manager at 308-345-2022 ext. 225.

-s- Lea Ann Doak  
City Clerk

Publish: September 30, 2022.  
Post: September 30, 2022  
Mail: September 30, 2022

**EXHIBIT #3**

**PAGE(S) -1**

Notices Mailed to:

RED WILLOW CO. PLANNING COMM.  
C/O TAMI TEEL  
502 NORRIS AVENUE  
MCCOOK, NE 69001

PRESIDENT  
McCOOK SCHOOL BOARD  
700 WEST 7TH  
MCCOOK, NE 69001

LINES FAMILY L.P.  
C/O DAVID LINES  
214 NORTH CHEROKEE  
MCCOOK, NE 69001

TALEA, LLC  
C/O ERIC AND LARISA O'BRIEN  
71994 RD 373  
CULBERTSON, NE 69024

McCOOK PUBLIC SCHOOL DISTRICT  
C/O GRANT NORGAARD  
600 WEST 7<sup>th</sup> ST  
MCCOOK, NE 69001

RED WILLOW COUNTY CLERK  
502 NORRIS AVE  
MCCOOK, NE 69001

STATE OF NEBRASKA DOT  
619 AUDITORIUM DRIVE  
MCCOOK, NE 69001

PERRY AND VICKY CASE  
C/O ELLINGER & CAPPEL, LLC  
1101 WEST B STREET  
MCCOOK, NE 69001

**CITY OF McCOOK**

**LAND USE ACTION REQUEST FORM**

This request is for a:  
(Check all that apply)

- Zone Change
- Special Exception
- Administrative Permit (Personal Wireless Facility)
- Special Exception (Personal Wireless Facility)
- Minor Subdivision
- Major Subdivision
- Planned Development(Includes Zone Change)

Name of Project: Rezone of Northrop Grumman owned Parcels in the City of McCook's ETJ

Description of Project: Northrop Grumman seeks to rezone two lots it owns at 38672 U.S.

Highway 6, McCook, Nebraska 69001 from Agricultural ("AG") to Highway Commercial ("HC"). The parcel legal descriptions are 28 -3 -29 Willow Grove Precinct SE/4 7.82 acres and 28-3-29 Willow Grove Precinct SE/4 2.48 acres.

Project sponsor or developer:

Name: Jennifer Hiatt, Baird Holm LLP  
Address: 1700 Farnam Street, Suite 1500  
Phone number: 402-636-8267  
Fax number: 402-344-0588  
E-mail Address: jhiatt@bairdholm.com

Land owner or owners:

Name: Northrop Grumman Systems Corporation  
Address: 2980 Fairview Park Drive, Falls Church Virginia Attention Law Department - Real Estate Legal Notices  
Phone number: \_\_\_\_\_  
Fax number: \_\_\_\_\_  
E-Mail Address: tala.gardner@ngc.com

**EXHIBIT #5**

**PAGE(S) -4**

Authorization of the land use action by land owner:

I hereby certify that I own and/or control the following land where the land use action is being requested. (Attach evidence of ownership or control. e.g. power of attorney, deed, or purchase agreement)

AJ Paz, Director, Corporate Real Estate

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Signature: \_\_\_\_\_

Signature: \_\_\_\_\_

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

4/19/2022

Address and physical location of the Proposed Land Use Action: \_\_\_\_\_

38672 U.S. Highway 6, McCook, Nebraska 69001

Property Description (Of the parent parcel for subdivisions): \_\_\_\_\_

28-3-29 Willow Grove Precinct SE/4 7.82 acres and 28-3-29 Willow Grove Precinct SE/4 2.48 acres

**Required Information:**

See Attached sheets for required information for:

|          |                                     |
|----------|-------------------------------------|
| _____    | Subdivisions                        |
| <u>X</u> | Zone Changes and special exceptions |
| _____    | Planned developments                |

**FEE PAID:** \$ \_\_\_\_\_ (See attached schedule of fees)

Fee, complete application, and required attachments accepted by:

Printed name \_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

## REQUIRED ATTACHMENTS:

### For Zone Changes and Special Exceptions:

(For Zone Changes or Amendments see Article 27 of the Zoning Ordinance; for Special Exceptions see Article 24 Special Exceptions)

\_\_\_\_\_ Include a description of the reason for the request for a change of zone:  
The Lots are no longer agricultural in nature. Rezoning will allow future development  
that is compatible with current development trends and the City's intention for the  
U.S. Highway 6 corridor.

\_\_\_\_\_ Include a description of any special exception requested including the section of the zoning ordinance under which it is requested: (Example: Special exception to construct multi-family dwellings in (RM) Residential Medium Density area comprised of single family dwellings.)  
N/A

\_\_\_\_\_ Include a site plan (minimum 17" X 11") and a letter of explanation showing and explaining the following special exception requirements:

- (A) ingress and egress to property and proposed structures thereon with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or catastrophe;
- (B) off-street parking and loading areas where required, with particular attention to the items in (A) above, the economic, noise, glare or odor effects of the special exception or change of zone on adjoining properties and the properties generally in the district or the area;
- (C) the location of refuse and service areas, with particular reference to the items in (A) and (B) above;
- (D) utilities, with reference to locations, availability, and compatibility;
- (E) screening and buffering with reference to type, dimensions, and character;
- (F) signs, if any, and proposed exterior lighting with reference to glare, traffic safety, economic effect, and compatibility and harmony with properties in the district;

(G) required yards and other open space;

(H) general compatibility with adjacent properties and other properties in the district;

(I) compatibility with existing and future land use plan in the McCook Comprehensive Plan.

— Explain how the project complies with the Comprehensive Plan:

This rezone is compatible with the City's intended future development as shown on the  
Future Land Use Map in the City's 2013-2023 Comprehensive Plan. The Future Land  
Use Map shows the City intends to develop the U.S. Highway 6 corridor for  
commercial development.

Sec. 28  
Town: 3  
Rng. 29W

001426500

001020081

001020106

001020200

000299800

001427800

001428100

000299700

000299500

000299600

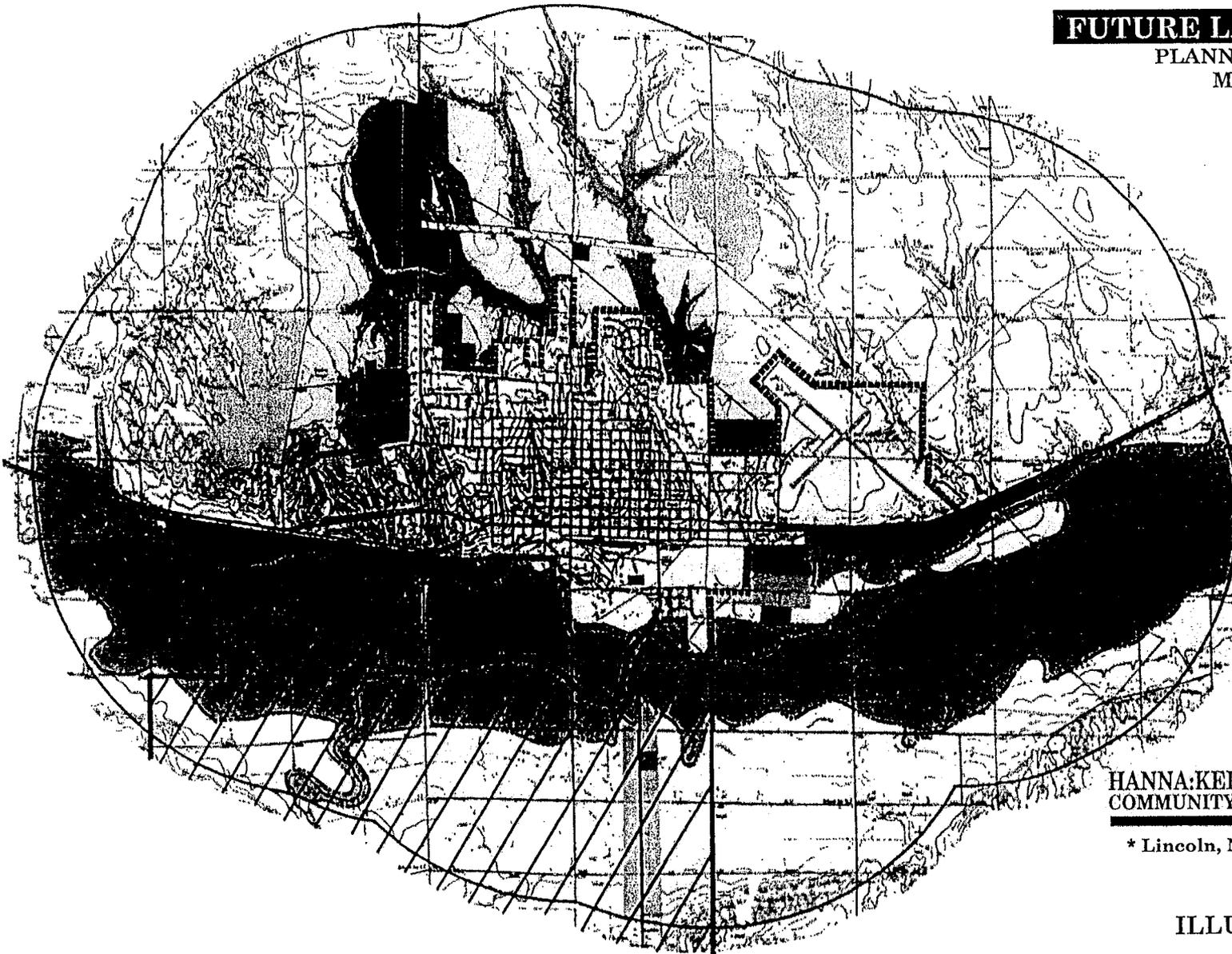
000299901

000299800

000299800

**FUTURE LAND USE MAP**

PLANNING JURISDICTION  
MCCOOK, NEBRASKA



**LEGEND**

|                   |                           |
|-------------------|---------------------------|
| [White box]       | VACANT/AGRICULTURE        |
| [Dark grey box]   | PARK/RECREATION           |
| [Medium grey box] | PUBLIC/QUASI-PUBLIC       |
| [Light grey box]  | SINGLE FAMILY RESIDENTIAL |
| [Dark grey box]   | MULTIFAMILY RESIDENTIAL   |
| [Medium grey box] | MOBILE HOME RESIDENTIAL   |
| [Dark grey box]   | LARGE LOT RESIDENTIAL     |
| [Dark grey box]   | COMMERCIAL                |
| [Dark grey box]   | INDUSTRIAL                |
| [Dark grey box]   | 100-YEAR FLOODPLAIN       |
| [Hatched box]     | WELLHEAD PROTECTION AREA  |
| [Dotted box]      | CORPORATE LIMIT LINE      |
| [Thick line]      | HIGHWAY CORRIDOR          |
| [Thin line]       | RAILWAY CORRIDOR          |

HANNA-KEELAN ASSOCIATES, P.C.  
COMMUNITY PLANNING & RESEARCH

\* Lincoln, Nebraska \* 402.464.5383 \*

ILLUSTRATION 4.5

EXHIBIT #7

000299500

Recorded August 21, 2020, 02:24 PM  
Instrument No. 2020-01351

Recording Fees: \$70.00 Pages: 11

*Jami Seel*

Register of Deeds Red Willow County, NE

NEBRASKA DOCUMENTARY  
STAMP TAX  
Aug 21, 2020  
\$ Ex008 By DA

**RECORD AND RETURN BY MAIL TO:**

Seyfarth Shaw LLP  
975 F Street, NW  
Washington, DC 20004  
Attn: Christa L. Dommers, Esq.

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED** (this “**Deed**”) is made this 14<sup>th</sup> day of July, 2020, by and between **NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation, having an address at 2980 Fairview Park Drive, Falls Church, Virginia, 22042, as successor-in-interest by merger to **TRW, Inc. (“Grantor”)** and **NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation having an address at 2980 Fairview Park Drive, Falls Church, Virginia, 22042 (“**Grantee**”).

TRW, Inc. (“**TRW**”) acquired fee simple title to that certain land situated in Red Willow County, Nebraska as more particularly described below (the “**Property**”), by that certain Warranty Deed dated September 6, 2002, and recorded on September 9, 2002, in Book 129, Page 791, Red Willow County, Nebraska.

TRW changed its name to Northrop Grumman Space & Mission Systems Corp. (“**NGSMSC**”) as evidenced by that certain Certificate of Amendment by Shareholders or Members dated as of December 16, 2002, a copy of which is attached hereto as Exhibit A.

NGSMSC merged into and became Grantor hereunder, as evidenced by that certain Certificate of Merger dated as of December 11, 2009, a copy of which is attached hereto as Exhibit B.

THE GRANTOR, whether one or more, in consideration of One Dollar and other valuable consideration receipt of which is hereby acknowledged, quitclaims and conveys to THE GRANTEE, whether one or more, the following described real estate (as described in Neb. Stat. 76-201) in Red Willow County, Nebraska:

**EXHIBIT #8**

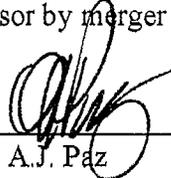
**PAGE(S) -11**

A tract of land located in the Southeast Quarter of Section Twenty-eight (28), Township Three (3) North, Range Twenty-nine (29), West of the 6th P.M. in Red Willow County, Nebraska, more particularly described as follows: Refer to the Quarter Corner common to Sections 27 and 28, Township 3 North, Range 29 West; go thence South 00°00' East (assumed) along the East line of Section 28 a distance of 663.5 feet to its intersection with the North Right-of-way line of Burlington-Northern Railroad; go thence South 89°03' West along said Right-of-way line a distance of 598.95 feet to the point of beginning; thence continue South 89°03' West along North Right-of-way line a distance of 681.05 feet to the Southwest Corner of Tract 1; go thence North 01°33'58" East for a distance of 501.56 feet to a point on the South Right-of-way line of Highway # 6 and # 34 Right-of-way; go thence North 85°57' East along said South Right-of-way line a distance of 634.65 feet; go thence South 03°39'48" East for a distance of 536.0 feet to the point of beginning.

TO HAVE AND TO HOLD the Property, together with all ways, easements, rights, covenants, benefits, rights-of-ways, agreements, privileges, and appurtenances to the same belonging, enjoyed by, or in any way benefiting or appertaining thereunto, and all the estate, right, title, interest and claim, either at law or in equity, or otherwise however, of Grantor of, in, to or out of the Property, in fee simple, forever.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

**NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation, as successor by merger to TRW, Inc.

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

Name: A.J. Paz

Title: Corporate Director of Real Estate

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Los Angeles

On 7-14-, 2020, before me, J.R. Atlas, Notary Public, personally appeared A.J. Paz, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

J.R. Atlas  
Signature  
[SEAL]

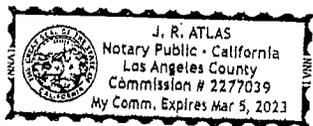


Exhibit A

Certificate of Amendment by Shareholders or Members

[see attached]



| DATE:      | DOCUMENT ID  | DESCRIPTION                          | FILING | EXPED  | PENALTY | CERT | COPY |
|------------|--------------|--------------------------------------|--------|--------|---------|------|------|
| 12/24/2002 | 200235800050 | DOMESTIC/AMENDMENT TO ARTICLES (AMD) | 50.00  | 100.00 | .00     | .00  | .00  |

**Receipt**  
This is not a bill. Please do not remit payment.

C T CORPORATION SYSTEM  
STEVE GROVE  
17 S HIGH ST  
COLUMBUS, OH 43215

# STATE OF OHIO

Ohio Secretary of State, J. Kenneth Blackwell

,40406

It is hereby certified that the Secretary of State of Ohio has custody of the business records for  
**NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.**  
and, that said business records show the filing and recording of:

Document(s)  
**DOMESTIC/AMENDMENT TO ARTICLES**

Document No(s):  
**200235800050**



United States of America  
State of Ohio  
Office of the Secretary of State

Witness my hand and the seal of  
the Secretary of State at Columbus,  
Ohio this 18th day of December,  
A.D. 2002.

*J. Kenneth Blackwell*  
Ohio Secretary of State



Prescribed by **J. Kenneth Blackwell**  
Ohio Secretary of State  
Central Ohio: (614) 466-3910  
Toll Free: 1-877-SOS-FILE (1-877-767-5433)

www.state.oh.us/sos  
e-mail: busserv@sos.state.oh.us

|                                  |                                                                                               |
|----------------------------------|-----------------------------------------------------------------------------------------------|
| Expedite this Form: (select one) |                                                                                               |
| <input type="radio"/> Yes        | PO Box 1390<br>Columbus, OH 43216<br><small>** Register an additional fee of \$100 **</small> |
| <input type="radio"/> No         | PO Box 1028<br>Columbus, OH 43216                                                             |

**Certificate of Amendment by  
Shareholders or Members  
(Domestic)  
Filing Fee \$50.00**

**(CHECK ONLY ONE (1) BOX)**

|                                                                     |                                                          |                                                                     |                                              |
|---------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------------|
| <input type="checkbox"/> (1) Domestic For Profit Amended (122-AMAP) | <input checked="" type="checkbox"/> Amendment (125-AMDS) | <input type="checkbox"/> (2) Domestic Non-Profit Amended (126-AMAN) | <input type="checkbox"/> Amendment (128-AMG) |
|---------------------------------------------------------------------|----------------------------------------------------------|---------------------------------------------------------------------|----------------------------------------------|

Complete the general information in this section for the box checked above.

Name of Corporation: TRW INC.

Charter Number: 40406

Name of Officer: KATHLEEN M. SALMAS

Title: SECRETARY

Please check if additional provisions attached.

The above named Ohio corporation, does hereby certify that:

A meeting of the  shareholders  members was duly called and held on \_\_\_\_\_ (Date)

at which meeting a quorum was present in person or by proxy, based upon the quorum present, an affirmative vote was cast which entitled them to exercise \_\_\_\_\_ % as the voting power of the corporation.

In a writing signed by all of the  shareholders  members who would be entitled to the notice of a meeting or such other proportion not less than a majority as the articles of regulations or bylaws permit.

Clause applies if amended box is checked.

Resolved, that the following amended articles of incorporation be and the same are hereby adopted to supercede and take the place of the existing articles of incorporation and all amendments thereto.

All of the following information must be completed if an amended box is checked. If an amendment box is checked, complete the areas that apply.

FIRST: The name of the corporation is: NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.

SECOND: The place in the State of Ohio where its principal office is located is in the City of \_\_\_\_\_  
 \_\_\_\_\_ (city, village or township) \_\_\_\_\_ (county)

THIRD: The purposes of the corporation are as follows:  
 \_\_\_\_\_  
 \_\_\_\_\_

FOURTH: The number of shares which the corporation is authorized to have outstanding is: \_\_\_\_\_  
 (Does not apply to box (2))

**REQUIRED**  
 Must be authenticated  
 (signed) by an authorized  
 representative  
 (See instructions)

*Kathleen M. Salmas*  
 Authorized Representative  
 KATHLEEN M. SALMAS, SECRETARY

DECEMBER 16, 2002  
 Date

\_\_\_\_\_  
 Authorized Representative

\_\_\_\_\_  
 Date

\_\_\_\_\_  
 Authorized Representative

\_\_\_\_\_  
 Date

Exhibit B

Certificate of Merger

[see attached]

# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.", AN OHIO CORPORATION,

WITH AND INTO "NORTHROP GRUMMAN SYSTEMS CORPORATION" UNDER THE NAME OF "NORTHROP GRUMMAN SYSTEMS CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FOURTEENTH DAY OF DECEMBER, A.D. 2009, AT 7:44 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF OWNERSHIP IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009, AT 11:59 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

2056806 8100M

091098747

You may verify this certificate online  
at [corp.delaware.gov/authvar.shtml](http://corp.delaware.gov/authvar.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 7700271

DATE: 12-15-09

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 07:41 PM 12/14/2009  
FILED 07:44 PM 12/14/2009  
SRV 091098747 - 2056806 FILE

CERTIFICATE OF MERGER

MERGING

NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.

INTO

NORTHROP GRUMMAN SYSTEMS CORPORATION

Pursuant to Section 252(c) of the Delaware General Corporation Law, the undersigned corporation does hereby certify:

FIRST: The name and state of incorporation of each of the constituent corporations in the merger are as follows:

| <u>Name</u>                                    | <u>State of Domicile</u> |
|------------------------------------------------|--------------------------|
| Northrop Grumman Space & Mission Systems Corp. | Ohio                     |
| Northrop Grumman Systems Corporation           | Delaware                 |

SECOND: An Agreement and Plan of Merger among the parties to the merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252(c) of the Delaware General Corporation Law.

THIRD: The name of the surviving corporation is Northrop Grumman Systems Corporation.

FOURTH: The certificate of incorporation of Northrop Grumman Systems Corporation shall be the certificate of incorporation of the surviving corporation.

FIFTH: The executed Agreement and Plan of Merger is on file at the principal place of business of Northrop Grumman Systems Corporation, the address of which is c/o Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, California 90067.

SIXTH: A copy of the Agreement and Plan of Merger will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: The authorized capital stock of Northrop Grumman Space & Mission Systems Corp. currently consists of 1,000 shares of common stock, with a par value of \$.001 per share.

3235901

**EIGHTH:** This Certificate of Merger, and the merger referenced herein, shall be effective on December 31, 2009 at 11:59 p.m. (local time in Wilmington, Delaware).

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Merger to be executed by its duly authorized officer this 11<sup>th</sup> day of December, 2009.

NORTHROP GRUMMAN SYSTEMS CORPORATION

By: Kathleen M. Salmas  
Kathleen M. Salmas  
Secretary

000299700

Recorded August 21, 2020, 02:23 PM  
Instrument No. 2020-01350

Recording Fees: \$46.00 Pages: 7

*Jami Teel*

Register of Deeds Red Willow County, NE

|                                                                     |
|---------------------------------------------------------------------|
| NEBRASKA DOCUMENTARY<br>STAMP TAX<br>Aug 21, 2020<br>\$ Ex008 By DA |
|---------------------------------------------------------------------|

**RECORD AND RETURN BY MAIL TO:**

Seyfarth Shaw LLP  
975 F Street, NW  
Washington, DC 20004  
Attn: Christa L. Dommers, Esq.

**QUIT CLAIM DEED**

**THIS QUIT CLAIM DEED** (this "**Deed**") is made this 14<sup>th</sup> day of July, 2020, by and between **NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation, having an address at 2980 Fairview Park Drive, Falls Church, Virginia, 22042, as successor-in-interest by merger to **Northrop Grumman Space & Mission Systems Corp.** ("**Grantor**") and **NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation having an address at 2980 Fairview Park Drive, Falls Church, Virginia, 22042 ("**Grantee**").

Northrop Grumman Space & Mission Systems Corp. ("**NGSMSC**") acquired fee simple title to that certain land situated in Red Willow County, Nebraska as more particularly described below (the "**Property**"), by that certain Warranty Deed dated April 5, 2006, and recorded on April 10, 2006, in Instrument No. 2006-00517, Red Willow County, Nebraska.

