

Bellevue City Council Meeting +++Amended Agenda+++

Tuesday, February 21, 2023 6:00 PM

Bellevue City Hall

1500 Wall Street

Bellevue, NE 68005

1. PLEDGE OF ALLEGIANCE
2. INVOCATION - Rev. Darryl Keeney, Lighthouse Baptist Church, 3919 Green Avenue.
3. CALL TO ORDER AND ROLL CALL
4. OPEN MEETINGS ACT - Posted in the Entry to the Council Chambers
5. APPROVAL OF AGENDA, CONSENT AGENDA, CLAIMS, AND ADVISORY COMMITTEE REPORTS:
 - a. Approval of the Agenda
 - b. Approval of the Consent Agenda **(Items marked with an (*) are approved where this item is, unless otherwise removed)**
 1. (*) Approval of the February 7, 2023 Board of Equalization Minutes.
 2. (*) Approval of the February 7, 2023 City Council Minutes.
 3. (*) Acknowledge Receipt of the January 10, 2023 Tree Board Minutes.
6. (*) APPROVAL OF CLAIMS.
7. SPECIAL PRESENTATIONS: NONE
8. ORGANIZATIONAL MATTERS: NONE
9. APPROVED CITIZEN COMMUNICATION:
 - a. Kyle Rhone - Topic for Consideration
10. LIQUOR LICENSES: NONE
11. ORDINANCES FOR ADOPTION (3rd reading): NONE
12. ORDINANCES FOR PUBLIC HEARING (2nd reading):
 - a. Ordinance No. 4115: An ordinance to approve the Sale and Conveyance of one parcel of City Property to Jeffrey Nazeck and to authorize the Mayor to sign. (Administration)
 - b. Ordinance No. 4116: Request to rezone Lots 1 and 2, Compass Hill, being a replat of Tax Lot 8A, located in the Southeast 1/4 of Section 22, T14N, R13E of the 6th P.M., Sarpy County, NE, from AG to RD-60 for the purpose of single family residential development. Applicant: Habitat for Humanity of Sarpy County. General Location: 820 W. Avery Road (Planning Manager)
 1. Request to small subdivision plat Lots 1 and 2, Compass Hill. **(No action required)**
13. ORDINANCES FOR INTRODUCTION (1st reading): NONE
14. PUBLIC HEARING ON MATTERS OTHER THAN ORDINANCES:
 - a. Request for a conditional use permit for Lot 1, Tiller's 5th Addition, for the purpose of a church in an existing commercial building. Applicant: The Glory Tabernacle Inc. General location: 1620 Wilshire Dr., Ste. 103. (Planning Manager)
 - b. Request for a conditional use permit for Lot 1, First Presbyterian Church of Bellevue, for the purpose of a 165' monopole tower. Applicant: New Cingular Wireless PCS, LLC. General location: 1220 Bellevue Blvd. S. (Planning Manager)
15. RESOLUTIONS:
 - a. Resolution No. 2023-04: Request to approve the Redevelopment Plan for Lot 2, Heere and Theere Addition. Applicant: Heere, Theere & Everywhere, LLC. General location: 2306 Lincoln Rd. **(Public Hearing Required)** (Planning Manager)
16. CURRENT BUSINESS:
 - a. Approve the Environmental Review Record and the HUD Form 7015.15 - Request for Release of Funds and Certification and authorize the Mayor to sign and submit to HUD. (CDBG Program Specialist)

b. Approve the Thirteenth Extension to the Contract with Justin Thoms for Custom Farming approximately 36 acres at 36th and Capehart Road, in an amount not to exceed \$17,519.84 and the Thirteenth Extension to the Contract with Justin Thoms for Custom Farming approximately 62 acres near the Bellevue Sports Complex, in an amount not to exceed \$13,181.20 and to Waive Council Policy 4 requiring solicitation of bids on goods and services costing more than \$30,000.00. (Finance Director)

c. +++ Removed

d. Approve the purchase of a vehicle for the Police Department, to replace a marked cruiser totaled in a crash, in an amount not to exceed \$39,514.00. (Chief Clary)

e. Approve and authorize the Mayor to sign Amendment #4 with Jacobs Engineering Group Inc. for Storm Drainage Projects, in an amount not to exceed \$22,137.00. (Public Works Director)

f. Approve and authorize the Mayor to sign the Professional Engineering Service Agreement Amendment #1 for the 36th Street and Blaine Avenue Traffic Signal Modifications, in an amount not to exceed \$18,650.00. (Public Works Director)

g. Recommendation to approve and authorize the Mayor to sign the Contract with Midwest Right of Way Services Inc. to evaluate potential properties for purchase to allow for the construction of a Public Works Facility within the City of Bellevue, in an amount not to exceed \$10,625.00. (Public Works Director)

h. Approve and authorize the Mayor to sign City of Bellevue, Nebraska Police Officer's Retirement Plan and Trust Restatement for Certain Police Officers. (Administration/HR)

17. ADMINISTRATION REPORTS: Comments must be limited to items on the current Reports **(February report will be attached to March 7th Meeting)**

18. CLOSED SESSION:

19. ADJOURNMENT

BOARD OF EQUALIZATION MINUTE RECORD

*5b1.
2/21/2023

Board of Equalization Meeting, February 7, 2023

A meeting of the Mayor and Council of the City of Bellevue, sitting as the Board of Equalization, was called to order by Mayor Rusty Hike at the Bellevue City Hall at 5:30 p.m. on the 7th day of February, 2023. Present were Council Members, Rich Casey, Paul Cook, Don Preister, Thomas Burns, and Kathy Welch; Absent: Jerry McCaw.

Notice of this meeting was given in advance thereof by publication in the Gretna Guide, and posting in two public places, the designated method for giving notice and was also given to the Mayor and all members of the City Council. A copy of the affidavit of publication, the certificate of posting, and the council's acknowledgment of receipt of notice are hereby attached to these minutes. All proceedings shown hereafter were taken while the convened meeting was open to the public.

Open Meetings Act

Mayor Rusty Hike announced that a copy of the Open Meetings Act is posted in the entry to the City Council Chambers.

Approval of the Agenda

Motion was made by Casey, seconded by Welch to approve the agenda.

Roll call vote on the motion to approve was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; Absent: McCaw. Motion carried.

Public hearing to consider the levy of liens for non-payment of costs associated with mowing, trimming, removal of debris, branches & rubbish, demolitions, and/or general clean-ups on the identified properties within the City of Bellevue and its extra territorial jurisdiction (ETJ).

Mayor Hike opened the meeting for public hearing to give opportunity for individuals to speak in favor of or in opposition to the proposed liens.

Margot Cook, 805 Bluff Street, stated her property is on Riverview Heights. She stated she has had a lot of family deaths who she was a caregiver to therefore this property was not a priority. In addition, there was a construction company that parked on her property without permission, making ruts and doing damage. She asked if she would be able to get a waiver or exemption since she had native grass. Councilman Cook stated we do not allow this in residential areas, plus in the spring it is going to start growing again and we are not coming to a solution for the problem. Discussion ensued on the property and why it is in violation. Joey Bockman, Code Enforcement Supervisor, advised that native grasses do not qualify for an exemption, but we could give her some names who do mowing of properties. He stated that the department is proactive, and code violations are complaint driven. Councilman Preister stated she might be able to talk to neighbor about getting help with these costs since he allowed construction vehicles on the property causing the damage and making it hard to mow. Welch asked Bockman the process Code Enforcement uses when getting complaints, Bockman explained their procedures.

Patty Casarez, Daughter & Caregiver to Bertha Long, 4001 S. Hills Drive, stated her mom is a stroke victim and is wheelchair bound and can not be here today. She stated she was not disputing the charges but was wondering if they could make payments. Councilman Cook asked if we would postpone till next BOE meeting to give more time to come up with the money. Bockman stated we could postpone to give more time but are not set up or have staffing to allow payments to be made. Mayor Hike stated it is the administration's recommendation is to pull this item to next BOE meeting and have Ms. Casarez work with the Clerk and Legal to see what could be worked out.

With no one else coming forward to speak, Mayor Hike declared the public hearing closed.

Resolution BOE No. 2023-0207-01: Levying of liens for non-payment of costs associated with mowing, trimming, removal of debris, branches, and rubbish, demolition, and/or general clean-up on the identified properties within the City of Bellevue and its extra territorial jurisdiction (ETJ).

Motion was made by Cook, seconded by Burns, to approve BOE Resolution No. 2023-0207-01: Levying of liens for non-payment of costs associated with mowing, trimming, removal of debris, branches, and rubbish, demolition, and/or general clean-up on the identified properties within the City of Bellevue and its extra territorial jurisdiction (ETJ).