NGSMSC merged into and became Grantor hereunder, as evidenced by that certain Certificate of Merger dated as of December 11, 2009, a copy of which is attached hereto as Exhibit A.

THE GRANTOR, whether one or more, in consideration of One Dollar and other valuable consideration receipt of which is hereby acknowledged, quitclaims and conveys to THE GRANTEE, whether one or more, the following described real estate (as described in Neb. Stat. 76-201) in Red Willow County, Nebraska:

**EXHIBIT #9**

**PAGE(S) - 7**

A tract of improved land in the Southeast Quarter (SE 1/4) of Section 28, Township 3 North, Range 29, West of the 6<sup>th</sup> P.M., Red Willow County, Nebraska described as follows:

Referring to the Quarter corner common to Sections 27 and 28, Township 3 North, Range 29, West, go thence South 00° 00' East (assumed) along the East line of said Section 28 a distance of 663.5 feet to its intersection with North line of Burlington-Northern Railroad right of way; go thence South 89° 03' West along said right of way line a distance of 1280.0 feet to the point of beginning; thence continuing South 89° 03' West along said North right of way line a distance of 211.0 feet; go thence North 00° 06' West for a distance of 488.9 feet to a point on the South *line* of Highway #6 and #34 right of way; going thence North 87° 57' East along said South right of way line of Highway #6 and #34 a distance of 226.1 feet; go thence South 01° 33' 59" West for a distance of 501.56 feet to a point on the North railroad right of way to the point of beginning.

TO HAVE AND TO HOLD the Property, together with all ways, easements, rights, covenants, benefits, rights-of-ways, agreements, privileges, and appurtenances to the same belonging, enjoyed by, or in any way benefiting or appertaining thereunto, and all the estate, right, title, interest and claim, either at law or in equity, or otherwise however, of Grantor of, in, to or out of the Property, in fee simple, forever.

IN WITNESS WHEREOF, the said Grantor has signed and sealed these presents the day and year first above written.

**NORTHROP GRUMMAN SYSTEMS CORPORATION**, a Delaware corporation, as successor by merger to Northrop Grumman Space & Mission Systems Corp.

By:  \_\_\_\_\_  
Name: A.J. Paz  
Title: Corporate Director of Real Estate

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

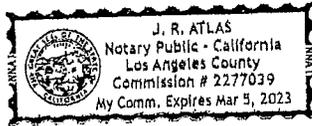
State of California

County of Los Angeles

On 7-14-, 2020, before me, J.R. Atlas, Notary Public personally appeared A.J. Paz, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



JR Atlas  
Signature  
[SEAL]

Exhibit A  
Certificate of Merger

[see attached]

# Delaware

PAGE 1

*The First State*

I, JEFFREY W. BULLOCK, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF OWNERSHIP, WHICH MERGES:

"NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.", AN OHIO CORPORATION,

WITH AND INTO "NORTHROP GRUMMAN SYSTEMS CORPORATION" UNDER THE NAME OF "NORTHROP GRUMMAN SYSTEMS CORPORATION", A CORPORATION ORGANIZED AND EXISTING UNDER THE LAWS OF THE STATE OF DELAWARE, AS RECEIVED AND FILED IN THIS OFFICE THE FOURTEENTH DAY OF DECEMBER, A.D. 2009, AT 7:44 O'CLOCK P.M.

AND I DO HEREBY FURTHER CERTIFY THAT THE EFFECTIVE DATE OF THE AFORESAID CERTIFICATE OF OWNERSHIP IS THE THIRTY-FIRST DAY OF DECEMBER, A.D. 2009, AT 11:59 O'CLOCK P.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE NEW CASTLE COUNTY RECORDER OF DEEDS.

2056806 8100M

091098747

You may verify this certificate online  
at [corp.delaware.gov/searcher.shtml](http://corp.delaware.gov/searcher.shtml)



  
Jeffrey W. Bullock, Secretary of State  
AUTHENTICATION: 7700271

DATE: 12-15-09

State of Delaware  
Secretary of State  
Division of Corporations  
Delivered 07:41 PM 12/14/2009  
FILED 07:44 PM 12/14/2009  
SRV 091098747 - 2056806 FILE

CERTIFICATE OF MERGER

MERGING

NORTHROP GRUMMAN SPACE & MISSION SYSTEMS CORP.

INTO

NORTHROP GRUMMAN SYSTEMS CORPORATION

Pursuant to Section 252(c) of the Delaware General Corporation Law, the undersigned corporation does hereby certify:

FIRST: The name and state of incorporation of each of the constituent corporations in the merger are as follows:

| <u>Name</u>                                    | <u>State of Domicile</u> |
|------------------------------------------------|--------------------------|
| Northrop Grumman Space & Mission Systems Corp. | Ohio                     |
| Northrop Grumman Systems Corporation           | Delaware                 |

SECOND: An Agreement and Plan of Merger among the parties to the merger has been approved, adopted, certified, executed and acknowledged by each of the constituent corporations in accordance with the requirements of Section 252(c) of the Delaware General Corporation Law.

THIRD: The name of the surviving corporation is Northrop Grumman Systems Corporation.

FOURTH: The certificate of incorporation of Northrop Grumman Systems Corporation shall be the certificate of incorporation of the surviving corporation.

FIFTH: The executed Agreement and Plan of Merger is on file at the principal place of business of Northrop Grumman Systems Corporation, the address of which is c/o Northrop Grumman Corporation, 1840 Century Park East, Los Angeles, California 90067.

SIXTH: A copy of the Agreement and Plan of Merger will be furnished by the surviving corporation, on request and without cost, to any stockholder of any constituent corporation.

SEVENTH: The authorized capital stock of Northrop Grumman Space & Mission Systems Corp. currently consists of 1,000 shares of common stock, with a par value of \$.001 per share.

323301

EIGHTH: This Certificate of Merger, and the merger referenced herein, shall be effective on December 31, 2009 at 11:59 p.m. (local time in Wilmington, Delaware).

IN WITNESS WHEREOF, the undersigned has caused this Certificate of Merger to be executed by its duly authorized officer this 11<sup>th</sup> day of December, 2009.

NORTHROP GRUMMAN SYSTEMS CORPORATION

By: Kathleen M. Salmis  
Kathleen M. Salmis  
Secretary

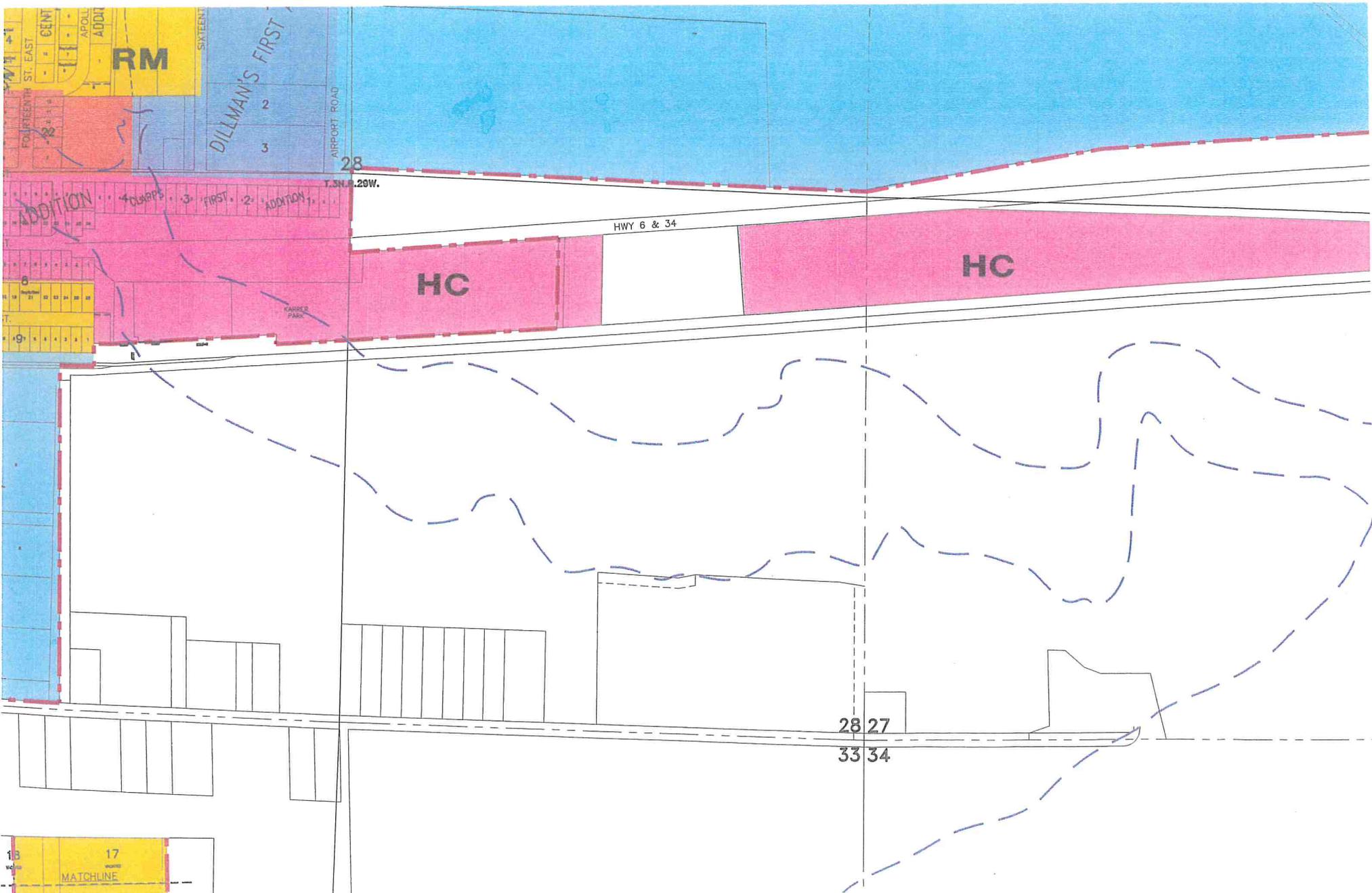


EXHIBIT #10

PAGE(S) - 1

McCook Planning Commission  
October 10, 2022  
5:15 P.M.

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Vice Chair Hilker; Commissioners Davidson, Dueland, Friehe, Lyons, McDowell, Stevens, Mockry.

Absent: Chair Vosburg; Commissioner Bradley.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October 6, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Vice Chair Hilker announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the September 26, 2022 Planning Commission meeting.

Motion to approve the minutes of the September 26, 2022 Planning Commission meeting. This motion, made by Dueland and seconded by Friehe, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 8, NAY: 0, ABSENT: 2

2. Public Hearings and Regular Agenda.

- 2.A. Public Hearing - Regarding a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook.

**EXHIBIT #11**

**PAGE(S) - 3**

Motion to recess as a Planning Commission and convene a public hearing for the purpose of receiving public comment with respect to a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook, with the City Attorney to act as hearing officer. This motion, made by Hilker and seconded by McDowell, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 8, NAY: 0, ABSENT: 2

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the October 10, 2022 Planning Commission meeting (1 page), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing posted and mailed (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #5 - Land Use Action Request Form and attachments (4 pages); Exhibit #6 - area map indicating Tract 1 and Tract 2 (1 page); Exhibit #7 - Future Land Use Map (1 page); Exhibit #8 - Quit Claim Deed for Red Willow County Parcel No. 000299500 (11 pages); and Exhibit #9 - Quit Claim Deed for Red Willow County Parcel No. 000299700 (7 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

Jennifer Hiatt, Baird Holm LLP - 1700 Farnam Street, Suite 1500, Omaha Nebraska, presented the request to the Commission.

Commissioners questioned if the monitoring period is over on the two parcels and what effect the rezone has on other agricultural property in the area.

With no one else present to comment, motion to adjourn the public hearing and to reconvene as a Planning Commission. This motion, made by McDowell and seconded by Friehe, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 8, NAY: 0, ABSENT: 2

- 2.B. Recommend the approval of a rezone from Agricultural (AG) to Highway Commercial (HC) for two lots, said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within

the two mile extra-territorial jurisdiction of the City of McCook.

Commissioner Friehe expressed concerns with what effect the rezone would have on other agricultural land in the area.

Motion to recommend to the McCook City Council approval of a rezone from Agricultural (AG) to Highway Commercial (HC) for two lots, said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook. This motion, made by Hilker and seconded by McDowell, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: NAY, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 7, NAY: 1, ABSENT: 2

Adjournment

With no further business, Vice Chair Hilker declared the Planning Commission meeting adjourned at 5:37 P.M.

---

Lea Ann Doak  
City Clerk/Recording Secretary

ORDINANCE NO. 2022-3054

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF 1) A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 3 NORTH, RANGE 29 WILLOW GROVE PRECINCT WEST OF THE 6TH P.M. IN RED WILLOW COUNTY, NEBRASKA (A/K/A RED WILLOW COUNTY PARCEL NO. 000299500), AND 2) A TRACT OF LAND LOCATED IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 3 NORTH, RANGE 29 WILLOW GROVE PRECINCT WEST OF THE 6TH P.M. IN RED WILLOW COUNTY, NEBRASKA (A/K/A RED WILLOW COUNTY PARCEL NO. 000299700), PROPERTY LOCATED WITHIN THE TWO MILE EXTRA-TERRITORIAL JURISDICTION OF THE CITY OF MCCOOK; FROM AGRICULTURAL (AG) TO HIGHWAY COMMERCIAL (HC) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. In accordance with Article 27 of Zoning Ordinance No. 2016-2929 of the City of McCook, Red Willow County, Nebraska, the zoning classification of the following described property shall be and is hereby changed from Agricultural (AG) to Highway Commercial (HC) District, to wit:

Tract #1 (a/k/a Red Willow County Parcel No. 000299500) - A tract of land located in the Southeast Quarter of Section Twenty-eight (28), Township Three (3) North, Range Twenty-nine (29), West of the 6th P.M. in Red Willow County, Nebraska, more particularly described as follows:

Refer to the Quarter Corner common to Sections 27 and 28, Township 3 North, Range 29 West; go thence South 00°00' East (assumed) along the East line of Section 28 a distance of 663.5 feet to its intersection with the North Right-of-way line of Burlington-Northern Railroad; go thence South 89°03' West along said Right-of-way line a distance of 598.95 feet to the point of beginning; thence continue South 89°03' West along North Right-of-way line a distance of 681.05 feet to the Southwest Comer of Tract 1; go thence North 01°33'58" East for a distance of 501.56 feet to a point on the South Right-of-way line of Highway # 6 and # 34 Right-of-way; go thence North 85°57' East along said South Right-of-way line a distance of 634.65 feet; go thence South 03°39'48" East for a distance of 536.0 feet to the point of beginning; and,

Tract #2 (a/k/a Red Willow County Parcel No. 000299700) - A tract of improved land in the Southeast Quarter (SE 1/4) of Section 28, Township 3 North, Range 29, West of the 6th P.M., Red Willow County, Nebraska described as follows:

Referring to the Quarter corner common to Sections 27 and 28, Township 3 North, Range 29, West, go thence South 00° 00' East (assumed) along the East

**EXHIBIT #12**

**PAGE(S) - 2**

line of said Section 28 a distance of 663.5 feet to its intersection with North line of Burlington-Northern Railroad right of way; go thence South 89° 03' West along said right of way line a distance of 1280.0 feet to the point of beginning; thence continuing South 89° 03' West along said North right of way line a distance of 211.0 feet; go thence North 00° 06' West for a distance of 488.9 feet to a point on the South line of Highway #6 and #34 right of way; going thence North 87° 57' East along said South right of way line of Highway #6 and #34 a distance of 226.1 feet; go thence South 01° 33' 59" West for a distance of 501.56 feet to a point on the North railroad right of way to the point of beginning.

SECTION 2. The City Clerk of the City of McCook, Nebraska is hereby directed to change the official zoning map of the City of McCook, Nebraska to show the above-described property to have a zoning classification of Highway Commercial (HC) District.

SECTION 3. The provisions of Zoning Ordinance 2016-2929 are hereby amended as provided herein.

SECTION 4. This ordinance shall be in full force and take effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Michael D. Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk-Treasurer

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

---

**ITEM:**        3.A.

Approve the minutes of the October 3, 2022 regular City Council meeting, the October 11, 2022 City Council community meeting, and the October 12, 2022 special City Council meeting.

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**BACKGROUND:**

Receive and approve the minutes.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

McCook City Council  
October 3, 2022  
5:30 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:30 o'clock P.M. in the City Council Chambers.

Present: Mayor Gonzales, Councilmembers Calvin, Weedin, Rambali.

Absent: Councilmember Muehlenkamp; City Attorney Mustion.

Motion to excuse the absence of Councilmember Muehlenkamp. This motion, made by Gonzales and seconded by Weedin, passed.

Gonzales: YEA; Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0

City Officials present: City Manager Schneider, City Clerk Doak, Utilities Director Fawver, Fire Chief Harpham, Public Works Director Potthoff, Water Superintendent Riggs, and Senior Services Director Siegfried.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on September 29, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgement of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Gonzales announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Walter Ray, McCook Baptist Church, provided the invocation. Following the Pledge of Allegiance to the flag of the United States of America, Mayor Gonzales called the meeting to order.

## **1. Announcements & Recognitions.**

City Manager Schneider informed the Council of the Norris Institute Breakfast being held this coming Friday, October 7 at 7:00 A.M., at the McCook Christian Church.

## **2. Public Hearings.**

- 2.A. Public Hearing - Regarding a request from MEDC; W.A.G.S. Properties, L.L.C.; and John and Elizabeth Nothnagel, seeking approval for a vacation of a portion of Clary Subdivision, said property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of

West 7th Street).

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment with respect to the request from MEDC; W.A.G.S. Properties, L.L.C.; and John and Elizabeth Nothnagel, seeking approval for a vacation of a portion of Clary Subdivision, said property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street), with the City Manager to act as hearing officer. This motion, made by Calvin and seconded by Weedin, passed. Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

The City Manager received into evidence Exhibit #1 - City Manager's Report prepared for the October 3, 2022 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing posted and mailed (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #5 - Vacation Application (1 page); Exhibit #6 - Letter dated September 15, 2022 from property owners requesting Clary Addition and Replat Vacation (1 page); Exhibit #7 - Legal descriptions and maps of areas to be vacated (5 pages); Exhibit #8 - Copies of deeds for all property owners in area to be vacated (11 pages); Exhibit #9 - Consent from utilities located within the vacated area (1 page); Exhibit #10 - Minutes of the September 26, 2022 Planning Commission meeting (5 pages); and Exhibit #11 - proposed Ordinance No. 2022-3052 (3 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

Greg Wolford, W Design Associates, Charlie McPherson, McCook Economic Development Director, and Amanda Engell, McCook Economic Development Housing Director, were present to address the request.

With no one else present to comment, I move to adjourn the public hearing and to reconvene as a City Council. This motion, made by Calvin and seconded by Weedin, passed. Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

2.B. Ordinance No. 2022-3052 approving vacation of land located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street).

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3052 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA, TO VACATE PART OF THE ORIGINAL CLARY SUBDIVISION; PART OF CLARY SUBDIVISION REPLAT NO. 1, A REPLAT OF PART OF BLOCK 2, PART OF BLOCK 3, AND PART OF WEST 10TH STREET; CLARY SUBDIVISION REPLAT NO. 5 PER AMENDMENT NO. 1, A REPLAT OF BLOCK 3 OF CLARY SUBDIVISION REPLAT NO. 1; AND CLARY SUBDIVISION REPLAT NO. 6, A REPLAT OF ORIGINAL CLARY SUBDIVISION & REPLAT NO. 1 PART OF BLOCK 2 & BLOCK 3, ALL IN THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA; TO

REPEAL ALL ORDINANCES AND RESOLUTIONS OR PARTS THEREOF IN CONFLICT HERewith; TO PROVIDE FOR CERTIFICATION OF THIS ORDINANCE TO THE REGISTER OF DEEDS AND FOR REPLATTING OF THE VACATED LANDS; AND TO PROVIDE FOR PUBLICATION IN PAMPHLET FORM BY AUTHORITY OF THE CITY COUNCIL AND EFFECTIVE DATE OF THIS ORDINANCE.

Ordinance No. 2022-3052 has been introduced, read by title, and I move that the statutory rule requiring reading on three different days be suspended. Motion to suspend the rule must be adopted by three-fourths of the Council. This motion, made by Calvin and seconded by Weed in, passed.  
Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weed in: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

Motion for final passage of Ordinance No. 2022-3052. This motion, made by Calvin and seconded by Rambali, passed.  
Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weed in: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

Mayor Gonzales stated for the record that Ordinance No. 2022-3052 is declared lawfully passed and adopted upon publication as required by law.

2.C. Public Hearing - Regarding a request from MEDC; W.A.G.S. Properties, L.L.C.; and John and Elizabeth Nothnagel, seeking approval of the final plat of the North Pointe Addition, said property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street).

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment regarding a request from MEDC; W.A.G.S. Properties, L.L.C.; and John and Elizabeth Nothnagel, seeking approval of the final plat of the North Pointe Addition, said property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street), with the City Manager to act as hearing officer. This motion, made by Calvin and seconded by Weed in, passed.  
Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weed in: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

The City Manager received into evidence Exhibit #1 - City Manager's Report prepared for the October 3, 2022 City Council meeting (2 pages); Exhibit #2 - Notice of Public Hearing published (1 page); Exhibit #3 - Notice of Hearing mailed and posted (1 page); Exhibit #4 - listing of property owners notified (1 page); Exhibit #5 - North Pointe Final Plat (1 page); Exhibit #6 - Land Use Application and attachments (5 pages); Exhibit #7 - minutes of the September 26, 2022 Planning Commission meeting (5 pages); and Exhibit #8 - proposed Resolution No. 2022-14 (1 page).

City Manager Schneider reviewed the information presented in Exhibit #1 and noted that the property owners will have an HOA agreement for maintenance of the created outlot.

Greg Wolford, W Design Associates; Charlie McPherson, McCook Economic Development Director; and Amanda Engell, McCook Economic Development Housing Director were present to address the request.

With to no one else present to comment, I move to adjourn the public hearing and to reconvene as a City Council. This motion, made by Gonzales and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

2.D. Adopt Resolution No. 2022-14, approving a final plat of land to be known as the North Pointe Addition, said land located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street).

Motion to adopt Resolution No. 2022-14 approving a final plat of land to be known as the North Pointe Addition, said land located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street). This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

2.E. Public Hearing - Regarding a request from MEDC; W.A.G.S. Properties, L.L.C., and John and Elizabeth Nothnagel, seeking approval for a rezoning of property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street), from Agricultural (AG) to Residential (RM).

Motion to recess as a City Council and convene a public hearing for the purpose of receiving public comment with respect to a request from MEDC; W.A.G.S. Properties, L.L.C., and John and Elizabeth Nothnagel, seeking approval for a rezoning of property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street), from Agricultural (AG) to Residential (RM), with the City Manager to act as hearing officer. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

The City Manager received into evidence Exhibit #1 - City Manager's Report prepared for the October 3, 2022 City Council meeting (2 pages), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing mailed and posted (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #5 - Letter dated September 16, 2022 from property owners requesting zone change (1 page); Exhibit #6 - Land Use Action Request Form and attachments (4 pages); Exhibit #7 - Legal Description of area to be rezoned; Exhibit #8 - minutes of the September 26, 2022 Planning Commission meeting (5 pages); and Exhibit #9 - proposed Ordinance No. 2022-3053 (2 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

Greg Wolford, W Design Associates; Charlie McPherson, McCook Economic Development Director; and Amanda Engell, McCook Economic Development Housing Director were present to address the request.

With no one else present to comment, I move to adjourn the public hearing and to reconvene as a City Council. This motion, made by Gonzales and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

2.F. Ordinance No. 2022-3053 approving a request from MEDC; W.A.G.S. Properties, L.L.C., and John and Elizabeth Nothnagel, for the rezoning of property located in the NE 1/4 of Section 19, Township 3 North, Range 29 West of the 6th P.M., in Red Willow County, Nebraska (located north of West R Street and west of West 7th Street), from Agricultural (AG) to Residential (RM).

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3053 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF A PORTION OF NORTH POINTE ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM AGRICULTURAL (AG) TO RESIDENTIAL MEDIUM DENSITY (RM) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2022-3053 has been introduced, read by title, and I move that the statutory rule requiring reading on three different days be suspended. Motion to suspend the rule must be adopted by three-fourths of the Council. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

Motion for final passage of Ordinance No. 2022-3053. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

Mayor Gonzales stated for the record that Ordinance No. 2022-3053 is declared lawfully passed and adopted upon publication as required by law.

### **3. Proclamations.**

3.A. Approve the proclamation designating October 9 through 15, 2022 as "Fire Prevention Week" and authorize the Mayor to sign.

Motion to approve the proclamation designating October 9 through 15, 2022 as "Fire Prevention Week" and authorize the Mayor to sign. This motion, made by Calvin and seconded by Gonzales, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

#### **4. Consent Agenda.**

Councilmember Calvin requested Item E be removed from the Consent Agenda and placed on the Regular Agenda.

Motion to approve the remaining consent agenda. This motion, made by Weedon and seconded by Rambali, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

- 4.A. Approve the minutes of the September 19, 2022 regular City Council meeting.
- 4.B. Offer a contract to Prime Solution, Inc., as the lowest responsible bidder for Rotary Fan Press Equipment Procurement with a base bid of \$591,235.00 and a deductive change order of \$132,445.00 and authorize the Mayor to execute the necessary paperwork to award the contract.
- 4.C. Approve and authorize the Mayor to sign Amendment #3 to the Professional Engineering Agreement with Miller and Associates, Consulting Engineers, P.C., adding additional services to comply with NDEE-SRF requirements.
- 4.D. Approve the McCook Area Chamber of Commerce request to use City facilities for a Christmas Celebration on Saturday, December 3, 2022, including the use of McCook Ben Nelson Regional Airport for the flying in of Santa Claus at 1:00 P.M.; the use of Norris Park (including electricity) beginning at 3:00 P.M. which will include entertainment in the bandshell; the lighting of the park; conducting the Annual Christmas "Light up the Bricks" Parade beginning at 6:00 P.M., including participation by the Fire and Police departments and the closing of East "G" Street from Norris Avenue to East 2nd Street; East 1st Street from East "F" Street to East "I" Street; East "H" Street from Norris Avenue to East 2nd Street; and the Norris Avenue north bound lane from East "G" Street to East "H" Street for carriage rides.
- 4.F. Adopt Resolution No. 2022-13 setting the property tax request for FY 2022/2023.
- 4.G. Approve the dissolution of the McCook Swimming Pool Committee.
- 4.H. Approve the bid specifications for one (1) new Solid Water Collection Vehicle and set the date to receive bids as October 25, 2022 at 2:00 P.M.

4.I. Accept the minutes of the September 26, 2022 Planning Commission meeting.

**5. Regular Agenda.**

4.E. Receive and file the confirmation of an emergency purchase of one new 2022 Chevrolet Silverado 2500 regular cab pickup without a box for the Airport Department, from Doug Richert Chevrolet Buick located in Holton, KS, at a cost of \$46,214.95 due to the ongoing supply chain issues.

Councilmember Calvin clarified that the local dealers were contacted to check on availability of similar vehicles.

Motion to receive and file the confirmation of an emergency purchase of one new 2022 Chevrolet Silverado 2500 regular cab pickup without a box for the Airport Department, from Doug Richert Chevrolet Buick located in Holton, KS, at a cost of \$46,214.95 due to the ongoing supply chain issues. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

5.A. Discuss and select a location and a date for an open house regarding the upcoming local option sales tax ballot question.

The Council set October 11 for the open house at the Evangelical Free Church, if available. October 25 was set as an alternate date or if it is determined that a second meeting was necessary.

5.B. Ordinance No. 2022-3049 changing the zoning classification of Lot Three (3), Block One (1), Happy Hollow Addition, to the City of McCook, Red Willow County, Nebraska, except that tract deeded to the State of Nebraska.

Applicant Bill Watts was present to address any questions from the Council.

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3049 by title:

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF LOT THREE (3), BLOCK ONE (1), HAPPY HOLLOW ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM INDUSTRIAL LIGHT (IL) TO BUSINESS COMMERCIAL (BC) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2022-3049 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

- 5.C. Ordinance No. 2022-3050 approving the voluntary annexation of a tract of land located in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska, said tract of land included in the parcel to be referred to as Heritage Pointe Addition Lot 2.

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3050 by title.

AN ORDINANCE EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF MCCOOK, COUNTY OF RED WILLOW, STATE OF NEBRASKA, BY ANNEXING THERETO A CERTAIN TRACT OF LAND CONTIGUOUS TO AND NOT EMBRACED WITHIN THE PRESENT LIMITS OF THE CITY OF MCCOOK, NEBRASKA; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2022-3050 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

- 5.D. Ordinance No. 2022-3051 approving the zoning change request for Heritage Pointe Addition Lot 2, a tract of land located in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska; said zoning change to amend the current zoning designation from Residential Medium Density District (RM) and Agricultural District (AG), to Business Commercial District (BC).

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3051 by title.

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF LOT TWO (2), HERITAGE POINTE ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM RESIDENTIAL MEDIUM DENSITY (RM) AND AGRICULTURAL (AG) TO BUSINESS COMMERCIAL (BC) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

Ordinance No. 2022-3051 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Weedin, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedin: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

- 5.E. Ordinance No. 2022-3047 providing for an amendment of Chapter 38: Fee Schedule - Appendix E, Water Department Rates and Fees.

Mayor Gonzales asked the Clerk to read Ordinance No. 2022-3047 by title.

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 38: FEE SCHEDULE - APPENDIX E , WATER DEPARTMENT RATES AND FEES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR WATER BY THE MCCOOK WATER DEPARTMENT; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2021-3014 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

Ordinance No. 2022-3047 has been read by title and I move to approve upon its second reading. This motion, made by Calvin and seconded by Weedon, passed.

Muehlenkamp: ABSENT, Gonzales: YEA, Calvin: YEA, Weedon: YEA, Rambali: YEA  
YEA: 4, NAY: 0, ABSENT: 1

5.F. Council Comments.

Councilmember Weedon congratulated and thanked all who participated with the construction of the Pickle Ball courts at Russell Park, it was an awesome project. Mayor Gonzales added that the project was completed using private funds.

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 6:29 P.M.

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Michael D. Gonzales, Mayor

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer

McCook City Council  
Community Meeting  
October 11, 2022  
6:00 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, special community meeting, and public session at 6:00 o'clock P.M. at the McCook Evangelical Free Church.

Present: Mayor Gonzales, Councilmembers Weedon, Muehlenkamp, Rambali.

Absent: Councilmember Calvin.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak, Library Director Crocker, Utilities Director Fawver, Public Works Director Potthoff, Senior Services Director Siegfried, and Police Chief Smith.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October 7, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgement of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Gonzales announced that a copy of the Open Meetings Act was posted by the entrance to the church sanctuary and available for public review.

1. Local Option Sales Tax Recreation Bond Ballot Question.

City Manager Schneider reviewed the project to date.

A panel of Grant Norgaard, McCook Public Schools Superintendent, Jeff Gross, McCook Public Schools Finance Officer, Tom Bredvick, MNB Bank Chief Financial Officer, Nate Schneider, City of McCook City Manager, Ryan Purdy, President Mid-Plains Community College, Jon Olson, McCook Community College Athletic Director and Baseball Coach, Ronda Graff, McCook Community Foundation and pool supporter, and Kyle Potthoff, City of McCook Public Works Director, addressed questions from the public.

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 7:30 P.M.

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Michael D. Gonzales, Mayor

ATTEST:

---

Lea Ann Doak, City Clerk-Treasurer

McCook City Council  
October 12, 2022  
12:00 P.M. Central

A MEETING OF THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA convened in open, special, and public session at 12:07 o'clock P.M. in the City Council Chambers.

Present: Mayor Gonzales, Councilmembers Weedin, Muehlenkamp.

Absent: Councilmembers Calvin, Rambali.

City Officials present: City Manager Schneider, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October, 7, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to the Mayor and members of the City Council and a copy of the Acknowledgement of Receipt of such notice is attached to these minutes. Availability of the agenda was communicated in the advance notice to the Mayor and Council. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Mayor Gonzales announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review. Mayor Gonzales called the meeting to order.

1. Approve the closure of West "G" Street, between West 1st Street and West 2nd Street from 4:00 P.M. to 7:00 P.M. on October 14, 2022.

School Resource Officer Luke McGinley presented the request for closure of the street during the Central Elementary October Festival to be held this Friday, October 14.

Motion to approve the closure of West "G" Street, between West 1st Street and West 2nd Street from 4:00 P.M. to 7:00 P.M. on October 14, 2022. This motion, made by Weedin and seconded by Muehlenkamp, passed.

Calvin: ABSENT, Rambali: ABSENT, Gonzales: YEA, Weedin: YEA, Muehlenkamp: YEA  
YEA: 3, NAY: 0, ABSENT: 2

Adjournment.

There being no further business to come before the Council, Mayor Gonzales declared the meeting adjourned at 12:10 P.M.

---

Michael D. Gonzales, Mayor

ATTEST:

---

Lea Ann Doak, City Clerk-Treasurer

CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING

ITEM: 3.B.

**RECOMMENDATION:**

APPROVE AN APPLICATION FROM TELCOM CONSTRUCTION TO OCCUPY CITY RIGHT-OF-WAY FOR THE PURPOSE OF REPLACING TELEPHONE CABLE FOR 1406 E. C ST.

**BACKGROUND:**

The telephone service for 1406 East C St. needs replaced. A new telephone cable will need to be installed via underground boring beginning under the sidewalk of 1402 East C St. and continuing east along East C St. for 100 feet to the end point of 1406 East C St. The new cable will replace the temporary cable currently on the ground.

**FISCAL IMPACT:** (None) Telcom Construction has provided the required \$2,500 performance deposit for this installation.

**APPROVALS:**

  
\_\_\_\_\_  
Pat Fawver Utilities Dir.

October 17, 2022

  
\_\_\_\_\_  
Kyle Potthoff, Public Works Dir.

October 17, 2022

  
\_\_\_\_\_  
Nate Schneider, City Manager

October 17, 2022



P.O. BOX 1059 • 505 WEST C • McCook, NE 69001-1059 • PHONE (308) 345-2022 • FAX (308) 345-1461

Job: 22145144

### APPLICATION TO OCCUPY RIGHT-OF-WAY

APPLICANT NAME: Telcom Construction for Lumen / Century Link      DATE: 09/23/22  
ADDRESS: PO Box 189, Clearwater, MN 55320      PHONE: (320) 365 - 0086  
FAX: \_\_\_\_\_ START DATE: 6/28/22      FINISH DATE: 05/25/23

#### **A CASH BOND IS REQUIRED FOR ALL RIGHT-OF-WAY ENCROACHMENTS**

|                                                                                      |                                                                                                                         |                                                                                    |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <b>Type: (circle)</b><br>Over-Cross<br><u>Under-Cross</u><br>Occupy<br>Miscellaneous | <b>With a: (circle)</b><br>Water Line<br>Sewer Line<br>Gas Line<br><u>Telephone Line</u><br><u>(Underground)</u> Aerial | Tree Trimming/Removal<br>Grading<br>Other<br>Electric Line<br>(Underground Aerial) |
|--------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

Location: Beginning 1,10948 feet (East West North South) of Intersection Airport rd  
and ending (East West North South) 156 feet of Intersection  
E Cedar Motel Dr

**Requirements:** The applicant agrees to complete this work in accordance with the terms and conditions of the City of McCook. Any permit issued **will be cancelled** if the work specified is **not completed within the term listed on the permit** or within any **additional length of time granted**. Request for an extension of time to complete the work must be made in writing. Any extension granted will be acknowledged in writing by the City of McCook. **The Applicant may cancel the permit with written notification** at any time prior to beginning work on right-of-way.

**Performance Guarantee: (Make Payable to City of McCook)**

Amount: \$ \_\_\_\_\_ Check No. \_\_\_\_\_ Soc. Sec. No. Or FID No. \_\_\_\_\_

This guarantee is for the faithful compliance by the Applicant to the terms of the permit. It is understood that should the Applicant fail to perform the work as set forth in the permit, the City of McCook will have the right to keep the performance guarantee as liquidated damages for its necessary supervisory and inspection expenses and to initiate such legal proceedings as are necessary to secure either performance of the work in compliance with the terms of the permit or the restoration of the right-of-way to its previous condition prior to the activities of the Applicant.

**NOTE:** Please provide a location plan for over-cross or under-cross of location to occupy City of McCook right-of-way. When your project requires engineering plans, please submit four sets of plans, no larger than 18"x24". The engineering plans shall show the general features of the work to be completed and all information such as sizes, distances, dimensions, sleeves, cuts and fills, erosion control measures, etc., when applicable. City of McCook Municipal Code §94.34.

Jane Brown  
Applicant's Signature

\_\_\_\_\_  
Utilities Director Approval

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Public Works Approval

9-21-22

22145144

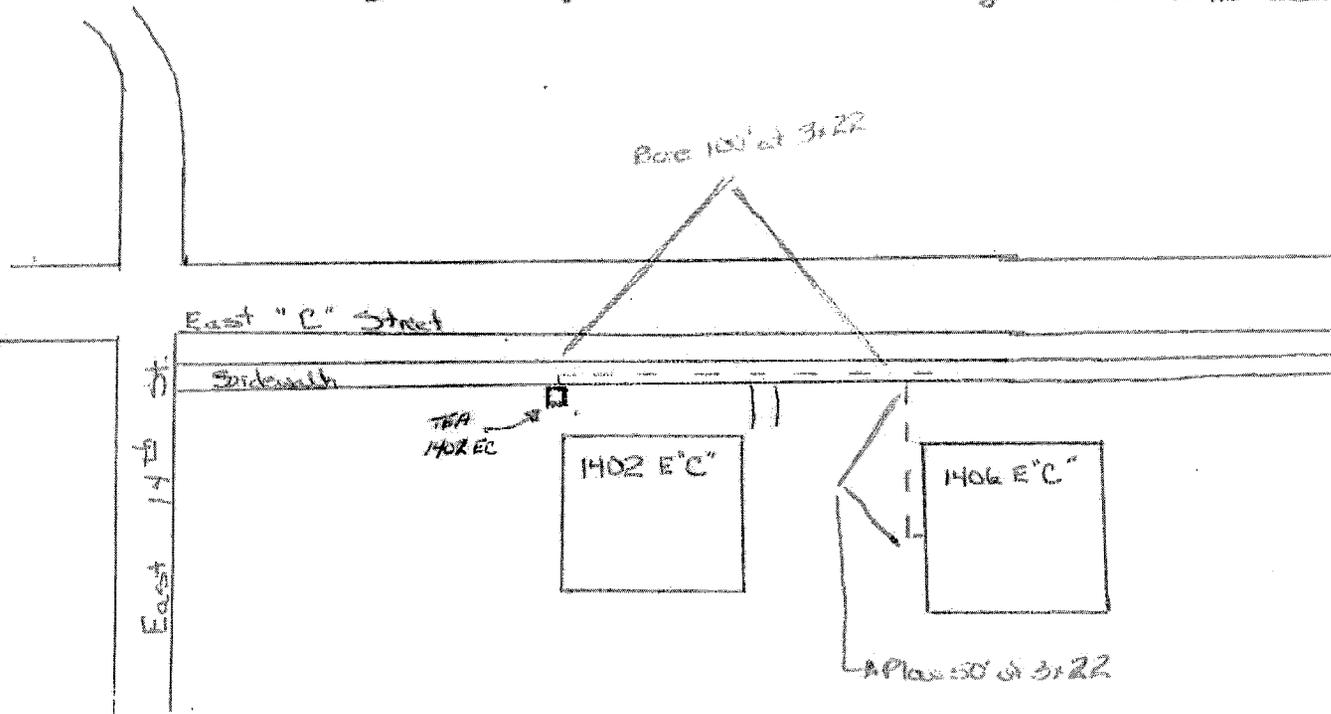
Customer Name: Jennifer Herron

Customer Address: 1406 E "C" St, McCook, NE 69001

Customer Number: 308-345-1758 Standard HSI

Customer Reach Number: 910-581-1002

This will require a box as street to easement is all concrete. Please buy ASAP, as temp box is running on sidewalk, across driveway, and neighbors do not get along well. Damage claim completed, billing to USCIC for the boxes located.

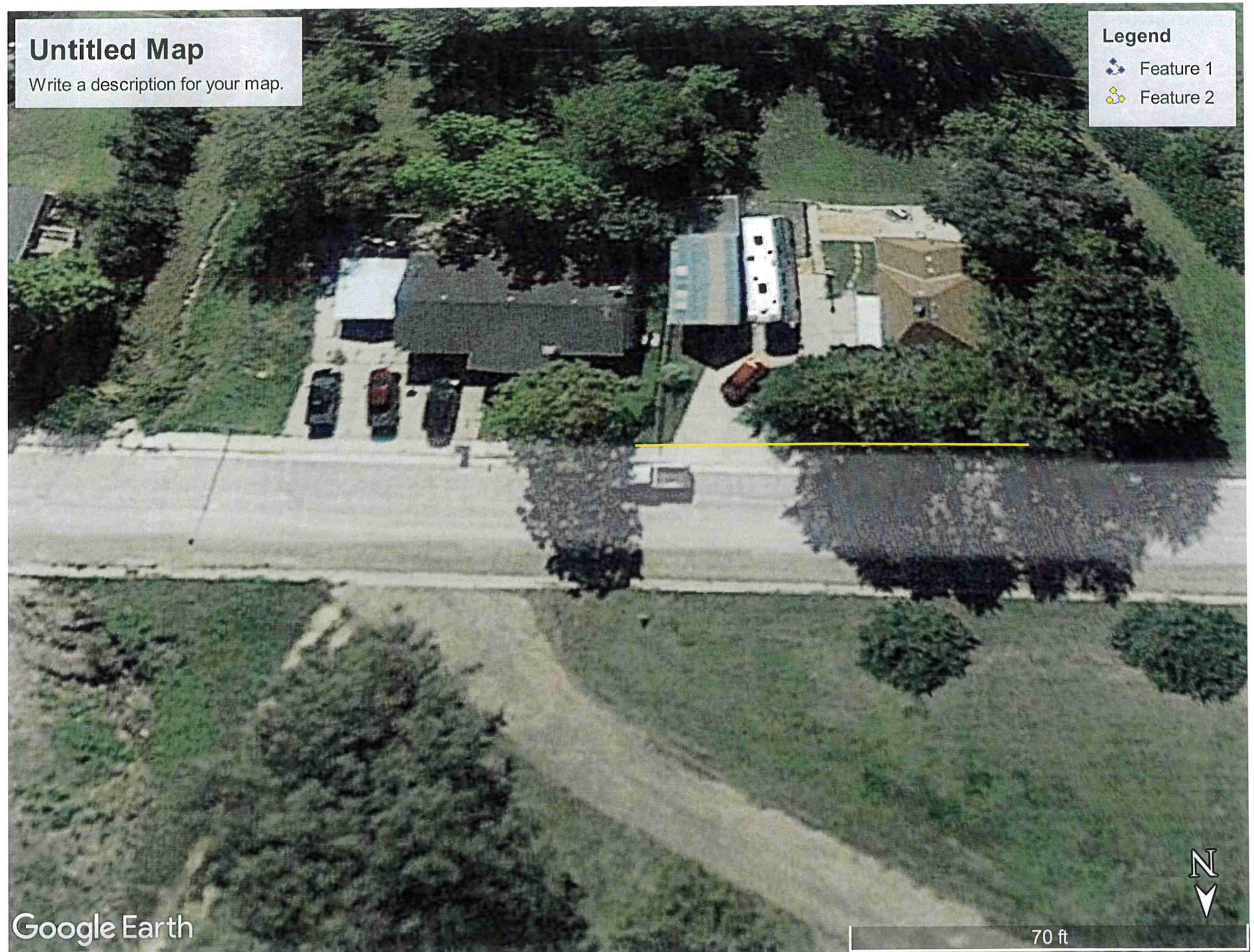


# Untitled Map

Write a description for your map.

## Legend

-  Feature 1
-  Feature 2



70 ft

CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING

ITEM: 3.C.

**RECOMMENDATION:**

APPROVE AN APPLICATION FROM TELCOM CONSTRUCTION TO OCCUPY CITY RIGHT-OF-WAY FOR THE PURPOSE OF REPLACING TELEPHONE CABLE FOR 608 SUNSET RD.

**BACKGROUND:**

The telephone service for 608 Sunset Rd. was severed from a previous construction job on a neighboring property. A new telephone cable will need to be installed via underground boring beginning under the sidewalk of 608 sunset Rd. and continuing south along Westridge Parkway for 200 feet to the end point.

**FISCAL IMPACT:** (None) Telcom Construction has provided the required \$2,500 performance deposit for this installation.

**APPROVALS:**

  
\_\_\_\_\_  
Pat Fawver Utilities Dir.

October 17, 2022

  
\_\_\_\_\_  
Kyle Potthoff, Public Works Dir.

October 17, 2022

  
\_\_\_\_\_  
Nate Schneider, City Manager

October 17, 2022



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Job: 22155043

### APPLICATION TO OCCUPY RIGHT-OF-WAY

APPLICANT NAME: Telcom Construction for Lumen / Century Link      DATE: 10/11/22  
ADDRESS: PO Box 189, Clearwater, MN 55320      PHONE: (320) 365 - 0086  
FAX: \_\_\_\_\_ START DATE: 10/13/22      FINISH DATE: 05/25/23

#### **A CASH BOND IS REQUIRED FOR ALL RIGHT-OF-WAY ENCROACHMENTS**

|                                                                                                                |                                                                                                                                                                             |                                                                                    |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|
| <b>Type: (circle)</b><br>Over-Cross<br><input checked="" type="radio"/> Under-Cross<br>Occupy<br>Miscellaneous | <b>With a: (circle)</b><br>Water Line<br>Sewer Line<br>Gas Line<br><input checked="" type="radio"/> Telephone Line<br><input checked="" type="radio"/> (Underground Aerial) | Tree Trimming/Removal<br>Grading<br>Other<br>Electric Line<br>(Underground Aerial) |
|----------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------|

Location: Beginning 201 feet (East West North South) of Intersection Sunset Road  
and ending (East West North South) \_\_\_\_\_ feet of Intersection  
Westrige Parkway

**Requirements:** The applicant agrees to complete this work in accordance with the terms and conditions of the City of McCook. Any permit issued **will be cancelled** if the work specified is **not completed within the term listed on the permit** or within any **additional length of time granted**. Request for an extension of time to complete the work must be made in writing. Any extension granted will be acknowledged in writing by the City of McCook. **The Applicant may cancel the permit with written notification** at any time prior to beginning work on right-of-way.