Motion was made by Cook, seconded by Welch to amend BOE Resolution No. 2023-0207-01 by removing Acme Real Estate, 2716 Lillian Street due to receiving full payment; postponing Bertha Long, 4001 Southern Hills Drive to next BOE meeting allowing more time for payment; postponing Raccoon LLC (Timothy Engler), 7952 South 25th Street to next BOE due to family death; and removing Patrick Young, 7630 South 41st Street due to receiving full payment.

BOARD OF EQUALIZATION MINUTE RECORD

Board of Equalization Meeting, February 7, 2023

Motion was made by Casey, seconded by Cook to also amend BOE Resolution No. 2023-0207-01 by reducing the cost from \$250 to \$200 for Margot Cook, Lot 4, Riverview Heights Replat due to the personal issues Ms. Cook has been dealing with.

Roll call vote on the second amendment, made by Casey, was as follows: Casey, Cook, Burns, Preister and Welch voted yes; voting no: none; Absent: McCaw. Motion carried.

Roll call vote on the first amendment, made by Cook, was as follows: Casey, Cook, Burns, Preister and Welch voted yes; voting no: none; Absent: McCaw. Motion carried.

Roll call vote on original motion, as amended, was as follows: Casey, Cook, Burns, Preister and Welch voted yes; voting no: none; Absent: McCaw. Motion carried.

Adjournment

There being no further business to come before the Board, on motion made by Welch, seconded by Burns at 6:11 p.m., the meeting adjourned.

Susan Kluthe, City Clerk

Rusty Hike, Mayor

I, the undersigned, City Clerk of the City of Bellevue, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council on February 7, 2023; that all the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agendas for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Susan Kluthe, City Clerk

A complete text of the minutes for BOE Mtg is on file & available for public inspection during regular business hours in the office of the City Clerk & is also available on the Internet at www.bellevue.net. Minutes are subject to change upon City Council approval of the meeting minutes.

MINUTE RECORD

*5b2.
2/21/2023

Bellevue City Council Meeting, February 7, 2023, Page 1

A regular meeting of the Mayor and Council of the City of Bellevue was called to order by Mayor Rusty Hike at the Bellevue City Hall on the 7th of February, 2023 at 6:17 p.m. Present were Council Members Rich Casey, Paul Cook, Don Preister, Thomas Burns, and Kathy Welch. Absent: Jerry McCaw.

Also present were City Administrator Jim Ristow and Interim City Attorney Annie Mathews.

Notice of this meeting was given in advance thereof by publication in the Gretna/Sarpy Guide and News and posted in two public places, the designated method for giving notice and was also given to the Mayor and all members of the City Council. A copy of the affidavit of publication, the certificate of posting, and the council's acknowledgment of receipt of notice are hereby attached to these minutes. All proceedings shown hereafter were taken while the convened meeting was open to the public.

PLEDGE OF ALLEGIANCE AND INVOCATION

Mayor Hike led the Pledge of Allegiance. Father Tom Jones, Church of the Holy Spirit, 1305 Thomas Drive, gave the invocation.

OPEN MEETINGS ACT

Mayor Hike announced a copy of the Open Meetings Act is posted by the entry in the City Council Chambers.

APPROVAL OF THE AGENDA:

Motion was made by Burns, seconded by Welch, to approve the agenda.

Roll call vote to approve the agenda was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

APPROVAL OF THE CONSENT AGENDA:

Motion was made by Cook, seconded by Burns, to approve the consent agenda consisting of the following items: Acknowledge receipt of the December 13, 2022 Tree Board; Approval of the January 17, 2023 City Council Minutes; Acknowledge receipt of the January 26, 2023 Planning Commission Minutes; Approval of Claims; and Approval of Resolution No. 2023-01: Approve and authorize the Mayor and City Treasurer to open account(s) in the name of the City of Bellevue; to sign and endorse checks and orders for the payment of money or otherwise withdraw or transfer funds on deposit with the financial institution(s).

Roll call vote to approve the agenda was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

SPECIAL PRESENTATIONS:

Proclamation declaring the month of March as "National Problem Gambling Awareness Month"

Mayor Hike read the proclamation declaring the month of March as "National Problem Gambling Awareness Month".