**Performance Guarantee: (Make Payable to City of McCook)**  
Amount: \$ \_\_\_\_\_ Check No. \_\_\_\_\_ Soc. Sec. No. Or FID No. \_\_\_\_\_  
This guarantee is for the faithful compliance by the Applicant to the terms of the permit. It is understood that should the Applicant fail to perform the work as set forth in the permit, the City of McCook will have the right to keep the performance guarantee as liquidated damages for its necessary supervisory and inspection expenses and to initiate such legal proceedings as are necessary to secure either performance of the work in compliance with the terms of the permit or the restoration of the right-of-way to its previous condition prior to the activities of the Applicant.

**NOTE:** Please provide a location plan for over-cross or under-cross of location to occupy City of McCook right-of-way. When your project requires engineering plans, please submit four sets of plans, no larger than 18"x24". The engineering plans shall show the general features of the work to be completed and all information such as sizes, distances, dimensions, sleeves, cuts and fills, erosion control measures, etc., when applicable. City of McCook Municipal Code §94.34.

Jane Brown  
Applicant's Signature

\_\_\_\_\_  
Utilities Director Approval

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

\_\_\_\_\_  
Director of Public Works Approval



- Layer Name
- Markup
- Fiber Terminals
- Copper Terminals
- Repeaters
- Load Coils
- Fiber Splice
- Copper Splice
- Capacitors
- Air Devices
- Figure Eight
- Poles
  - Default Colors
- Manholes
  - By Type
  - Manhole
  - Handhole
  - Vault

Customer is "unbundled" with Fiber out in McCook. Box was apparently damaged while installing sprinklers to duplex (neighbor). No locates seen on sight. Easement for us is under sidewalks and also under (2) private driveways. Please place ASAP as customer has been OOS for over a week.

Ticket 225069239-1

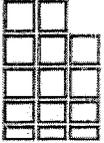
Circuit ID 7LX.FU.147706

Address 608 Sunset, McCook, NE

Enter address:



View



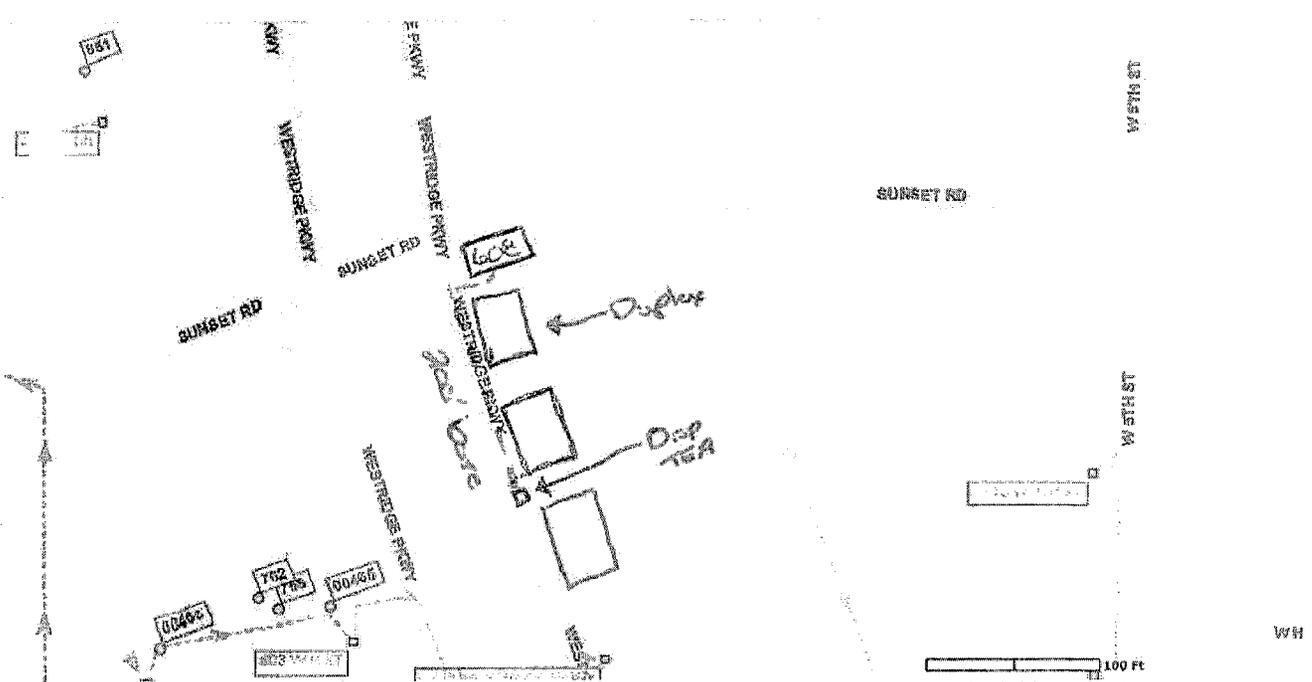
Loop Makeup



Add Markup



Screen Shot



# Untitled Map

Write a description for your map.

## Legend

-  Feature 1
-  Telcom Bore 608 Sunset 10-11-22



CITY MANAGER'S REPORT  
October 17, 2022 CITY COUNCIL MEETING

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ITEM 3.D.

RECOMMENDATION:

Adopt Resolution No. <sup>2022-15</sup>, updating the City of McCook Public Transportation Drug and Alcohol Testing Policy.

BACKGROUND:

City of McCook Public Transportation Drug and Alcohol Testing Policy was adopted May 21, 2018 and now needs to be updated. The service area was added in the first paragraph to state that our service area is within the city limits of McCook. All other changes are highlighted. The State of Nebraska, Department of Transportation requests that a Resolution be adopted for the updated Drug and alcohol policy.

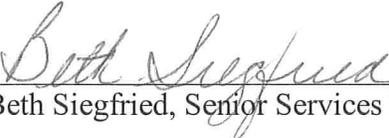
FISCAL IMPACT :

None

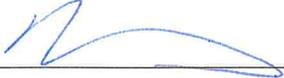
RECOMMENDATION:

Adopt Resolution No. - <sup>2022-15</sup>, certifying that the City of McCook is updating their Drug & Alcohol Testing Policy to include the service area, which is within the city limits of McCook and all other highlighted areas.

APPROVALS:

  
Beth Siegfried, Senior Services Director

10-11-22  
Date

  
Nate Schneider McCook City Manager

10-12-22  
Date

RESOLUTION NO. 2022-15

WHEREAS, the City of McCook, Nebraska, desires to adopt policies to maintain a drug and alcohol free workplace in compliance with the Drug Free Workplace Policy of 1988, the Omnibus Transportation Employee Testing Act of 1991, and rules adopted by the U. S. Department of Transportation (DOT) Federal Highway Administration (FHWA), 49 CFR 382;

WHEREAS, the City intends that its policies will comply with the U. S. Department of Transportation (DOT) Federal Transit Authority (FTA) rules found in Parts 40 and 655, Title 49 of the Code of Federal Regulations, as amended, and rules adopted by the U. S. Department of Transportation (DOT) Federal Highway Administration (FHWA); and

WHEREAS, the City also intends to comply with the applicable requirements of state and federal law, the Drug-Free Workplace Act of 1988, the Americans With Disabilities Act, and the Family and Medical Leave Act.

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

SECTION 1. That the "City of McCook Public Transportation Drug and Alcohol Testing Policy", marked as Exhibit "A", attached hereto and incorporated herein by this reference, is hereby approved.

SECTION 2. That this resolution shall be in full force and effect immediately upon its passage and adoption.

SECTION 5. That Resolution No. 2018-08, Section 1 - City of McCook Public Transportation Substance Abuse Policy" and all resolutions or parts of resolutions in conflict herewith are hereby repealed.

PASSED AND ADOPTED this 17<sup>th</sup> day of October, 2022.

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Michael D. Gonzales, Mayor

ATTEST:

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Lea Ann Doak, City Clerk-Treasurer

**DRUG AND ALCOHOL TESTING POLICY**  
**City of McCook Public Transportation**  
**Adopted as of October 17, 2022**

**A. PURPOSE**

- 1) The City of McCook Public Transportation provides public transit and paratransit services for the residents of McCook within the city limits of McCook. Part of our mission is to ensure that this service is delivered safely, efficiently, and effectively by establishing a drug and alcohol-free work environment, and to ensure that the workplace remains free from the effects of drugs and alcohol in order to promote the health and safety of employees and the general public. In keeping with this mission, City of McCook Public Transportation declares that the unlawful manufacture, distribution, dispense, possession, or use of controlled substances or misuse of alcohol is prohibited for all employees.
- 2) Additionally, the purpose of this policy is to establish guidelines to maintain a drug and alcohol-free workplace in compliance with the Drug-Free Workplace Act of 1988, and the Omnibus Transportation Employee Testing Act of 1991. This policy is intended to comply with all applicable Federal regulations governing workplace anti-drug and alcohol programs in the transit industry. Specifically, the Federal Transit Administration (FTA) of the U.S. Department of Transportation has published 49 CFR Part 655, as amended, that mandates urine drug testing and breath/saliva alcohol testing for safety-sensitive positions and prohibits performance of safety-sensitive functions when there is a positive test result, including an alcohol concentration of 0.04 or greater, or a refusal to test. The U. S. Department of Transportation (USDOT) has also published 49 CFR Part 40, as amended, that sets standards for the collection and testing of urine and breath/saliva specimens.
- 3) Any provisions set forth in this policy that are included under the sole authority of City of McCook Public Transportation and are not provided under the authority of the above-named Federal regulations are underlined. Tests conducted under the sole authority of City of McCook Public Transportation will be performed on non-USDOT forms and will be separate from USDOT testing in all respects.

**B. APPLICABILITY**

This Drug and Alcohol Testing Policy applies to all safety-sensitive employees (full- or part-time) when performing safety sensitive duties. This includes applicants or transferee's, who performs or will perform safety sensitive

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functions. See Attachment A for a list of employees and the authority under which they are included.

A safety-sensitive function includes:

- Operating a revenue service vehicle including when not in revenue service.
- Operating a non-revenue service vehicle, when required to be operated by a holder of a Commercial Driver's License (CDL).
- Controlling dispatch of movement of a revenue service vehicle.
- Maintaining (including repairs, overhaul, and rebuilding) a revenue service vehicle or equipment used in revenue service.
- Carrying a firearm for security purposes.

A volunteer is a covered employee if:

- The volunteer is required to hold a commercial driver's license to operate the vehicle; or
- The volunteer performs a safety-sensitive function for an entity subject to this part and receives remuneration more than his or her actual expenses incurred while engaged in the volunteer activity.

An individual will be considered to be performing a safety-sensitive function during any period in which he/she is actually performing, ready to perform or immediately available to perform such functions.

Contractors subject to the requirements if:

- An individual or organizations that provide services for an FTA covered "employer" is consistent with a specific understanding or arrangement, which can be evidenced by a written agreement and such contractors are also considered employers within the FTA definition of "employer".

### **C. DEFINITIONS**

*Accident:* An occurrence associated with the operation of a vehicle even when not in revenue service, if as a result:

- a. An individual dies;
- b. An individual suffers a bodily injury and immediately receives medical treatment away from the scene of the accident; or,
- c. With respect to an occurrence in which the public transportation vehicle involved is a bus, electric bus, van, or automobile, one or more vehicles (including non-FTA funded vehicles) incurs disabling damage as the result of the occurrence and such vehicle or

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vehicles are transported away from the scene by a tow truck or other vehicle; or

d. With respect to an occurrence in which the public transportation vehicle involved is a rail car, trolley car, trolley bus, or vessel, the public transportation vehicle is removed from operation.

*Adulterated specimen:* A specimen that has been altered, as evidenced by test results showing either a substance that is not a normal constituent for that type of specimen or showing an abnormal concentration of an endogenous substance.

*Alcohol:* The intoxicating agent in beverage alcohol, ethyl alcohol, or other low molecular weight alcohols, including methyl or isopropyl alcohol.

*Alcohol Concentration:* Expressed in terms of grams of alcohol per 210 liters of breath as indicated by a breath test under 49 CFR Part 40.

*Aliquot:* A fractional part of a specimen used for testing, it is taken as a sample representing the whole specimen.

*Canceled Test:* A drug or alcohol test that has a problem identified that cannot be or has not been corrected, or which is cancelled. A canceled test is neither positive nor negative.

*Confirmatory Drug Test:* A second analytical procedure performed on a different aliquot of the original specimen to identify and quantify the presence of a specific drug or metabolite.

*Confirmatory Validity Test:* A second test performed on a different aliquot of the original urine specimen to further support a validity test result.

*Covered Employee Under FTA Authority:* An employee who performs a safety-sensitive function including an applicant or transferee who is being considered for hire into a safety-sensitive function. A volunteer is a covered employee if the volunteer is required to hold a commercial driver's license to operate the vehicle or performs a safety-sensitive function and receives remuneration in excess of his or her actual expenses incurred while engaged in the voluntary activity. (See Attachment A for a list of covered employees).

*Designated Employer Representative (DER):* An employee authorized by the employer to take immediate action to remove employees from safety-sensitive duties and to make required decisions in testing. The DER also receives test results and other communications for the employer, consistent with the requirements of 49 CFR Parts 40 and 655.

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*DOT, The Department, DOT Agency:* These terms encompass all DOT agencies, including, but not limited to, the Federal Aviation Administration (FAA), the Federal Railroad Administration (FRA), the Federal Motor Carrier Safety Administration (FMCSA), the Federal Transit Administration (FTA), the National Highway Traffic Safety Administration (NHTSA), the Pipeline and Hazardous Materials Safety Administration (PHMSA), and the Office of the Secretary (OST). For purposes of 49 CFR Part 40, the United States Coast Guard (USCG), in the Department of Homeland Security, is considered to be a DOT agency for drug testing purposes. These terms include any designee of a DOT agency.

*Dilute specimen:* A urine specimen with creatinine and specific gravity values that are lower than expected for human urine.

*Disabling damage:* Damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) Inclusion. Damage to a motor, where the vehicle could have been driven, but would have been further damaged if so driven.
- (2) Exclusions.
  - a. Damage that can be remedied temporarily at the scene of the accident without special tools or parts.
  - b. Tire disablement without other damage even if no spare tire is available.
  - c. Headlamp or taillight damage.
  - d. Damage to turn signals, horn, or windshield wipers, which makes the vehicle inoperable.

*Evidentiary Breath Testing Device (EBT):* A device approved by the NHTSA for the evidential testing of breath at the 0.02 and the 0.04 alcohol concentrations and appears on ODAPC's Web page for "Approved Evidential Breath Measurement Devices" because it conforms with the model specifications available from NHTSA.

*Initial Drug Test: (Screening Drug Test)* The test used to differentiate a negative specimen from one that requires further testing for drugs or drug metabolites.

*Initial Specimen Validity Test:* The first test used to determine if a urine specimen is adulterated, diluted, substituted, or invalid

*Invalid Result:* The result reported by a laboratory for a urine specimen that contains an unidentified adulterant, contains an unidentified interfering substance, has an abnormal physical characteristic, or has an endogenous substance at an abnormal concentration that prevents the laboratory from completing testing or obtaining a valid drug test result.

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*Laboratory:* Any U.S. laboratory certified by HHS under the National Laboratory Certification program as meeting standards of Subpart C of the HHS Mandatory Guidelines for Federal Workplace Drug Testing Programs; or, in the case of foreign laboratories, a laboratory approved for participation by DOT.

*Limit of Detection (LOD):* The lowest concentration at which a measurand can be identified, but (for quantitative assays) the concentration cannot be accurately calculated.

*Limit of Quantitation:* For quantitative assays, the lowest concentration at which the identity and concentration of the measurand can be accurately established.

*Medical Review Officer (MRO):* A person who is a licensed physician and who is responsible for receiving and reviewing laboratory results generated by an employer's drug testing program and evaluating medical explanations for certain drug test results.

*Negative Dilute:* A drug test result which is negative for the five drug/drug metabolites but has creatinine and specific gravity values that are lower than expected for human urine.

*Negative result:* The result reported by an HHS-certified laboratory to an MRO when a specimen contains no drug, or the concentration of the drug is less than the cutoff concentration for the drug or drug class and the specimen is a valid specimen.

*Non-negative test result:* A urine specimen that is reported as adulterated, substituted, invalid, or positive for drug/drug metabolites, and or invalid.

*Oxidizing Adulterant:* A substance that acts alone or in combination with other substances to oxidize drugs or drug metabolites to prevent the detection of the drug or metabolites or affects the reagents in either the initial or confirmatory drug test.

*Performing (a safety-sensitive function):* A covered employee is considered to be performing a safety-sensitive function and includes any period in which he or she is actually performing, ready to perform, or immediately available to perform such functions.

*Positive result:* The result reported by an HHS- Certified laboratory when a specimen contains a drug or drug metabolite equal or greater to the cutoff concentrations.

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*Prohibited drug:* Identified as marijuana, cocaine, opioids, amphetamines, or phencyclidine at levels above the minimum thresholds specified in 49 CFR Part 40, as amended.

*Reconfirmed:* The result reported for a split specimen when the second laboratory is able to corroborate the original result reported for the primary specimen.

*Rejected for Testing:* The result reported by an HHS- Certified laboratory when no tests are performed for specimen because of a fatal flaw or a correctable flaw that has not been corrected.

*Revenue Service Vehicles:* All transit vehicles that are used for passenger transportation service.

- (1) vehicle and
- (2) Carrying a firearm for security purposes.

*Split Specimen Collection:* A collection in which the urine collected is divided into two separate bottles, the primary specimen (Bottle A) and the split specimen (Bottle B).

*Substance Abuse Professional (SAP):* A person who evaluates employees who have violated a DOT drug and alcohol regulation and makes recommendations concerning education, treatment, follow-up testing, and aftercare.

*Substituted specimen:* A urine specimen with creatinine and specific gravity values that are so diminished or so divergent that they are not consistent with normal human urine.

*Vehicle:* A bus, electric bus, van, automobile, rail car, trolley car, trolley bus, or vessel. A public transit vehicle is a vehicle used for public transportation or for ancillary services.

*Verified test:* A drug test result or validity testing result from an HHS-certified laboratory that has undergone review and final determination by the MRO.

#### **D. EDUCATION AND TRAINING**

- 1) Every covered employee will receive a copy of this policy and will have ready access to the corresponding federal regulations including 49 CFR Parts 655 and 40, as amended. In addition, all covered employees will undergo a minimum of 60 minutes of training on the signs and symptoms

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of drug use including the effects and consequences of drug use on personal health, safety, and the work environment. The training also includes manifestations and behavioral cues that may indicate prohibited drug use. This information will include the following:

- a. Display and distribution of informational material
- b. Display and distribution of community service hot-line number for employee assistance.

- 2) All supervisory personnel or company officials who are in a position to determine employee fitness for duty will receive 60 minutes of reasonable suspicion training on the physical, behavioral, and performance indicators of probable drug use and 60 minutes of additional reasonable suspicion training on the physical, behavioral, speech, and performance indicators of probable alcohol misuse.

#### **E. PROHIBITED SUBSTANCES**

- 1) Prohibited substances addressed by this policy include the following.
  - a. Illegally Used Controlled Substance or Drugs Under the Drug-Free Workplace Act of 1988 any drug or any substance identified in Schedule I through V of Section 202 of the Controlled Substance Act (21 U.S.C. 812), and as further defined by 21 CFR 1300.11 through 1300.15 is prohibited at all times in the workplace unless a legal prescription has been written for the substance. This includes, but is not limited to marijuana, amphetamines, opioids, phencyclidine (PCP), and cocaine, as well as any drug not approved for medical use by the U.S. Drug Enforcement Administration or the U.S. Food and Drug Administration. Illegal use includes use of any illegal drug, misuse of legally prescribed drugs, and use of illegally obtained prescription drugs. Also, the medical use of marijuana and/or recreational ma, or the use of hemp related products, which cause drug or drug metabolites to be present in the body above the minimum thresholds is a violation of this policy

Federal Transit Administration drug testing regulations (49 CFR Part 655) require that all employees covered under FTA authority be tested for marijuana, cocaine, amphetamines, opioids, and phencyclidine as described in Section H of this policy. Illegal use of these five drugs is prohibited at all times and thus, covered employees may be tested for these drugs anytime that they are on duty.

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- b. Legal Drugs: The appropriate use of legally prescribed drugs and non-prescription medications is not prohibited. However, the use of any substance which carries a warning label that indicates that mental functioning, motor skills, or judgment may be adversely affected must be reported to a City of McCook Public Transportation supervisor and the employee is required to provide a written release from his/her doctor or pharmacist indicating that the employee can perform his/her safety-sensitive functions.
- c. Alcohol: The use of beverages containing alcohol (including mouthwash, medication, food, candy) or any other substances containing alcohol in a manner which violates the conduct listed in this policy is prohibited.

#### **F. PROHIBITED CONDUCT**

- 1) All covered employees are prohibited from reporting for duty or remaining on duty any time there is a quantifiable presence of a prohibited drug in the body above the minimum thresholds defined in 49 CFR Part 40, as amended.
- 2) Each covered employee is prohibited from consuming alcohol while performing safety-sensitive job functions or while on-call to perform safety-sensitive job functions. If an on-call employee has consumed alcohol, they must acknowledge the use of alcohol at the time that they are called to report for duty. The covered employee will subsequently be relieved of his/her on-call responsibilities and subject to discipline for not fulfilling his/her on-call responsibilities.
- 3) The Transit Department shall not permit any covered employee to perform or continue to perform safety-sensitive functions if it has actual knowledge that the employee is using alcohol
- 4) **Each covered employee is prohibited** from reporting to work or remaining on duty requiring the performance of safety-sensitive functions while having an alcohol concentration of 0.04 or greater regardless of when the alcohol was consumed.
  - a. An employee with a breath alcohol concentration which measures 0.02-0.039 is not considered to have violated the USDOT-FTA drug and alcohol regulations, provided the employee hasn't consumed the alcohol within four (4) hours of performing a safety-sensitive duty. However, if a safety-sensitive employee has a breath alcohol concentration of 0.02-0.039, USDOT-FTA regulations require the

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employee to be removed from the performance of safety-sensitive duties until:

- i. The employee's alcohol concentration measures less than 0.02; or
  - ii. The start of the employee's next regularly scheduled duty period, but not less than eight hours following administration of the test.
- 5) No covered employee shall consume alcohol for eight (8) hours following involvement in an accident or until he/she submits to the post-accident drug/alcohol test, whichever occurs first.
  - 6) No covered employee shall consume alcohol within four (4) hours prior to the performance of safety-sensitive job functions.
  - 7) City of McCook Public Transportation, under its own authority, also prohibits the consumption of alcohol at all times the employee is on duty, or anytime the employee is in uniform.
  - 8) Consistent with the Drug-free Workplace Act of 1988, all City of McCook Public Transportation employees are prohibited from engaging in the unlawful manufacture, distribution, dispensing, possession, or use of prohibited substances in the workplace including transit system premises and transit vehicles.

#### **G. DRUG STATUTE CONVICTION**

Consistent with the Drug Free Workplace Act of 1998, all employees are required to notify the City of McCook Public Transportation management of any criminal drug statute conviction for a violation occurring in the workplace within five days after such conviction. Failure to comply with this provision shall result in disciplinary action as defined in Section Q of this policy.

#### **H. TESTING REQUIREMENTS**

- 1) Analytical urine drug testing and breath/saliva testing for alcohol will be conducted as required by 49 CFR Part 40 as amended. All employees covered under FTA authority shall be subject to testing prior to performing safety-sensitive duty, for reasonable suspicion, following an accident, and random as defined in Section K, L, M, and N of this policy, and return to duty/follow-up.
- 2) A drug test can be performed any time a covered employee is on duty. A reasonable suspicion, random, or follow-up alcohol test can only be

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performed just before, during, or after the performance of a safety-sensitive job function. Under City of McCook Public Transportation authority, a non-DOT alcohol test can be performed any time a covered employee is on duty.

- 3) All covered employees will be subject to urine drug testing and breath/saliva alcohol testing as a condition of ongoing employment with City of McCook Public Transportation. Any safety-sensitive employee who refuses to comply with a request for testing shall be removed from duty and subject to discipline as defined in Section Q of this policy.

## **I. DRUG TESTING PROCEDURES**

- 1) Testing shall be conducted in a manner to assure a high degree of accuracy and reliability and using techniques, equipment, and laboratory facilities which have been approved by the U.S. Department of Health and Human Service (HHS). All testing will be conducted consistent with the procedures set forth in 49 CFR Part 40, as amended. The procedures will be performed in a private, confidential manner and every effort will be made to protect the employee, the integrity of the drug testing procedure, and the validity of the test result.
- 2) The drugs that will be tested for include marijuana, cocaine, opioids, amphetamines, and phencyclidine. After the identity of the donor is checked using picture identification, a urine specimen will be collected by a trained collection site person using the split specimen collection method described in 49 CFR Part 40, as amended. Each specimen will be accompanied by a DOT Custody and Control Form (CCF) and identified using a unique identification number that attributes the specimen to the correct individual. The specimen analysis will be conducted at an HHS certified laboratory. An initial drug screen and validity test will be conducted on the primary urine specimen. For those specimens that are not negative, a confirmatory Gas Chromatography/Mass Spectrometry (GC/MS) or Liquid Chromatography/Mass Spectrometry (LC/MS) test will be performed. The test will be considered positive if the amounts of the drug(s) and/or its metabolites identified by the GC/MS or LC/MS test are above the minimum thresholds established in 49 CFR Part 40, as amended.
- 3) The test results from the HHS certified laboratory will be reported to a Medical Review Officer (MRO). An MRO is a licensed physician with detailed knowledge of substance abuse disorders and drug testing. The MRO will review the test results to ensure the scientific validity of the test and to determine whether there is a legitimate medical explanation for a

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confirmed positive, substitute, or adulterated test result. The MRO will attempt to contact the employee to notify the employee of the non-negative laboratory result and provide the employee with an opportunity to explain the confirmed laboratory test result. The MRO will subsequently review the employee's medical history/medical records as appropriate to determine whether there is a legitimate medical explanation for a non-negative laboratory result. If no legitimate medical explanation is found, the test will be verified positive or refusal to test and reported to City of McCook Public Transportation. If a legitimate explanation is found, the MRO will report the test result as negative.

- 4) If the test is invalid without a medical explanation, a retest will be conducted under direct observation. Employees do not have access to a test of their split specimen following an invalid result.
- 5) Any covered employee who questions the results of a required drug test may request that the split sample be tested. The split sample test must be conducted at a second HHS-certified laboratory. The test must be conducted on the split sample that was provided by the employee at the same time as the primary sample. The method of collecting, storing, and testing the split sample will be consistent with the procedures set forth in 49 CFR Part 40, as amended. The employee's request for a split sample test must be made to the Medical Review Officer within 72 hours of notice of the original sample verified test result. Requests after 72 hours will only be accepted at the discretion of the MRO if the delay was due to documentable facts that were beyond the control of the employee. City of McCook Public Transportation will ensure that the cost for the split specimen analysis is covered in order for a timely analysis of the sample, however City of McCook Public Transportation will seek reimbursement for the split sample test from the employee.
- 6) If the analysis of the split specimen fails to confirm the presence of the drug(s) detected in the primary specimen, if the split specimen is not able to be analyzed, or if the results of the split specimen are not scientifically adequate, the MRO will declare the original test to be canceled.
- 7) The split specimen will be stored at the initial laboratory until the analysis of the primary specimen is completed. If the primary specimen is negative, the split will be discarded. If the primary specimen is positive, it will be retained in frozen storage for one year and the split specimen will also be retained for one year. If the primary is positive, the primary and the split will be retained for longer than one year for testing if so, requested by the employee through the MRO, or by the employer, by the MRO, or by the relevant DOT agency.

## 8) Observed collections

- a. Consistent with 49 CFR Part 40, as amended, collection under direct observation (by a person of the same gender) with no advance notice will occur if:
  - i. The laboratory reports to the MRO that a specimen is invalid, and the MRO reports to City Of McCook Public Transportation that there was not an adequate medical explanation for the result;
  - ii. The MRO reports to City of McCook Public Transportation that the original positive, adulterated, or substituted test result had to be cancelled because the test of the split specimen could not be performed.
  - iii. The laboratory reported to the MRO that the specimen was negative-dilute with a creatinine concentration greater than or equal to 2 mg/dL but less than or equal to 5 mg/dL, and the MRO reported the specimen as negative-dilute and that a second collection must take place under direct observation (see §40.197(b)(1)).
  - iv. The collector observes materials brought to the collection site or the employee's conduct clearly indicates an attempt to tamper with a specimen.
  - v. The temperature on the original specimen was out of normal range.
  - vi. Anytime the employee is directed to provide another specimen because the original specimen appeared to have been tampered with.
  - vii. Directed by the DER to perform an observed collection.
  - viii. All follow-up-tests; or
  - ix. All return-to-duty tests

## **J. ALCOHOL TESTING PROCEDURES**

- 1) Alcohol testing will be performed at locations determined by the Company in a private setting. The testing technician, who has been trained, will ask the donor to verify their identity and the information will be recorded on a DOT Alcohol Testing Form (ATF).
- 2) A breath or saliva testing device approved by the federal government will be used for all alcohol testing. Two tests are required to determine if a person has a prohibited alcohol concentration. A screening test is conducted first. Any result less than 0.02 alcohol concentration is considered a "negative" test. If the alcohol concentration is 0.02 or greater, a second confirmation test must be conducted after at least a 15-minute waiting period from the completion of the screening test. The driver and the individual conducting the confirmation breath test (the BAT) complete the alcohol testing form to ensure that the results are properly recorded.
- 3) The confirmation test, if required, must be conducted using an Evidential Breath Testing device (EBT) that prints out the results, date and time, a sequential test number, and the name and serial number of the EBT to ensure the reliability of the results.
- 4) A confirmation test result under 0.02 means the driver has passed. A confirmation alcohol concentration level of 0.02 or higher will result in the driver's removal from safety-sensitive functions. The DOT prohibits any driver whose confirmation test registers 0.02 or greater but less than 0.04 from performing or from continuing to perform safety-sensitive functions until the driver's next regularly scheduled duty period, but no less than twenty-four (24) hours. If the confirmation level is 0.04 or more, or if the driver refuses to cooperate, the driver is in violation of DOT alcohol regulations and subject to the Consequences for Policy Violation as described in section Q of this policy and Post-Violation/Return-to-Duty Procedures as outlined in the regulations. Certified BATs and STTs will conduct all alcohol tests.
- 5) If a driver tries but fails to provide a breath specimen adequate for testing, the driver will be asked to try again. If the driver still does not provide an adequate specimen, the driver's failure will be noted on the ATF and the Company's DER will be informed. The driver will be removed from performing "safety-sensitive" functions and required to see a physician, acceptable to the Company, within five days for an evaluation. If a physician determines that there was no medical reason for not providing the sample, this will be considered a refusal to test, and the employee will

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be immediately removed from performing safety-sensitive functions and could result in termination of employment.

6) [TRANSIT SYSTEM NAME] affirms the need to protect individual dignity, privacy, and confidentiality throughout the testing process. If at any time the integrity of the testing procedures or the validity of the test results is compromised, the test will be canceled. Minor inconsistencies or procedural flaws that do not impact the test result will not result in a cancelled test.

7) The alcohol testing form (ATF) required by 49 CFR Part 40 as amended, shall be used for all FTA required testing. Failure of an employee to sign step 2 of the ATF will be considered a refusal to submit to testing.

#### **K. PRE-EMPLOYMENT TESTING**

- 1) All applicants for covered transit positions shall undergo urine drug testing prior to performance of a safety-sensitive function.
  - a. All offers of employment for covered positions shall be extended conditional upon the applicant passing a drug test. An applicant will not be allowed to perform safety-sensitive functions unless the applicant takes a drug test with verified negative results.
  - b. An employee shall not be placed, transferred, or promoted into a position covered under FTA authority or company authority until the employee takes a drug test with verified negative results.
  - c. If an applicant fails a pre-employment drug test, the conditional offer of employment shall be rescinded, and the applicant will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals. Failure of a pre-employment drug test will disqualify an applicant for employment for a period of at least one year. Before being considered for future employment the applicant must provide the employer proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G. The cost for the assessment and any subsequent treatment will be the sole responsibility of the applicant.
  - d. When an employee being placed, transferred, or promoted from a non-covered position to a position covered under FTA authority or company authority submits a drug test with a verified positive result, the employee shall be subject to disciplinary action in accordance with Section Q herein.

- e. If a pre-employment test is canceled, City of McCook Public Transportation will require the applicant to take and pass another pre-employment drug test.
- f. In instances where an FTA covered employee does not perform a safety-sensitive function for a period of 90 consecutive days or more regardless of reason, and during that period is not in the random testing pool the employee will be required to take a pre-employment drug test under 49 CFR Part 655 and have negative test results prior to the conduct of safety-sensitive job functions.
- g. Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- h. Applicants are required (even if ultimately not hired) to provide City of McCook Public Transportation with signed written releases requesting USDOT drug and alcohol records from all previous, USDOT-covered, employers that the applicant has worked for within the last two years. Failure to do so will result in the employment offer being rescinded. City of McCook Public Transportation is required to ask all applicants (even if ultimately not hired) if they have tested positive or refused to test on a pre-employment test for a USDOT covered employer within the last two years. If the applicant has tested positive or refused to test on a pre-employment test for a USDOT covered employer, the applicant must provide City Of McCook Public Transportation proof of having successfully completed a referral, evaluation and treatment plan as described in section 655.62 of subpart G.

#### **L. REASONABLE SUSPICION TESTING**

- 1) All City of McCook Public Transportation FTA covered employees will be subject to a reasonable suspicion drug and/or alcohol test when the employer has reasonable suspicion to believe that the covered employee has used a prohibited drug and/or engaged in alcohol misuse. Reasonable suspicion shall mean that there is objective evidence, based upon specific, contemporaneous, articulable observations of the employee's appearance, behavior, speech or body odor that are consistent with possible drug use and/or alcohol misuse. Reasonable suspicion referrals must be made by one or more supervisors who are trained to detect the signs and symptoms of drug and alcohol use, and

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who reasonably concludes that an employee may be adversely affected or impaired in his/her work performance due to possible prohibited substance abuse or alcohol misuse. A reasonable suspicion alcohol test can only be conducted just before, during, or just after the performance of a safety-sensitive job function. However, under City of McCook Public Transportation' authority, a non-DOT reasonable suspicion alcohol test may be performed any time the covered employee is on duty. A reasonable suspicion drug test can be performed any time the covered employee is on duty.

- 2) City of McCook Public Transportation shall be responsible for transporting the employee to the testing site. Supervisors should avoid placing themselves and/or others into a situation which might endanger the physical safety of those present. The employee shall be placed on administrative leave pending disciplinary action described in Section Q of this policy. An employee who refuses an instruction to submit to a drug/alcohol test shall not be permitted to finish his or her shift and shall immediately be placed on administrative leave pending disciplinary action as specified in Section Q of this policy.
- 3) A written record of the observations which led to a drug/alcohol test based on reasonable suspicion shall be prepared and signed by the supervisor making the observation. This written record shall be submitted to the City of McCook Public Transportation Drug Officer.
- 4) If a reasonable suspicion alcohol test is not administered within two (2) hours following the reasonable suspicion determination, the Company will document the reasons why the test was not promptly administered. If the test is not administered within eight (8) hours following the reasonable suspicion determination, the Company will no longer attempt to administer an alcohol test and will document the reasons or its inability to do so.
- 5) Notwithstanding the above testing requirements, a covered employee may not report for duty or remain on duty requiring the performance of a safety-sensitive function if that employee is under the influence of or impaired by alcohol, as shown by the behavioral, speech and performance indicators of alcohol misuse. Any such covered employee will not be allowed to perform or continue to perform a safety-sensitive function until the employee undergoes an alcohol test yielding an alcohol concentration level of less than 0.02; or the start of the employee's next regularly scheduled duty period, but not less than eight hours following the reasonable suspicion determination.

**M. POST-ACCIDENT TESTING**

- 1) **FATAL ACCIDENTS** – A covered employee will be required to undergo urine and breath testing if they are involved in an accident with a transit vehicle, whether or not the vehicle is in revenue service at the time of the accident, that results in a fatality. This includes all surviving covered employees that are operating the vehicle at the time of the accident and any other whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision.
  
- 2) **NON-FATAL ACCIDENTS** - A post-accident test of the employee operating the public transportation vehicle will be conducted if an accident occurs and at least one of the following conditions is met:
  - a. The accident results in injuries requiring immediate medical treatment away from the scene unless the covered employee can be completely discounted as a contributing factor to the accident.
  - b. One or more vehicles incurs disabling damage as a result of the occurrence and must be transported away from the scene, unless the covered employee can be completely discounted as a contributing factor to the accident

In addition, any other covered employee whose performance could have contributed to the accident, as determined by the employer using the best information available at the time of the decision, will be tested.

As soon as practicable following an accident, as defined in this policy, the transit supervisor investigating the accident will notify the transit employee operating the transit vehicle and all other covered employees whose performance could have contributed to the accident of the need for the test. The supervisor will make the determination using the best information available at the time of the decision.

The appropriate transit supervisor shall ensure that an employee, required to be tested under this section, is tested as soon as practicable, but no longer than eight (8) hours of the accident for alcohol, and no longer than 32 hours for drugs. If an alcohol test is not performed within two hours of the accident, the Supervisor will document the reason(s) for the delay. If the alcohol test is not conducted within (8) eight hours, or the drug test within 32 hours, attempts to conduct the test must cease and the reasons for the failure to test documented.

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Any covered employee involved in an accident must refrain from alcohol use for eight (8) hours following the accident, or until he/she undergoes a post-accident alcohol test.

An employee who is subject to post-accident testing who fails to remain readily available for such testing, including notifying a supervisor of his or her location if he or she leaves the scene of the accident prior to submission to such test, may be deemed to have refused to submit to testing.

The decision not to administer a drug and/or alcohol test will be based on the company's determination, using the best available information at the time of the determination that the employee's performance could not have contributed to the accident. Such a decision must be documented in detail, including the decision-making process used to reach the decision not to test.

Nothing in this section shall be construed to require the delay of necessary medical attention for the injured following an accident, or to prohibit an employee from leaving the scene of an accident for the period necessary to obtain assistance in responding to the accident, or to obtain necessary emergency medical care.

In the rare event that City Of McCook Public Transportation is unable to perform an FTA drug and alcohol test (i.e., employee is unconscious, employee is detained by law enforcement agency), City of McCook Public Transportation] may use drug and alcohol post-accident test results administered by local law enforcement officials in lieu of the FTA test. The local law enforcement officials must have independent authority for the test and the employer must obtain the results in conformance with local law.

#### **N. RANDOM TESTING**

- 1) All covered employees will be subjected to random, unannounced testing. The selection of employees shall be made by a scientifically valid method of randomly generating an employee identifier from the appropriate pool of safety-sensitive employees. Employees who may be covered under company authority will be selected from a pool of non-DOT-covered employees.
- 2) The dates for administering unannounced testing of randomly selected employees shall be spread reasonably throughout the calendar year, day of the week and hours of the day.

The number of employees randomly selected for drug/alcohol testing during the calendar year shall be not less than the percentage rates set each year by the

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FTA administrator. The current year testing rates can be viewed online at: Random Testing Rates | US Department of Transportation.

- 3) Each covered employee shall be in a pool from which the random selection is made. Each covered employee in the pool shall have an equal chance of selection each time the selections are made. Employees will remain in the pool and subject to selection, whether or not the employee has been previously tested. There is no discretion on the part of management in the selection.
- 4) Covered transit employees that fall under the Federal Transit Administration regulations will be included in one random pool maintained separately from the testing pool of non-safety-sensitive employees that are included solely under City of McCook Public Transportation authority.
- 5) Random tests can be conducted at any time during an employee's shift for drug testing. Alcohol random tests can only be performed just before, during, or just after the performance of a safety sensitive duty. However, under City of McCook Public Transportation' authority, a non-DOT random alcohol test may be performed any time the covered employee is on duty. Testing can occur during the beginning, middle, or end of an employee's shift.
- 6) Employees are required to proceed immediately to the collection site upon notification of their random selection.

#### **O. RETURN-TO-DUTY TESTING**

City of McCook Public Transportation will terminate the employment of any employee that tests positive or refuses a test as specified in section Q of this policy. However, in the rare event an employee is reinstated with court order or other action beyond the control of the transit system, the employee must complete the return-to-duty process prior to the performance of safety-sensitive functions. All covered employees who previously tested positive on a drug or alcohol test or refused a test, must test negative for drugs, alcohol (below 0.02 for alcohol), or both and be evaluated and released by the Substance Abuse Professional before returning to work. Following the initial assessment, the SAP will recommend a course of rehabilitation unique to the individual. The SAP will recommend the return-to-duty test only when the employee has successfully completed the treatment requirement and is known to be drug and alcohol-free and there are no undue concerns for public safety. The SAP will determine whether the employee returning to duty will require a return-to-duty drug test, alcohol test, or both.

## **P. FOLLOW-UP TESTING**

Covered employees that have returned to duty following a positive or refused test will be required to undergo frequent, unannounced drug and/or alcohol testing following their return-to-duty test. The follow-up testing will be performed for a period of one to five years with a minimum of six tests to be performed the first year. The frequency and duration of the follow-up tests (beyond the minimums) will be determined by the SAP reflecting the SAP's assessment of the employee's unique situation and recovery progress. Follow-up testing should be frequent enough to deter and/or detect a relapse. Follow-up testing is separate and in addition to the random, post-accident, reasonable suspicion, and return-to-duty testing.

In the instance of a self-referral or a management referral, the employee will be subject to non-USDOT follow-up tests and follow-up testing plans modeled using the process described in 49 CFR Part 40. However, all non-USDOT follow-up tests and all paperwork associated with an employee's return-to-work agreement that was not precipitated by a positive test result (or refusal to test) does not constitute a violation of the Federal regulations will be conducted under company authority and will be performed using non-DOT testing forms.

## **Q. RESULT OF DRUG/ALCOHOL TEST**

- 1) Any covered employee that has a verified positive drug or alcohol test, or test refusal, will be removed from his/her safety-sensitive position, informed of educational and rehabilitation programs available, and will be provided with a list of at least two (2) USDOT qualified Substance Abuse Professionals (SAP) for assessment, and will be terminated.
- 2) Following a negative dilute the employee will be required to undergo another test. Should this second test result in a negative dilute result, the test will be considered a negative and no additional testing will be required unless directed to do so by the MRO.
- 3) **Refusal to submit to a** drug/alcohol test shall be considered equivalent to a positive test result and a direct act of insubordination and shall result in termination and referral to a list of USDOT qualified SAPs. A test refusal includes the following circumstances:
  - a. Fail to appear for any test (except a pre-employment test) within a reasonable time, as determined by the employer.
  - b. Fail to remain at the testing site until the testing process is complete. An employee who leaves the testing site before the

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testing process commences for a pre-employment test has not refused to test.

- c. Fail to provide a breath or urine specimen. An employee who does not provide a urine or breath specimen because he or she has left the testing site before the testing process commenced for a pre-employment test has not refused to test.
- d. In the case of a directly observed or monitored urine drug collection, fail to permit monitoring or observation of your provision of a specimen.
- e. Fail to provide a sufficient quantity of urine or breath without a valid medical explanation.
- f. Fail or decline to take a second test as directed by the collector or the employer for drug testing.
- g. Fail to undergo a medical evaluation as required by the MRO or the employer's Designated Employer Representative (DER).
- h. Fail to cooperate with any part of the testing process.
- i. Fail to follow an observer's instructions to raise and lower clothing and turn around during a directly observed test.
- j. Possess or wear a prosthetic or other device used to tamper with the collection process.
- k. Admit to the adulteration or substitution of a specimen to the collector or MRO.
- l. Refuse to sign the certification at Step 2 of the Alcohol Testing Form (ATF).
- m. Fail to remain readily available following an accident.

As a covered employee, if the MRO reports that you have a verified adulterated or substituted test result, you have refused to take a drug test.

- 4) An alcohol test result of  $\geq 0.02$  to  $\leq 0.039$  BAC shall result in the removal of the employee from duty for eight hours or the remainder or the workday whichever is longer. The employee will not be allowed to return to safety-sensitive duty for his/her next shift until he/she submits to a NONDOT alcohol test with a result of less than 0.02 BAC.
- 5) In the instance of a self-referral or a management referral, disciplinary action against the employee shall include:
  - a. Mandatory referral for an assessment by an employer approved counseling professional for assessment, formulation of a treatment plan, and execution of a return-to-work agreement.
  - b. Failure to execute or remain compliant with the return-to-work agreement shall result in termination from City of McCook Public Transportation employment.