APPROVED CITIZEN COMMUNICATION: NONE

LIQUOR LICENSES: NONE

ORDINANCES FOR ADOPTION: (Third Reading): NONE

ORDINANCES FOR PUBLIC HEARING: (Second Reading) NONE

ORDINANCES FOR INTRODUCTION (First Reading):

Ordinance No. 4115: An ordinance to approve the Sale and Conveyance of one parcel of City Property to Jeffrey Nazeck and to authorize the Mayor to sign. (Administration)

Ordinance No. 4115: Ordinance No. 4115: An ordinance to approve the sale and conveyance of one parcel city property to Jeffrey Nazeck and to provide an effective date was read for the first time. Mayor Hike stated the second reading and public hearing of the ordinance will be heard at the Council meeting on February 21, 2023.

Ordinance No. 4116: Request to rezone Lots 1 and 2, Compass Hill, being a replant of Tax Lot 8A, located in the Southeast 1/4 of Section 22, T14N, R13E of the 6th P.M., Sarpy County, NE, from AG to RD-60 for the purpose of single-family residential development. Applicant: Habitat for Humanity of Sarpy County. General Location: 820 W. Avery Road. (Planning Manager)

Ordinance No. 4116: An ordinance to amend the official zoning map of the City of Bellevue, Nebraska, as provided for by Article 3 of Ordinance No. 3619 by changing the zone classification of land located at or about 820 West Avery Road, more particularly described in Section 1 of the ordinance and to provide an effective

MINUTE RECORD

Bellevue City Council Meeting, February 7, 2023, Page 2

date was read for the first time. Mayor Hike stated the second reading and public hearing of the ordinance will be heard at the Council meeting on February 21, 2023.

PUBLIC HEARING ON MATTERS OTHER THAN ORDINANCES:

Show cause hearing on the proposed condemnation of the structure(s) at 1611 Franklin Street, Bellevue, NE 68005. (Chief Building Inspector)

Mayor Hike opened the meeting to a public hearing to give opportunity for individuals to speak in favor of or in opposition to the proposed condemnation and Resolution 2023-02, which would declare the structures condemned.

Mr. Mike Christensen, Chief Building Inspector, provided a presentation and history on the condition of the property located at 1611 Franklin Street. The initial permits to build this unit were taken out in 2000 and some of the last inspections were done in 2004. The outside work has deteriorated. The soffits were not sealed up in 2004, so it has been open since that time frame. The siding has begun to deteriorate. The electrical has been exposed for 18 years. Mr. Christensen advised the video he is presenting was taken just over a week ago. He explained the inspection done in 2004 were rough in inspections. This property has never received a certificate of occupancy. He mentioned numerous complaints were received on the property. The property was tagged as a public nuisance. The initial notification process began in November 2021. The notice stated once the permits were issued, the work needed to be completed in 180 days which is a six-month time. From the first notification, there was a six-month time period to when the permits were pulled in May of 2022. The 180 days had passed. Work began approximately a week ago, only the roof has been replaced. There has been some activity within the last week, but the work is not complete and not all the issues have been addressed.

Mayor Hike questioned if the roof sheeting was rotted and if the new roof was put over it. Mr. Christensen stated the roof is stable and went through the inspection process. Discussion followed.

Councilman Cook clarified there was never a certificate of occupancy permit issued. Mr. Christensen clarified there was not. Councilman Cook inquired if the recent work has been done with permits. Mr. Christensen advised permits were pulled in May.

Councilwoman Welch clarified the timeline Mr. Christensen provided. She explained the property owner has had over 17 years to bring the property to code and receive a certificate of occupancy.

Mr. Steve Hurlbutt, 224 Missouri River Road, was present on behalf of his mother, Rita Hurlbutt, who is the owner of the property at 1611 and 1607 Franklin Street. He distributed pictures of both properties to the City Clerk, who then handed them out to the City Council members. Mr. Hurlbutt advised the photos were taken of both properties, the day before. He provided an update of the work done on the properties. Mr. Hurlbutt provided personal reasons for the delays of work being done over the years.

Mr. Hurlbutt stated as long as the work commenced with 180 days and there are inspections, the permits remains current. Mr. Christensen advised that would be the case for new construction. However, in this case, it was brought forward by city ordinance. The ordinance applies, not the original permit. When a case goes through a public nuisance order, the time for repairs is 180 days/6 months.

Mr. Hurlbutt mentioned he feels it was important to address the infractions on the structures at 1611, which caused it to be red tagged. He requested a continuance to address the infractions. He stated he is confident they can be addressed by March 31st.