- i. Compliance with the return-to-work agreement means that the employee has submitted to a drug/alcohol test immediately prior to returning to work; the result of that test is negative; the employee is cooperating with his/her recommended treatment program; and, the employee has agreed to periodic unannounced follow-up testing as described in Section P of this policy; however, all follow-up testing performed as part of a return-to-work agreement required under section Q of this policy is under the sole authority of City of McCook Public Transportation and will be performed using non-DOT testing forms.
  - c. Refusal to submit to a periodic unannounced follow-up drug/alcohol test shall be considered a direct act of insubordination and shall result in termination. **All tests conducted as part of the return-to-work agreement will be conducted under company authority and will be performed using non-DOT testing forms.**
  - d. **A self-referral or management referral to the employer's counseling professional that was not precipitated by a positive test result does not constitute a violation of the Federal regulations and will not be considered as a positive test result in relation to the progressive discipline defined in Section Q of this policy.**
  - e. Periodic unannounced follow-up drug/alcohol testing conducted as a result of a self-referral or management referral which results in a verified positive shall be considered a positive test result in relation to the progressive discipline defined in Section Q of this policy.
  - f. A Voluntary Referral does not shield an employee from disciplinary action or guarantee employment with City of McCook Public Transportation.
  - g. A Voluntary Referral does not shield an employee from the requirement to comply with drug and alcohol testing.
- 6) Failure of an employee to report within five days a criminal drug statute conviction for a violation occurring in the workplace shall result in termination.

## **R. GRIEVANCE AND APPEAL**

The consequences specified by 49 CFR Part 40.149 (c) for a positive test or test refusal is not subject to arbitration.

## **S. PROPER APPLICATION OF THE POLICY**

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City of McCook Public Transportation is dedicated to assuring fair and equitable application of this substance abuse policy. Therefore, supervisors/managers are required to use and apply all aspects of this policy in an unbiased and impartial manner. Any supervisor/manager who knowingly disregards the requirements of this policy, or who is found to deliberately misuse the policy in regard to subordinates, shall be subject to disciplinary action, up to and including termination.

## **T. INFORMATION DISCLOSURE**

- 1) Drug/alcohol testing records shall be maintained by the City of McCook Public Transportation Drug and Alcohol Program Manager and, except as provided below or by law, the results of any drug/alcohol test shall not be disclosed without express written consent of the tested employee.
- 2) The employee, upon written request, is entitled to obtain copies of any records pertaining to their use of prohibited drugs or misuse of alcohol including any drug or alcohol testing records. Covered employees have the right to gain access to any pertinent records such as equipment calibration records, and records of laboratory certifications. Employees may not have access to SAP follow-up testing plans.
- 3) Records of a verified positive drug/alcohol test result shall be released to the Drug and Alcohol Program Manager, and other transit system management personnel on a need-to-know basis.
- 4) Records will be released to a subsequent employer only upon receipt of a written request from the employee.
- 5) Records of an employee's drug/alcohol tests shall be released to the adjudicator in a grievance, lawsuit, or other proceeding initiated by or on behalf of the tested individual arising from the results of the drug/alcohol test. The records will be released to the decision maker in the proceeding.
- 6) Records will be released to the National Transportation Safety Board during an accident investigation.
- 7) Information will be released in a criminal or civil action resulting from an employee's performance of safety-sensitive duties, in which a court of competent jurisdiction determines that the drug or alcohol test information is relevant to the case and issues an order to the employer to release the information. The employer will release the information to the decision maker in the proceeding with a binding stipulation that it will only be released to parties of the proceeding.

- 8) Records will be released to the DOT or any DOT agency with regulatory authority over the employer or any of its employees.
- 9) Records will be released if requested by a Federal, state or local safety agency with regulatory authority over City of McCook Public Transportation or the employee.
- 10) If a party seeks a court order to release a specimen or part of a specimen contrary to any provision of Part 40 as amended, necessary legal steps to contest the issuance of the order will be taken
- 11) In cases of a contractor or sub-recipient of a state department of transportation, records will be released when requested by such agencies that must certify compliance with the regulation to the FTA.

This Policy was adopted by the McCook City Council on October 17, 2022.

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Michael D. Gonzales, Mayor

Attest:

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Lea Ann Doak, City Clerk

**Attachment A**

Job Title                      Job Duties                      Testing Authority

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### Attachment A

| <u>Job Title</u>          | <u>Job Duties</u>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      | <u>Testing Authority</u> |
|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|
| Full-Time Bus Driver      | Provide transportation for the general public, including disabled, and children within the city limits of McCook and operate communications system with same; responsible for safety of passengers while driving the transit bus and assist patrons as necessary and legally permissible, including operating the wheelchair lift; maintain all records pertaining to the transit bus, maintain daily records; maintains transit vehicle and city vehicle, including fueling, cleaning, general maintenance; coordinates routine servicing and repair. | FTA                      |
| Part-Time Bus Driver      | Backup to Full-Time Bus Driver as needed. Same job duties as Full-Time Bus Driver.                                                                                                                                                                                                                                                                                                                                                                                                                                                                     | FTA                      |
| Public Transit Dispatcher | Answer calls and schedule trips for public transportation; maintain a log of daily trips; communicate with transit driver via cell phone and blue ant device; enter daily data into computer program; maintain records of clients served; assist Director in preparing monthly reports; count and log contributions log fares received from the Public Transit program.                                                                                                                                                                                | FTA                      |
| Senior Services Director  | As it relates to public transit: Manages and supervises operations within available resources; plans and organizes workloads and staff assignment; trains, motivates and evaluates assigned staff; reviews progress and directs changes as needed. Develops and implements policies, procedures and standards for efficient and effective operation and maintenance of the Public Transit operations. Assures compliance with established policies and procedures. Serves as backup Public Transit Dispatcher and Bus Driver, as needed.               | FTA                      |

## **Attachment B Contacts**

Any questions regarding this policy or any other aspect of the substance abuse policy should be directed to the following individual(s).

### **City of McCook Transportation Drug and Alcohol Program Manager**

Name:Lilia Dimas

Title: Designated Employee Representative (DER)

Address: 505 West C Street, McCook NE 69001

Telephone Number: 308-345-2022 ext.220

### **Medical Review Officer**

Name:David Nahin M.D.

Title: Medical Review Officer

Address:9501 Northfield BLVD, Denver, CO 80238

Telephone Number: (877) 585-7366

### **Medical Review Officer**

Name: John Womack M.D,

Title: Medical Review Officer

Address:9501 Northfield BLVD, Denver, CO 80238

Telephone Number: (877) 585-7366

### **Substance Abuse Professional**

Name:David Lund I3Screen

Title: Substance Abuse Professional

Address: 108 East 2<sup>nd</sup> St, North Platte, NE 69101

Telephone Number:308-534-9271

Name:Brenda Ruf

Title: Substance Abuse Professional

Address: 1012 W 3<sup>rd</sup> Street, McCook, NE 69001

Telephone Number:308-345-2770

### **HHS Certified Laboratory Primary Specimen**

Name: Quest Diagnostics I3Screen

Address:9501 Northfield BLVD. Denver CO 80238

Telephone Number: 800-877-7484

### **HHS Certified Laboratory Split Specimen**

Name:Quality Urgent Care

Address:3 Bison Holiday Drive

Telephone Number: 308-345-7036

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

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**ITEM:        3.E.**

Approve the Addendum to McCook Humane Society Agreement, increasing the contract amount the City of McCook pays for animal services and authorize the Mayor to sign.

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**BACKGROUND:**

At the July 5, 2022 City Council meeting Joyce Anderson, Treasurer and Lorie Prestes, Manager of the McCook Humane Society, requested that the yearly contract amount paid by the City of McCook for animal services be increased. The Humane Society proposed increasing the contract amount by \$9,000 per year, which would increase the monthly contract amount from the current payment of \$2,940.08/month to \$3,690.08/month and that the annual cap on utilities be reduced from \$12,000 to \$9,000. The requested increase was included in the approved FY22/23 Budget.

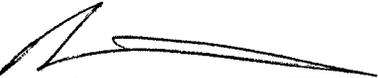
Attached to this report is an email from Ms. Anderson which provides details of the requested modification. A revision to the contracted amount has not occurred since 2011. The City of McCook relies on the McCook Humane Society to serve as the community shelter for stray and unwanted animals. As noted in the email, a majority of the animals the Humane Society cares for originate from McCook (ie. 59%). Based on the Humane Society's operating expenses related to McCook pets (ie. \$141,702.00), the city only covers 29% of the associated costs.

**FISCAL  
IMPACT:**       None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 13, 2022

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 13, 2022

ADDENDUM TO MCCOOK HUMANE SOCIETY AGREEMENT

This addendum is made and entered into on the date of execution shown by and between the City of McCook, a Municipal Corporation, and the McCook Humane Society, a Nebraska non-profit corporation. The parties are hereinafter referred to as "City" and the "Society", respectively.

Commencing October 1, 2022 the parties hereby agree that paragraph number 2.02 is hereby amended to include the following:

The City of McCook shall ~~continue to pay~~ for utilities (electric, gas, and water) but not to exceed ~~\$12,000.00~~ **\$9,000.00** per year.

The City of McCook, based on 2021 expenses, shall pay ~~Thirty-Four Thousand Two Hundred Eighty-One Dollar (\$34,281.00)~~ **Forty-Four Thousand Two Hundred Eighty-One Dollar (\$44,281.00)** annually. Such sum shall be paid in equal monthly installments of ~~Two Thousand Eight Hundred Fifty-Six and 75/100 Dollars (\$2,856.75)~~ **Three Thousand Six Hundred Ninety and 08/100 Dollars (\$3,690.08)**, each installment to be paid not later than the twentieth (20<sup>th</sup>) day of the month following each month in which the Society provides service under this agreement.

The annual rate will be adjusted yearly to reflect actual cost for the percentage of McCook animals handled the prior year.

~~The City of McCook, based on 2020 expenses, shall make payment of an additional One Thousand Dollars (\$1,000.00). Such sum shall be paid in equal monthly installments of Eighty-Three and 33/100 Dollars (\$83.33), each installment to be paid not later than the tenth (10th) day of the month following each month in which the Society provides service under this Agreement.~~

All other terms and conditions of the original AGREEMENT dated January 18, 2021 shall continue to be in full force and effect.

Dated this 17<sup>th</sup> day of October, 2022.

City of McCook  
A Municipal Corporation

By \_\_\_\_\_  
Mike Gonzales, Council Vice President

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk

McCook Humane Society  
A Non-Profit Corporation,

By \_\_\_\_\_  
President

ADDENDUM TO MCCOOK HUMANE SOCIETY AGREEMENT

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Commencing October 1, 2022 the parties hereby agree that paragraph number 2.02 is hereby amended to include the following:

The City of McCook shall ~~continue to~~ pay for utilities (electric, gas, and water) but not to exceed \$9,000.00 per year.

The City of McCook, based on 2021 expenses, shall pay Forty-Four Thousand Two Hundred Eighty-One Dollar (\$44,281.00) annually. Such sum shall be paid in equal monthly installments of Three Thousand Six Hundred Ninety and 08/100 Dollars (\$3,690.08), each installment to be paid not later than the twentieth (20<sup>th</sup>) day of the month following each month in which the Society provides service under this agreement.

The annual rate will be adjusted yearly to reflect actual cost for the percentage of McCook animals handled the prior year.

All other terms and conditions of the original AGREEMENT dated January 18, 2021 shall continue to be in full force and effect.

Dated this 17<sup>th</sup> day of October, 2022.

City of McCook  
A Municipal Corporation

By \_\_\_\_\_  
Mike Gonzales, Council Vice President

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk

McCook Humane Society  
A Non-Profit Corporation,

By \_\_\_\_\_  
President

## Nate Schneider

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**From:** Joyce Anderson <anderson82joyce@gmail.com>  
**Sent:** Wednesday, June 15, 2022 8:51 PM  
**To:** Nate Schneider  
**Subject:** Humane Society request

City Council and City Administration:

Due to the increasing labor costs in the past year, we did some research on our cost and funding breakdowns. When we got to researching the past contract history, we found that our contract price had not been raised since September 2011.

Calculations based on the similar 2% increase that is typical for your staff would take the shelter contract reimbursement to \$3655.58 from the current \$2940.08 which we have been receiving for the last 11 years. When reading the past addendum from 2011, we found that the contract was supposed to be reviewed annually which has not been done.

We are currently allocated \$12000 maximum for utility reimbursements each year. However, due to the replacement of some of the old inefficient HVAC systems, we have used the following utility reimbursements 2021 \$6084.57, 2020 \$7318.14, 2019 \$8822.10, respectively. As you can see, we are not using as many utilities due to these improvements.

Another improvement that we have done at the Shelter is to start using a pet adoption software in the past year that can tell us where each animal intake originated from. We found that 59% of the animals that we intake originated from within the city limits of McCook. Of the 293 McCook pets, 176 or 60% are strays. Based on our operating expenses related to McCook pets of \$141702.00, the City is only covering 29% of those costs. Thanks to our generous donors, we are able to continue our mission without those past increases in support from the City.

We are requesting to increase the contract amount by \$9000 per year which would be a contract amount of \$3690.08 per month plus a \$9000 cap on the utility reimbursement for a year in lieu of the \$12000 utility cap currently in place. This would make the City reimbursement share at about 35.7% of the City's share of our operating costs based on animal intakes.

We are contacting the other cities and counties that support our mission to help cover the costs of animals from their areas.

We plan to attend the July 5th City Council meeting to answer any questions you might have.

--

Joyce Anderson  
Treasurer  
McCook Humane Society  
308-345-4512

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

---

**ITEM: 3.F.**

**RECOMMENDATION:**

**APPROVE THE BID FROM CAHOJ EARTHMOVING, INC. OF ATWOOD, KS  
IN THE AMOUNT OF \$170,429.30 FOR THE NORTH HIGHWAY 83  
DRAINAGE IMPROVEMENTS.**

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**BACKGROUND**

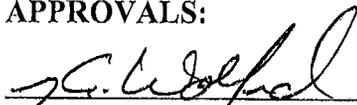
This project involves the repair of a major washout that has occurred over the past several years on the east side of Highway 83, just north of NPPD's office. Advertisements for bid were sent to nine contractors, and three bids were received. The cost estimate for this project was \$222,000.

Attached is the detailed price breakdown for these bids in which you will note the wide variation in prices. The majority of the price difference between the two low bidders is in the cost of the earthwork. In talking to the low bidder, they were able to make a deal with the landowner to the north for the significant amount of borrow required for filling in the washout. Thus they did not need to haul that material on trucks from a long distance away, accounting for the lower price.

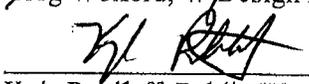
This project is on the One Year Plan approved last September, with the cost to be paid by ARPA funds.

**FISCAL IMPACT:** None.

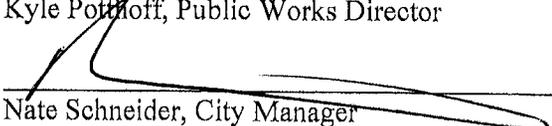
**APPROVALS:**

  
\_\_\_\_\_  
Greg WOLFORD, W Design Associates

Date: 11 Oct 22

  
\_\_\_\_\_  
Kyle POTTLOFF, Public Works Director

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

  
\_\_\_\_\_  
Nate SCHNEIDER, City Manager

Date: Oct. 12-2022



**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

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**ITEM:**            3.G.

Approve the application for a Special Designated Liquor License submitted by Loop Brewing Company, Liquor License #LK-093351, for a Farm Show to be held at the Kiplinger Arena, 1412 West 5<sup>th</sup> Street, on November 18, 2022 from 10:00 A.M. to 1:00 A.M. and November 19, 2022 from 10:00 A.M. to 6:00 P.M.

---

**BACKGROUND:**

Loops will be catering this event. They are making application to allow them to serve alcohol at this temporary location. Approval of the City Council is required with all applications.

**FISCAL  
IMPACT:**        None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 13, 2022

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 13, 2022

**Special Designated License  
Local Recommendation (Form 200)**  
Applications must be entered on the portal after local approval – no exceptions  
Late applications are non-refundable and will be rejected

**Loop Brewing Company LLC**

**Retail Liquor License Name or \*Non-Profit Organization (\*Must include Form #201 as Page 2)**

**404 West A Street, McCook, NE 69001**

**Retail Liquor License Address or Non-Profit Business Address**

**LK - 93351**

**Retail License Number or Non-Profit Federal ID #**

|                               |                 |                 |       |       |       |       |
|-------------------------------|-----------------|-----------------|-------|-------|-------|-------|
| <b>Consecutive Dates only</b> | <u>11/18/22</u> | <u>11/19/22</u> | _____ | _____ | _____ | _____ |
| <b>Event Date(s):</b>         | _____           | _____           | _____ | _____ | _____ | _____ |
| <b>Event Start Time(s):</b>   | <u>10 AM</u>    | <u>10 AM</u>    | _____ | _____ | _____ | _____ |
| <b>Event End Time(s):</b>     | <u>1 AM</u>     | <u>6 PM</u>     | _____ | _____ | _____ | _____ |

**Alternate Date:** \_\_\_\_\_

**Alternate Location Building & Address:** \_\_\_\_\_

**Event Building Name:** Kiplinger Arena

**Event Street Address/City:** 1412 West 5th, McCook, NE 69001

**Indoor area to be licensed in length & width:** 140 x 300

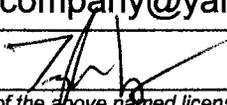
**Outdoor area to be licensed in length & width:** \_\_\_\_\_ X \_\_\_\_\_ (Diagram Form #109 must be attached)

**Type of Event:** Farm Show **Estimate # of attendees:** 300

**Type of alcohol to be served:** Beer  Wine  Distilled Spirits   
(If not marked, you will not be able to serve this type of alcohol)

**Event Contact Name:** Tyler Loop **Event Contact Phone Number:** 308-737-9921

**Event Contact Email:** loopbrewingcompany@yahoo.com

**\*Signature Authorized Representative:**  **Printed Name** Tyler Loop

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

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

**Local Governing Body completes below:**

The local governing body for the City/Village of \_\_\_\_\_ **OR** County of \_\_\_\_\_ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

\_\_\_\_\_  
**Local Governing Body Authorized Signature** \_\_\_\_\_  
**Date**



**Special Designated License  
Local Recommendation (Form 200)**

Applications must be entered on the portal after local approval – no exceptions  
Late applications are non-refundable and will be rejected

Loop Brewing Company LLC

Retail Liquor License Name or \*Non-Profit Organization (\*Must include Form #201 as Page 2)

404 West A Street, McCook, NE 69001

Retail Liquor License Address or Non-Profit Business Address

LK - 93351

Retail License Number or Non-Profit Federal ID #

Consecutive Dates only  
Event Date(s): 12/10/22

Event Start Time(s): 3 PM

Event End Time(s): 1 AM

Alternate Date:

Alternate Location Building & Address:

Event Building Name: McCook City Auditorium

Event Street Address/City: 302 West 5th Street

Indoor area to be licensed in length & width: 150 x 80

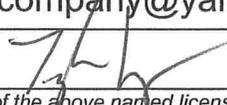
Outdoor area to be licensed in length & width: \_\_\_ X \_\_\_ (Diagram Form #109 must be attached)

Type of Event: Wedding Reception Estimate # of attendees: 200

Type of alcohol to be served: Beer  Wine  Distilled Spirits   
(If not marked, you will not be able to serve this type of alcohol)

Event Contact Name: Tyler Loop Event Contact Phone Number: 308-737-9921

Event Contact Email: loopbrewingcompany@yahoo.com

\*Signature Authorized Representative:  Printed Name Tyler Loop

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

\*Retail licensee – Must be signed by a member listed on permanent license

\*Non-Profit Organization – Must be signed by a Corporate Officer

**Local Governing Body completes below:**

The local governing body for the City/Village of \_\_\_\_\_ **OR** County of \_\_\_\_\_ approves the issuance of a Special Designated License as requested above. (Only one should be written above)

Local Governing Body Authorized Signature

Date

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

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**ITEM:**        3.I.

Receive and file the claims for the month of September 2022, published October 13, 2022.

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**BACKGROUND:**

Claims are presented to the Council and published each month as outlined in the City Code of Ordinances.

Staff is always available to address any questions that the Council may have regarding a specific claim.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 13, 2022

CITY OF MCCOOK  
CLAIMS FOR SEPTEMBER 2022

ABBREVIATIONS FOR LEGALS: PS - PERSONAL SERVICES; S- SUPPLIES; SC - SERVICES & CHARGES; CO - CAPITAL OUTLAY; BT - BUDGET TRANSFERS

20/20 TECHS-SC 4265.00; 7-D LOCKSHOP-S 165.23; 911 CUSTOM, LLC-S 1091.00; ACE-S 4643.96; ACME-S 117.00, CO 2525.00; AKRS-S 2572.66; AL'S LOCK & SAFE-S 365.00; B. ALLEN-SC 148.75; ALMENA STATE BANK/FDIC RCVR-SC 24698.44; ALMQUIST, MALTZAHN, GALLOWAY & LUTH-SC 300.00; AMERICAN AG LAB-SC 1446.96; AMERICAN ELECTRIC-S 918.71; AMERICAN LEGAL PUB-SC 475.00; AMERITAS-DENTAL-SC 390.26; AMERITAS-CLAIMS-SC 3596.73; ANYTIME TRI-STATE TOWING-SC 85.00; APPLIED CONCEPTS-S 2300.00, SC 2350.00, CO 2400.00; APPLIED CONNECTIVE TECH-SC 150.00; ARROW CAR WASH-S 62.10; BLACK HILLS ENERGY-SC 1626.80; BRITE-S 1437.00; BW TELECOM-SC 144.14; C&K-S 595.39; CAMBRIDGE TELEPHONE-SC 234.12; CARQUEST-S 3812.75; CASH WAY-S 28227.33; CDW-G-SC 209.00; CENTRAL NE BOBCAT-S 119.85; CENTURY LINK-SC 757.50; C. CHRISTNER-S 50.00; CITY OF MCCOOK-PS 385233.20; CITY SELF INS-BT 173258.00; UTILITIES-SC 24336.87; CLINE WILLIAMS, WRIGHT JOHNSON GEN REDEV-SC 1703.22; CORNHUSKER STATE INDUSTRIES-CO 4160.00; CREATIVE PRODUCT SOURCING INC-S 74.10; J. CROCKER-SC 157.50; CUMMINS SALES-S 1000.00, SC 9030.68; D & L PEST CONTROL-S 603.00; D & S HARDWARE-S 742.95; DAS STATE ACCTG-SC 448.00; DEVENY-S 1919.99; DIAMOND VOGEL-S 269.70; DOUG RICHERT CHEVY-CO 46214.95; DOWNEY DRILLING-S 2243.42; EAKES-S 3865.70; ENGINEERED CONTROLS-S 821.78; ENVIRONMENTAL ANALYSIS-SC 706.00; ESC ENG-SC 455.00; FASTENAL-S 164.55; FICA-PS 18836.54; FRENCHMAN VALLEY COOP-S 33453.695; FRONTIER COMM-SC 34.19; FUSION CLOUD-SC 89.39; GALLS-S 1111.73; GARRISONS-S 3349.00; GARVER-SC 19258.77; GERIH CONCRETE-CO 200.00; GIS WORKSHOP-SC 21225.00; GOLIGHT, INC-S 319.00; GOOGLE SVCS-SC 486.00; GOTCHA GLASS-S 225.00; GRAHAM TIRE-S 10044.32; GREAT PLAINS COMM-SC 2432.81; HAYS COMPANIES-SC 10,000.00; HENNING BROS-SC 59.00; HG KLUG SONS, INC-CO HIGH PLAINS RADIO-SC 58.00; HILTON HOTELS-SC 428.56; HOMETOWN LEASING-SC 12634.93; IDEAL LINEN-S 325.38; INDUSTRIAL PROCESS TECH-CO 5948.00; INLAND TRUCK

PARTS-S 211.16; INTERSTATE ALL BATTERY-S 449.40; ISLAND SPRINKLER-S 1701.28; J BAR J LANDFILL-SC 52027.36; R. JENSEN-SC 196.87; J. JOHNSON-SC 148.75; K & C GRAIN-S 61160.84; K-C MOTOR & ELEC-S 65.00; KATHERINE MESNER-SC 4736.54; KIDS REFERENCE-S 599.64; KLUTE TRUCK-CO 15140.00; KOHL'S AUTO-S 228.39; KOMLINE-SANDERSON ENG-S 3502.43; KULLY PIPE-S 758.52; KURITA TONKAWATER-SC 8015.51; L-TRON CORP-S 1872.95; LAGOON PUMPING & DEREDGING, INC-S 178395.00; LAW ENFORCEMENT SIMINARS-SC 395.00; LEAGUE OF NE MUN-SC 2087.00; LIFE-ASSIST-S 449.85; LINCOLN WINWATER WORKS-S 1177.00; LOCALITY MEDIA-SC 2756.25; MACQUEEN EQUIP-S 8688.20; MALINE SEED & FENCE-CO 5529.88; MALLECK OIL, LLC-S 294.00; MARC-S 3822.89; MARIS GEN CONST-S 9157.55; MATHESON-LINWELD-S 990.74; R MCCAULEY-CO 3966.00; MC CHAMBER OF COMMERCE- SC 436.00; MC GAZETTE-SC 1386.30; MC HUMANE SOCIETY-S 3915.69; MPPD-SC 2852.06; MPS-SC 915.00; MC NET-SC 69.95; T. MCGINLEY-SC 60.00; MCKESSON MEDICAL-S 454.89; MEDICARE-PS 5368.83; MEAD-S 3979.80; J. METCALF-SC 75.00; R. METCALF-SC 583.28; MICROMARKETING-S 5044.31; MPCC-SC 1662.00; MIDWEST CONNECT-SC 3745.08, C 650.10; MILCO ENVIRONMENTAL-SC 599.300; MILLER & ASSOC-S 2020.00; MOTOROLA SOLUTIONS-CO 35631.20; MOUSEL, BROOKS, SCHNEIDER, MUSTION-SC 8268.00; MUNICIPAL SUPPLY-S 3262.57; MUTUAL OF OMAHA-SC 1335.385; NE DEPT OF AG-SC 73.78; NE DEPT OF ENVIR & ENERGY-SC 1750.00; NE DEPT OF REV-WASTE REDUCTION-SC 25.00; NE DEPT REV-SALES TAX-SC 11031.17; NE MUNICIPAL CLERK'S ASSOC-SC 200.00; NE PUBLIC HEALTH-SC 496.00; NE SAFETY AND FIRE-S 66.00; NEBRASKA TRUCK CENTER-S 6193.08; NEBRASKALAND TIRE-S 5037.80; NICK'S DIST-SC 3154.32; NPPD-SC 43328.83; NUTRIEN AG SOLUTIONS-CO 50.00; O'REILLY-S 388.62; O'DEYS-S 1180.33; ONE BILLING SOL-SC 2721.03; ONE CALL-SC 104.20; PAPER TIGER-S 90.00; PARDE ELECTRIC-S 1361.27; PAULSEN INC-S 1140.88; PETROTEK ENG-SC 6452.43; PLATTE VALLEY COMM-S 6179.95; K. POTTHOFF-SC 341.25; PRAIRIE STATES COMM-S 447.49, SC 17601.07; CO 17988.60; PRAISE WINDOWS-S 1160.00; QUADIENNT FINANCE USA-SC 959.96, S 40.04; QUALITY URGENT CARE-SC 75.00; QUICK MED-SC 332.24; QUILL-S 200.30; RW COUNTY CRT-SC 17.00; RJ THOMAS MFG-SC 4402.00; ROCKMOUNT RESEARCH & ALLOYS-S 746.43; RUGGLES-SC 116.61; SANDRY FIRE SUPPLY-S 1090.00, SC 3117.50; M. SCHOENEMANN-SC 883.28; SEHNERT'S-S 20.45; SHELCO CONST-CO 304102.80; B SIEGFRIED-SC 486.17; J SMITH-SC 55.00; SOLID WASTE ASSOC-SC 245.00; SOUTHWEST

FARM & AUTO-S 4071.07; SOUTHWESTERN EQUIP CO-S 1900.82; SWANSON SIGN-SC 864.00; T.O. HAAS-S 37.80; TASTE OF HOME-S 38.50; TELEFLEX-S 677.50; TIM BRADLEY ELECTRIC-SC 150.00; TITAN MACHINERY-S 1060.05; M. TOWERY-SC 175.00; TRAVELER'S-SC 19.00; TYLER TECH-SC 15.00; ULTRASYSTEMS ELECTRONICS-SC 595.54; UMR-SC 150144.05; UNION BANK & TRUST-SC 1374.00; US FOODS-S 643.47; UTILITY REFUNDS-384.43; USA BLUEBOOK-S 19.20; VANDIEST-S 12348.39; N VARGAS-SC 55.00; VERIZON-SC 3923.51; VOLZ-S 12467.96; W DESIGN-SC 2275.20; WAGNER CHEVY-S 582.39; WAGNER FORD-S 4211.43; WALMART-S 736.66; WEATHERCRAFT-S 37150.00; WEBB BODY SHOP-SC 675.82; T WILLIAMS-SC 2400.00; YMCA-SC 2100.00.

-s- Lea Ann Doak  
City Clerk

Publish: September 13, 2022

**CITY MANAGER'S REPORT  
NOVEMBER 1, 2021 CITY COUNCIL MEETING**

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**ITEM:**        3.J.

Consider request and authorize the use of Community Betterment Funds to cover the rental fees for the "Share the Heat" fundraising event to be held at the Heritage Senior Center on October 23, 2022.

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**BACKGROUND:**

Barb Ostrum, Community Action and Linda Nielsen, a volunteer, made the request for use of the Senior Center for the "Share the Heat" fundraising event and that the fees for use of the Senior Center be waived. The Council has granted this type of request in the past, paying the fees with Community Betterment Funds. Staff is requesting Council approval of the use of these funds, which helps defray costs and ensure the viability of this event. The ending cash balance for Community Better Funds is sufficient to cover this expenditure.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 13, 2022

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 13, 2022

## REQUEST FOR USE OF SENIOR CENTER WITH WAIVER OF FEE

A group of supporters would like to use the Senior center to for a fundraising event on Sunday, October 23, with waiver of fee. The money raised goes the “ Share the Heat” community fund, which helps people in 7 counties of southwest Nebraska when they are struggling to pay their heating bills. See enclosed letter about the planned event for 2022. The supporters are all volunteer and are independent of any church or other organization. They do use a grant from Thrivent Financial to help with some of the fundraising expenses. All other expenses for fundraising are taken care of by the volunteers. The supporters have themselves paid the rent at the Senior center in past years, whenever it was the site used for this annual fundraising event.

Barbara Ostrum, from Communtiy Action (308-345-1187)

and Linda Nielsen, a volunteer, (308-345-1755)

plan to present this request at the McCook city council meeting October 17, 2022

Thank you.



**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

---

**ITEM:**            3.K.

**RECOMMENDATION:**

Recommend approval to the Nebraska Liquor Control Commission the change of location request submitted by Loop Brewing Company LLC, which holds License #LK-093351, changing the address from 404 West "A" Street to 801 West "C" Street, Suite 5B.

---

**BACKGROUND:**

Upon notice from the Liquor Control Commission (LCC), this application is being presented to the Council for consideration. The LCC does not require that a hearing be held for a change of location. However, the new location shall not be approved unless endorsed by the local governing body.

The attached Planning Report addresses the issues that staff had regarding the new location. It meets zoning requirements and is compatible with neighboring land uses. The building being used is somewhat close to the YMCA and High School, but this concern is mitigated due to the fact that the entrances are on opposite sides.

City staff recommends approval of the new location.

**FISCAL  
IMPACT:**        None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 13, 2022

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 13, 2022

**Lea Ann Doak**

---

**From:** Tyler Loop <loopbrewingcompany@yahoo.com> on behalf of Tyler Loop  
**Sent:** Monday, October 3, 2022 1:17 PM  
**To:** burkey@cityofmccook.com; Lea Ann Doak  
**Subject:** Brewery Address Change Approval  
**Attachments:** 111 JULY 2015 CHANGE OF LOCATION.pdf

Hello,

We will be moving the location of our brewery operation to 801 West C Street, Suite 5b and according to the liquor commission, we need local approval. I have attached the application that will be sent to the liquor commission and you'll see that it says...

- May include approval from the local governing body; new location shall not be approved unless endorsed by the local governing body

- Check with your local governing body for any additional requirements that may be necessary in making this request for addition

The restaurant will stay where it is, just moving into a bigger facility to expand our brewery operation. Let me know what needs to be done to get this endorsement from the city.

Thank you,  
Tyler Loop

LIQUOR APPLICATION REPORT

PLANNING REPORT

DATE REQUESTED: October 6, 2022 DUE DATE:

PROPOSED LICENSED PREMISES  X  IS,   IS NOT WITHIN THE CORPORATE LIMITS OF THE MUNICIPALITY.

IF NOT, DO NOT PROCEED WITH THIS REPORT. SIGN AND DATE BELOW AND RETURN THIS FORM TO THE CITY CLERK.

\*\*\*\*\*

APPLICANT: Loop Brewing Company

LOCATION: 801 West "C" Street - Suite 5B

REQUESTED LICENSE: Class "LK" - (Brew Pub/Catering) Class "L" is a Craft Brewery

EXISTING ZONING:  Business Commercial

The proposed licensed premises  X  is,   is not a permitted use in this zoning classification.

EXISTING LAND USE:  Business complex

NORTH:  YMCA

SOUTH:  Car Wash, Diamond Vogel

EAST:  Janssen Keel Hondog, McCook Public Schools Bus Barn

WEST:  McCook Public Schools grass area

GENERAL NEIGHBORHOOD/AREA LAND USES:  Mixed uses that include businesses, schools, recreation and some residential.

PROXIMITY TO SCHOOLS, CHURCHES, HOSPITALS, LIBRARIES, HOMES FOR THE AGED AND PUBLIC INSTITUTIONS (please specify):

Approx. 1 block from McCook High School and Hillcrest Nursing Home

ANALYSIS OF NEIGHBORHOOD EFFECTS: The building being used for brewing  
purposes is somewhat close to the YMCA and High School but this concern  
is mitigated due to the fact that the entrances are on the opposite side.  
All of the structures at the intersection are business in nature.

PARKING REQUIREMENTS/PROBLEMS: Compliant parking in front and  
rear of existing buildings.

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DATE: 10-13-22

SIGNED: Barry Mooney  
Building Official



Pete Ricketts  
Governor

STATE OF NEBRASKA  
NEBRASKA LIQUOR CONTROL COMMISSION

**Hobert B. Rupe**  
Executive Director  
301 Centennial Mall South  
P.O. Box 95046  
Lincoln, Nebraska, 68509-5046  
Phone (402) 471-2571  
Fax (402) 471-2814 or (402) 471-2374  
TRS USER 800-833-7352 (TTY)  
Web Address <https://www.lcc.nebraska.gov/>

- ADDITION
- DELETION
- CHANGE OF LOCATION
- RECONSTRUCTION

LICENSING STAFF: HY 10.7.22

TO: MCCOOK CITY CLERK

LICENSE #: LK-093351

LICENSEE: LOOP BREWING COMPANY, LLC.

TRADE NAME: LOOP BREWING COMPANY

ADDRESS: 404 W A ST

CITY/COUNTY/ZIP: MCCOOK/RED WILLOW/69001

CONTACT PERSON/PHONE #: TYLER LOOP 308.737.9921

CONTACT EMAIL: LOOPBREWINGCOMPANY@YAHOO.COM

REQUEST: NEW ADDRESS: 801 W C ST, SUITE 5B, MCCOOK

MAKING THE NEW DESCRIPTION:  
ONE STORY BUILDING APPROX 100 X 50

- APPROVED
- NO LOCAL RECOMMENDATION
- DENIED

Clerk's Name: \_\_\_\_\_ Date: \_\_\_\_\_

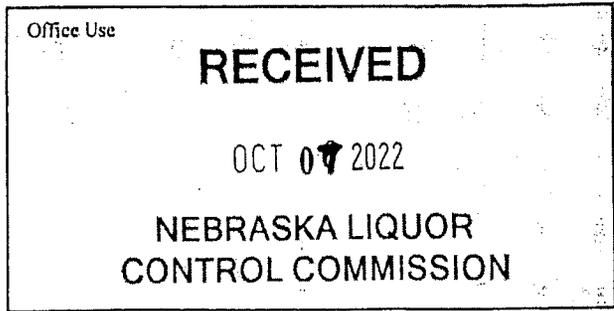
Kim Lowe  
Commissioner

Bruce Bailey  
Chairman

Harry Hoch  
Commissioner

**APPLICATION FOR CHANGE OF LOCATION TO LIQUOR LICENSE**

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



**Application:**

- Must include processing fee of \$45.00 checks made payable to Nebraska Liquor Control Commission (NLCC) or you may pay online at [www.ne.gov/go/NLCCpayport](http://www.ne.gov/go/NLCCpayport)
- Must include a copy of the lease, deed or purchase agreement showing ownership of new location. This document must read in the name liquor license is issued to, i.e. if license is issued to a corporation must read corporate name
- Must include simple hand drawn sketch of new location, must include outside dimensions in feet (not square feet), showing direction north  
**NO BLUE PRINTS**
- May include approval from the local governing body; new location shall not be approved unless endorsed by the local governing body
- Check with your local governing body for any additional requirements that may be necessary in making this request for addition
- Change of location application will not be accepted if moving to a different jurisdiction (i.e. city or county); a new application will need to be filed.

LIQUOR LICENSE # 093351 CLASS TYPE LK  
LICENSEE NAME Loop Brewing Company LLC  
TRADE NAME Loop Brewing Company  
CURRENTLY LICENSED ADDRESS 404 West A Street  
CITY McCook ZIP CODE 69001 COUNTY Red Willow  
CONTACT PERSON Tyler Loop  
PHONE NUMBER OF CONTACT PERSON 308-737-9921  
EMAIL ADDRESS OF CONTACT PERSON loopbrewingcompany@yahoo.com



2200011251

10/11/22 Pay Port - \$45-

**NEW PREMISE**

Street Address #1 801 West C Street, Suite 5B, McCook, NE

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

Zip Code 69001 New Premise Phone Number 308-737-9921

Business e-mail address loopbrewingcompany@yahoo.com

**MAILING ADDRESS FOR NEW LOCATION**

Street Address #1 PO Box 783

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

City McCook State NE Zip Code 69001

1. Describe the new building to be licensed
- ✓ Include sketch of building to be licensed with length & width in feet
  - ✓ If outdoor area to be licensed include on sketch with length & width
  - ✓ Indicate the direction north
  - ✓ Indicate single story building or give number of floors, how many are licensed
  - ✓ Indicate if there is a basement to be included in the licensed description

2. Include proof of ownership (must be in the name liquor license is issued under)
- ✓ deed
  - ✓ purchase agreement
  - ✓ lease; date lease expires 08/31/2027

3. Is the new premise location 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).  
Must include supplemental Form 134 found at this link: <http://www.lcc.ne.gov/formsdiv.html>

If proposed location is within 300 feet of a campus, the Commission may waive this restriction upon written approval from the governing body of the college or university. (Rev. Stat. 53-177)(1).  
Must include supplemental Form 135 found at this link: <http://www.lcc.ne.gov/formsdiv.html>

4. When do you expect on moving into the new location? 11/01/2022

I acknowledge under oath that the premises into which such move is made comply in all respects with the requirements of the act. Neb Rev Stat §53-129

*[Handwritten Signature]*

Signature of Licensee or Officer

State of Nebraska  
County of Red Willow

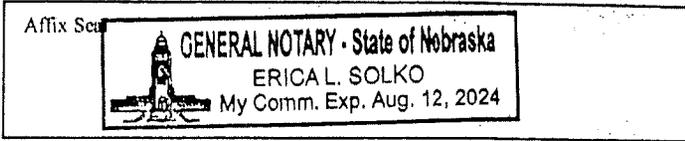
The foregoing instrument was acknowledged before me this

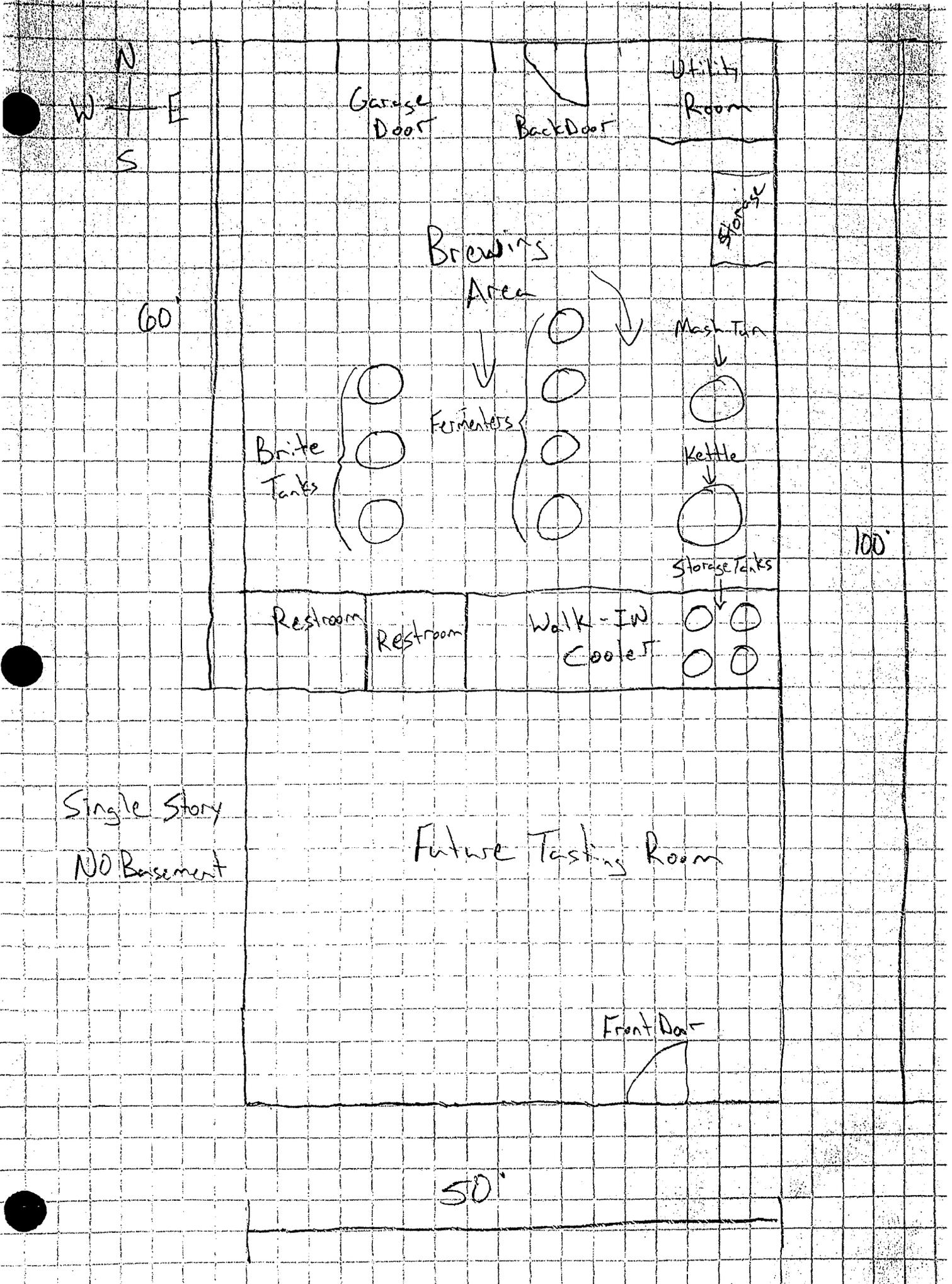
October 6<sup>th</sup>, 2022  
Date

by Tyler Loop  
name of person acknowledged (individual(s) signing document)

*[Handwritten Signature]*

Notary Public signature





Single Story  
NO Basement

Future Tasting Room

Front Door

50'

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

---

**ITEM:**        3.L.

**RECOMMENDATION:**

Accept the minutes of the July 13, 2022 Library Advisory Board meeting and the October 10, 2022 Planning Commission meeting.

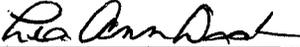
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**BACKGROUND:**

Accept minutes from the various board and commission meetings.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

McCook City Library Advisory Board Meeting Minutes

July 13, 2022 at 4:00 pm

Mary Dueland called the meeting to order with Staci Blomstedt, Kevin Cochran, Mary Dueland, Sharon Bohling and Jody Crocker present.

There were no visitors thus no public comment.

Notice of the meeting was given in advance thereof by publication in the *McCook Gazette* on July 8, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Library Board. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Moved by Sharon/seconded by Kevin to approve the previous minutes as read. Motion carried.

Mary presented questions that had been asked of her by a patron.

Why is card renewal only for one year?

Could e-mail notices be sent to remind patrons that their card is set to expire?

Does the library have its own website?

Are scan able library cards possible?

How many members may sit on the advisory board?

Discussion followed. Mary will report back to the patron.

There was no unfinished business.

Jody reported:

- ✓ Summer reading has 5 days left . . . next week everyone will get wet
- ✓ STEAM attendance has been 40 – 45 kids. Supplies were provided by CPLS
- ✓ Saturday hours are 10am – 2pm
- ✓ All staff recently attended the CPLS annual meeting in St. Paul
- ✓ Paperwork for the formula grant has been submitted
- ✓ Jody has been watching zooms about mental health issues that could occur in the library
- ✓ Jody participated in an accreditation workshop
- ✓ Special programs during summer reading have been good, attendance has varied
- ✓ Circulation of the 60 – 70 backpacks has been strong
- ✓ City budget process begins next Tuesday

New business:

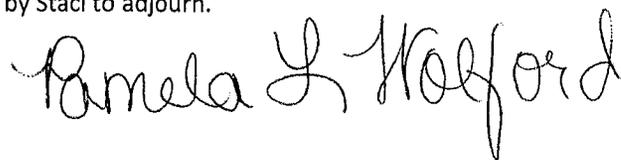
Accreditation has been extended to 2025 and will be for five years. A community service piece needs to be included.

Discussion on whether or not McCook City Library should be “fine free” was initiated. It will be continued at the next meeting.

Games from the 1950s will be played at the library on Wednesday, July 27<sup>th</sup> as part of the Chautauqua schedule. Mary Dueland is collaborating with Sharon Heugel.

Next meeting: September 14, 2022 at 4:00 pm

Moved by Kevin/seconded by Staci to adjourn.



McCook Planning Commission  
October 10, 2022  
5:15 P.M.

A MEETING OF THE PLANNING COMMISSION OF THE CITY OF MCCOOK, NEBRASKA convened in open, regular, and public session at 5:15 o'clock P.M. in the City Council Chambers.

Present: Vice Chair Hilker; Commissioners Davidson, Dueland, Friehe, Lyons, McDowell, Stevens, Mockry.

Absent: Chair Vosburg; Commissioner Bradley.

City Officials present: City Manager Schneider, City Attorney Mustion, City Clerk Doak.

Notice of the meeting was given in advance thereof by publication in the McCook Daily Gazette on October 6, 2022, the designated method of giving notice, a copy of the proof of publication being attached to these minutes. Advance notice of the meeting was also given to all members of the Planning Commission. Availability of the agenda was communicated in the advance notice. All proceedings hereafter shown were taken while the meeting was open to the attendance of the public.

Vice Chair Hilker announced that a copy of the Open Meetings Act was posted by the entrance to the Council Chambers and available for public review.

1. Approve the minutes of the September 26, 2022 Planning Commission meeting.

Motion to approve the minutes of the September 26, 2022 Planning Commission meeting. This motion, made by Dueland and seconded by Friehe, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT

YEA: 8, NAY: 0, ABSENT: 2

2. Public Hearings and Regular Agenda.

- 2.A. Public Hearing - Regarding a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook.

Motion to recess as a Planning Commission and convene a public hearing for the purpose of receiving public comment with respect to a request from Northrop Grumman, by and through its project sponsor Jennifer Hiatt of Baird Holm, LLP, to rezone two lots from Agricultural (AG) to Highway Commercial (HC), said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook, with the City Attorney to act as hearing officer. This motion, made by Hilker and seconded by McDowell, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 8, NAY: 0, ABSENT: 2

The City Attorney received into evidence Exhibit #1 - City Manager's Report prepared for the October 10, 2022 Planning Commission meeting (1 page), Exhibit #2 - Notice of Hearing published (1 page); Exhibit #3 - Notice of Hearing posted and mailed (1 page); Exhibit #4 - ownership list for mailing of Notice of Hearing (1 page); Exhibit #5 - Land Use Action Request Form and attachments (4 pages); Exhibit #6 - area map indicating Tract 1 and Tract 2 (1 page); Exhibit #7 - Future Land Use Map (1 page); Exhibit #8 - Quit Claim Deed for Red Willow County Parcel No. 000299500 (11 pages); and Exhibit #9 - Quit Claim Deed for Red Willow County Parcel No. 000299700 (7 pages).

City Manager Schneider reviewed the information presented in Exhibit #1.

Jennifer Hiatt, Baird Holm LLP - 1700 Farnam Street, Suite 1500, Omaha Nebraska, presented the request to the Commission.

Commissioners questioned if the monitoring period is over on the two parcels and what effect the rezone has on other agricultural property in the area.

With no one else present to comment, motion to adjourn the public hearing and to reconvene as a Planning Commission. This motion, made by McDowell and seconded by Friehe, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: YEA, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT  
YEA: 8, NAY: 0, ABSENT: 2

- 2.B. Recommend the approval of a rezone from Agricultural (AG) to Highway Commercial (HC) for two lots, said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within

the two mile extra-territorial jurisdiction of the City of McCook.

Commissioner Friehe expressed concerns with what effect the rezone would have on other agricultural land in the area.

Motion to recommend to the McCook City Council approval of a rezone from Agricultural (AG) to Highway Commercial (HC) for two lots, said lots legally described as follows: 1) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299500), and 2) A tract of land located in the Southeast Quarter of Section 28, Township 3 North, Range 29 Willow Grove Precinct West of the 6th P.M. in Red Willow County, Nebraska (a/k/a Red Willow County Parcel No. 000299700), property located within the two mile extra-territorial jurisdiction of the City of McCook. This motion, made by Hilker and seconded by McDowell, passed.

Bradley: ABSENT, Davidson: YEA, Dueland: YEA, Friehe: NAY, Hilker: YEA, Lyons: YEA, McDowell: YEA, Mockry: YEA, Stevens: YEA, Vosburg: ABSENT

YEA: 7, NAY: 1, ABSENT: 2

Adjournment

With no further business, Vice Chair Hilker declared the Planning Commission meeting adjourned at 5:37 P.M.

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Lea Ann Doak  
City Clerk/Recording Secretary

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 MCCOOK CITY COUNCIL MEETING**

ITEM NO. 4.A. Discuss additional meetings the McCook City Council may want to hold to answer questions regarding the upcoming local option sales tax ballot question.

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**BACKGROUND:**

At the October 3, 2022 McCook City Council meeting, Council discussed the possibility of holding an open house meeting on October 25, 2022 to answer questions regarding the local option sales tax ballot question. An open house meeting was held on October 11, 2022 and it is available on various social media accounts.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

  
\_\_\_\_\_  
Nate Schneider, City Manager

October 12, 2022

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 MCCOOK CITY COUNCIL MEETING**

**ITEM NO 4.B.** Approve on third and final reading, Ordinance No. 2022- 3049, allowing for the zoning change from Industrial Light (IL) to Business Commercial District (BC) for property legally described as: Lot Three, Block One, Happy Hollow Addition, to the City of McCook, Red Willow County, Nebraska, except that track deeded to the State of Nebraska.

---

**BACKGROUND:**

This matter was brought to the McCook City Council at the September 19, 2022 meeting. A public hearing was held. Staff presented a report and meeting attendees had the opportunity to discuss the matter. Following the public hearing, the Council voted to approve the rezoning ordinance on first reading. At the second reading of the Ordinance on October 3, 2022, Mr. Watts was present to answer questions. The Council voted to approve the Ordinance on second reading.

Staff has had no further inquiries regarding this matter.

**APPROVALS:**



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Nathan A. Schneider, City Manager

October 12, 2022



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Lea Ann Doak, City Clerk

October 12, 2022

ORDINANCE NO. 2022-3049

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF LOT THREE (3), BLOCK ONE (1), HAPPY HOLLOW ADDITION, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM INDUSTRIAL LIGHT (IL) TO BUSINESS COMMERCIAL (BC) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. In accordance with Article 27 of Zoning Ordinance No. 2016-2929 of the City of McCook, Red Willow County, Nebraska, the zoning classification of the following described property shall be and is hereby changed from Industrial Light (IL) to Business Commercial (BC) District, to wit:

Lot Three (3), Block One (1), Happy Hollow Addition, to the City of McCook, Red Willow County, Nebraska.

SECTION 2. The City Clerk of the City of McCook, Nebraska is hereby directed to change the official zoning map of the City of McCook, Nebraska to show the above-described property to have a zoning classification of Business Commercial (BC) District.

SECTION 3. The provisions of Zoning Ordinance 2016-2929 are hereby amended as provided herein.

SECTION 4. This ordinance shall be in full force and take effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Michael D. Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk-Treasurer

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 MCCOOK CITY COUNCIL MEETING**

ITEM NO. <sup>4.C.</sup>\_\_\_ Approve on third and final reading, Ordinance No. 2022-3050, allowing for the voluntary annexation of a tract of land located in the S ½ of the SE 1/4 of Section 24, Township 3 North, Range 30 West of the 6<sup>th</sup> P.M., Red Willow County, Nebraska, said tract of land to be included in what is to be referred to as Heritage Pointe Addition No. 2.

---

**BACKGROUND:**

A public hearing regarding the voluntary annexation of a tract of land on the north side of Heritage Pointe Addition No. 2 was held at the McCook City Council Meeting on September 19, 2022. City staff and agents of the property owner presented information regarding the annexation request and members of the public had an opportunity to speak. The McCook City Council approved Ordinance No. 2022-3050 on first reading. The McCook City Council also approved the matter on second reading at the October 3, 2022 City Council meeting.

Staff has received no inquires regarding this matter.

**APPROVALS:**

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 12, 2022

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

ORDINANCE NO. 2022-3050

AN ORDINANCE EXTENDING AND INCREASING THE CORPORATE LIMITS OF THE CITY OF MCCOOK, COUNTY OF RED WILLOW, STATE OF NEBRASKA, BY ANNEXING THERETO A CERTAIN TRACT OF LAND CONTIGUOUS TO AND NOT EMBRACED WITHIN THE PRESENT LIMITS OF THE CITY OF MCCOOK, NEBRASKA; REPEALING ALL OTHER ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. The following described real property is contiguous and adjacent to the City of McCook, Nebraska, is urban or suburban in nature, and has been proposed for annexation by the act, authority and acquiescence of the owners thereof:

A tract of land in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska, more particularly described as follows:

Considering the West line of Lot 1, Heritage Pointe Addition to the City of McCook, Nebraska, with the platted bearing being S00°23'01"W and with all bearings contained herein relative thereto:

Beginning at the Northwest corner of said Lot 1, Heritage Pointe Addition;  
Thence S00°23'01"W on the West line of said Lot 1, a distance of 9.22 feet;  
Thence S89°49'56"W, a distance of 306.07 feet;  
Thence N00°33'10"E, a distance of 19.10 feet;  
Thence S89°26'50"E, a distance of 60.00 feet;  
Thence N81°59'10"E, a distance of 245.24 feet to the Point of Beginning.

The above described tract contains 3216 square feet more or less.

SECTION 2. The corporate limits of the City of McCook, Nebraska, are hereby extended and increased so as to include and embrace within the corporate limits of the City of McCook, Nebraska, the territory described in SECTION 1 hereof, and such territory is hereby annexed and declared to be a part of the City of McCook, Nebraska.

SECTION 3. The real property hereby included within the corporate limits of the City of McCook and the persons residing thereon shall hereinafter be subject to all of the rules, regulations, ordinances, taxes and all other burdens and benefits of other persons and territory included with the City of McCook, Nebraska.

SECTION 4. The map or plat attached to this Ordinance is an accurate map of the territory annexed, and the same is hereby adopted as the official map and plat of the territory hereby annexed, which map and plat show the legal boundaries thereof.

SECTION 5. This Ordinance, with the certified copy of the official map attached hereto,

shall be recorded in the office of the Clerk and Recorder of Red Willow County, Nebraska.

SECTION 6. If any provision of this Ordinance shall be held invalid, its invalidity shall not affect any other provisions of this Ordinance that can be in effect without the invalid provision, and for this purpose the provisions of this Ordinance are hereby declared to be separable.

SECTION 7. This ordinance shall take effect and be in full force from and after its passage, approval, and publication as required by law in its entirety or in pamphlet form, as the case may be.

PASSED AND APPROVED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

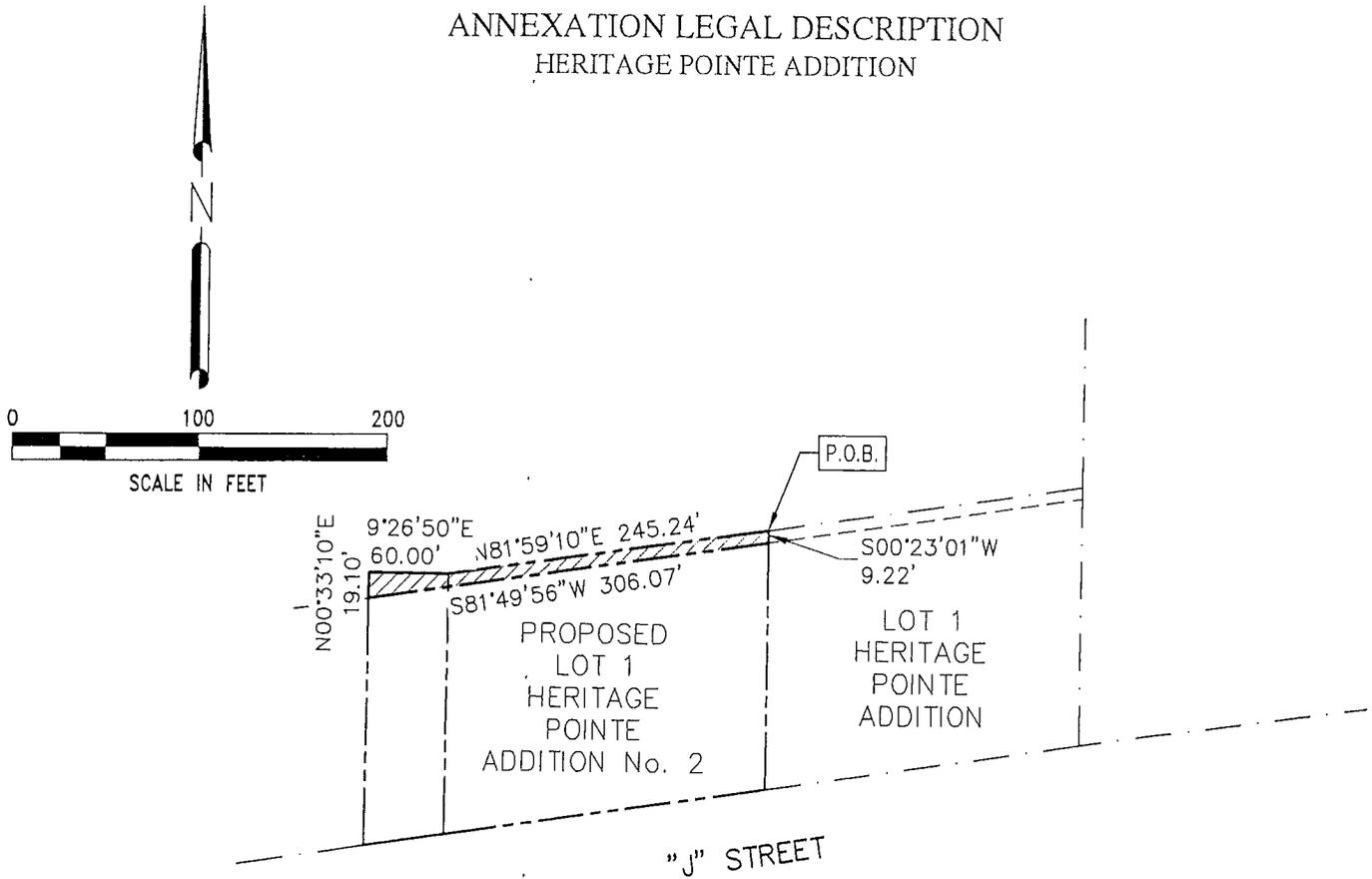
\_\_\_\_\_  
Michael D. Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk

Publish:

## ANNEXATION LEGAL DESCRIPTION HERITAGE POINTE ADDITION



### ANNEXATION TRACT DESCRIPTION

A tract of land in the S1/2 of the SE1/4 of Section 24, Township 3 North, Range 30 West of the 6th P.M., Red Willow County, Nebraska, more particularly described as follows:

Considering the West line of Lot 1, Herigage Pointe Addition to the City of McCook, Nebraska, with the platted bearing being S00°23'01"W and with all bearings contained herein relative thereto;

Beginning at the Northwest corner of said Lot 1, Heritage Pointe Addition;  
 Thence S00°23'01"W on the West line of said Lot 1, a distance of 9.22 feet;  
 Thence S89°49'56"W, a distance of 306.07 feet;  
 Thence N00°33'10"E, a distance of 19.10 feet;  
 Thence S89°26'50"E, a distance of 60.00 feet;  
 Thence N81°59'10"E, a distance of 245.24 feet to the Point of Beginning.

The above described tract contains 3216 square feet more or less.

### LEGEND

P.O.B. = POINT OF BEGINNING

**NOTE:**

This exhibit is not a boundary survey and no field measurements were performed



Miller & Associates  
Consulting Engineers, P.C.

109 EAST 2ND STREET  
McCOOK, NE 69001  
Tel: 308-345-3710  
Fax: 308-345-7370  
www.miller-engineers.com

HERITAGE POINTE ADDITION No. 2

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 MCCOOK CITY COUNCIL MEETING**

ITEM NO. 4.D. Approve on third and final reading, Ordinance No. 2022- 3051, allowing for the zoning change for Heritage Pointe Addition No. 2, a tract of land located in the S ½ of the SE 1/4 of Section 24, Township 3 North, Range 30 West of the 6<sup>th</sup> P.M., Red Willow County, Nebraska; said zoning change to amend the current zoning designation from Residential Medium Density District (RM) and Agricultural District (AG), to Business Commercial District (BC).

---

**BACKGROUND:**

A public hearing regarding the zoning change request for newly created Heritage Pointe Addition No. 2 was held at the McCook City Council Meeting on September 19, 2022. The applicant requested that the zoning be changed to BC from RM and AG. City staff and agents of the property owner presented information regarding the rezoning request and members of the public had an opportunity to speak. The McCook City Council approved Ordinance No. 2022 - 3051 on first reading. At the October 3, 2022 McCook City Council meeting, the Ordinance was approved on second reading.

Staff has received no inquiries regarding this matter.

**APPROVALS:**

  
\_\_\_\_\_  
Nathan A. Schneider, City Manager

October 12, 2022

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

ORDINANCE NO. 2022-3051

AN ORDINANCE OF THE CITY OF MCCOOK, NEBRASKA AMENDING MCCOOK ZONING ORDINANCE NO. 2016-2929 CHANGING THE ZONING CLASSIFICATION OF HERITAGE POINTE ADDITION NO. 2, TO THE CITY OF MCCOOK, RED WILLOW COUNTY, NEBRASKA, FROM RESIDENTIAL MEDIUM DENSITY (RM) AND AGRICULTURAL (AG) TO BUSINESS COMMERCIAL (BC) DISTRICT; PROVIDE FOR THE REPEAL OF ANY OTHER CONFLICTING ORDINANCES; AND PROVIDING A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE ENFORCED.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. In accordance with Article 27 of Zoning Ordinance No. 2016-2929 of the City of McCook, Red Willow County, Nebraska, the zoning classification of the following described property shall be and is hereby changed from Residential Medium Density (RM) and Agricultural (AG) to Business Commercial (BC) District, to wit:

Heritage Pointe Addition No. 2, to the City of McCook, Red Willow County, Nebraska.

SECTION 2. The City Clerk of the City of McCook, Nebraska is hereby directed to change the official zoning map of the City of McCook, Nebraska to show the above-described property to have a zoning classification of Business Commercial (BC) District.

SECTION 3. The provisions of Zoning Ordinance 2016-2929 are hereby amended as provided herein.

SECTION 4. This ordinance shall be in full force and take effect from and after its passage, approval and publication as required by law.

PASSED AND APPROVED THIS \_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
Michael D. Gonzales, Mayor

ATTEST:

\_\_\_\_\_  
Lea Ann Doak, City Clerk-Treasurer

**CITY MANAGER'S REPORT  
OCTOBER 17, 2022 CITY COUNCIL MEETING**

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**ITEM:**        4.E.

Approve Ordinance No. 2022-3047 providing for an amendment of Chapter 38: Fee Schedule – Appendix E, Water Department Rates and Fees; of the City of McCook Code of Ordinances on its third and final reading.

---

**BACKGROUND:**

Please refer to the attached City Manager's Report prepared by Utility Director Fawver for the September 19 City Council meeting.

**FISCAL  
IMPACT:**     None.

**APPROVALS:**

  
\_\_\_\_\_  
Lea Ann Doak, City Clerk

October 12, 2022

**CITY MANAGER'S REPORT**

**SEPTEMBER 19, 2022 CITY COUNCIL MEETING**

---

**ITEM: 4.D.**

**RECOMMENDATION:**

Introduce and approve on first reading ordinance no. 2022-3047 an ordinance providing for an amendment of Chapter 38: Fee Schedule – Appendix E, Water Department Rates and Fees; of the City of McCook Code of Ordinances.

---

**BACKGROUND**

The water department currently charges \$5.00 per 100 cubic feet of water for bulk water out of our hydrant meters. Staff recently installed a coin operated bulk water dispenser on the east side of the water shop. The new dispenser measures water in gallons per Quarter. Staff is proposing changing from \$5.00 per cubic foot to \$5.00 per 1,000 gallons. With this change the customer will be getting about 250 gallons more per \$5.00.

The water department currently charges \$250 for deposit on our fire hydrant meter rental. Staff is proposing to raise the deposit to \$1,000 to accurately cover the cost of the meter when damages occur. Our current meters are valued at \$1,400 not including the backflow preventers. The water department has never had to take a deposit that I am aware of.

**FISCAL IMPACT:**

---

**APPROVALS:**

  
\_\_\_\_\_

Pat Fawver, Utility Director

Date: 9-14-22

  
\_\_\_\_\_

Nate Schneider, City Manager

Date: 9-14-22

ORDINANCE NO. 2022-3047

AN ORDINANCE PROVIDING FOR THE AMENDMENT OF CHAPTER 38: FEE SCHEDULE - APPENDIX E, WATER DEPARTMENT RATES AND FEES; OF THE CITY OF MCCOOK CODE OF ORDINANCES; PROVIDING FOR A RATE TO BE CHARGED FOR WATER BY THE MCCOOK WATER DEPARTMENT; PROVIDING FOR THE REPEAL OF ORDINANCE NO. 2021-3014 AND ANY AND ALL ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING FOR A TIME AND DATE FROM AND AFTER WHICH THIS ORDINANCE SHALL TAKE EFFECT AND BE IN FORCE.

NOW, THEREFORE BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF MCCOOK, NEBRASKA:

SECTION 1. That Chapter 38: Fee Schedule - Appendix E, Water Department Rates and Fees; Section A - Water Rates, of the City of McCook Code of Ordinances, shall be and is hereby amended to read as follows:

A. Water Rates. The following rates for water have been set by the City Council in accordance with the provisions of Section 52.01 of this Code.

1. CUSTOMERS WITHIN THE CITY. The rates for water used by customers within the City shall be as follows:

(A) 1.920 dollars per one hundred cubic feet for the first five thousand (5,000) cubic feet of water used;

(B) 1.423 dollars per one hundred cubic feet for all water used over five thousand (5,000) cubic feet.

In addition to the above, a ready-to-serve fee of eighteen and 82/100 dollars (\$18.82) per month shall be charged to each customer.

2. CUSTOMERS OUTSIDE THE CITY. The amount to be charged for water used by customers outside the city boundaries shall be computed by taking the water consumption of the customer times the rates fixed in division (A)(1) above, plus additional charges as specified therein, and multiplying the final sum times the factor of one and one-half to get the total charge to be billed the customer.

3. BULK WATER. The rate for bulk water purchases shall be \$5.00 per one thousand (1,000) gallons.

4. FIRE HYDRANT METER. Fire hydrant meter rent shall be \$50.00 per week, plus water usage charged at the rate for bulk water. The deposit required for a fire hydrant meter is set at \$1,000.00.

SECTION 2. Ordinance No. 2021-3014 and any and all other ordinances or parts of ordinances in conflict herewith shall be and are hereby repealed and abrogated.

SECTION 3. This ordinance shall take effect with the bills dated May 1, 2021 and be in full force from and after its passage, approval and publication as required by law in its entirety or in pamphlet form, as the case may be.

PASSED AND APPROVED THIS \_\_\_\_\_ day of \_\_\_\_\_, 2022.

-s- Michael D. Gonzales  
Mayor

ATTEST:

-s- Lea Ann Doak  
City Clerk