Mayor Hike questioned Mr. Hurlbutt what his goal is to have the properties ready for occupancy. Mr. Hurlbutt replied 1607 will be ready by March 31st. The property at 1611 will take longer. Discussion followed.

Mayor Hike explained the public has complained about these properties and has scrutinized the city regarding them. Conversation ensued.

Councilwoman Welch questioned if the properties have every been occupied. Mr. Hurlbutt said 1607 has. The property at 1611 has never received a certificate of occupancy. Discussion followed.

Councilwoman Welch expressed concerns with the property taking almost 23 years to complete. Conversation ensued.

Discussion took place on the work required to make the structures into habitable form. Mr. Christensen commented crews need to be brought in to bring some urgency into the situation to bring the structures into habitable form.

Councilman Burns questioned Mr. Hurlbutt if crews will be brought in to expediate the process. Mr. Hurlbutt advised he will be bringing rock crews and tape crews to expedite the process.

Councilman Burns questioned how long Mr. Hurlbutt will need to bring 1611 into code. Mr. Hurlbutt mentioned 1611 Franklin Street is not a standard permit process, so this structure should be done by the end of the year.

MINUTE RECORD

Bellevue City Council Meeting, February 7, 2023, Page 3

Councilman Burns questioned Mr. Christensen in his professional opinion what a reasonable time frame in months would be. Mr. Christensen replied 180 days is more than sufficient.

Councilman Burns questioned if the city has approached the Hurlbutts in the past regarding the structure at 1611. Mr. Christensen explained this was new construction and in 2004 the structure was in good shape. There was a different Chief Building Official at the time and different inspectors. Due to the deterioration over the last 18 years, it was established a certificate of occupancy was never received.

Councilman Casey commented he has received complaints on the property. His fear is the deterioration is more extensive than what Mr. Hurlbutt thinks it is. He questioned Mr. Hurlbutt if he is committed to making both properties habitable within 108 days. Mr. Hurlbutt mentioned the interior of 1607 is habitable and will come off the radar when the red tags come off the doors. Regarding 1611, he can make it happen to have the structure ready for an occupancy inspection in the 180 days. Discussion followed.

Councilwoman Welch suggested the item be continued for a month. She suggested Mr. Christensen is given the opportunity to review the property and provide the City Council with updates.

Ms. Annie Mathews, Interim City Attorney, advised that would need to be made into a motion.

Councilman Preister requested clarification on the procedure if the item were to be continued. Mr. Christensen explained the permits are on file, the 180 days given are per ordinance. The amount of time could be extended an additional 180 days or less by the Council. He advised there are two properties at 1611 and 1607 Franklin. He explained 1611 will require more extensive work than 1607. Conversation ensued.

Councilman Casey questioned Mr. Christensen if he is comfortable doing periodic checks along the way or just go with the 180 days. Mr. Christensen explained in the circumstance if the property isn't done in 180 days, but is 80% complete, would the city want to tear the structure down at that point. Whereas the decision to tear the building down in 30 or 60 days, would be an easier decision, if progress is not being made like it should.

Councilman Cook clarified the permits issued in May could be extended. Mr. Christensen replied yes.

Councilman Cook requested the family make sure the taxes are paid on the properties.

No one else in the audience came forth to speak in support of or in opposition to the application. Mayor Hike declared the public hearing closed.

Resolution No. 2023-02: Condemning the structure(s) at 1611 Franklin Street, Bellevue, NE 68005. (Chief Building Inspector)

Motion was made by Preister, seconded by Buns, to extend the permit for 90 days, with a report back to the Council in 30 days, and in 60 days, to assess progress.

Ms. Mathews advised Councilman Preister he would need to make a motion to continue the resolution to the hearing date he would want the item to be heard. She clarified with Mr. Christensen the permitting extension would be handled with him, in the Permits Department. Mr. Christensen replied correct.

Councilman Preister added that would make the continuation to the May 2nd meeting.

Councilwoman Welch clarified there would be an update at 30 days, 60 days, and 90-day update. She requested the addition if the taxes are behind, they are brought up to date. Councilman Preister commented that cannot be made part of the motion, however the council can certainly encourage they are paid.

Ms. Mathews clarified for the record the question of condemnation is based on what the property owner was notified as defects of the property. Taxes shouldn't be considered when approving the resolution.

Mayor Hike stated the motion by Preister, seconded by Burns, to continue Resolution No. 2023-02 to May 2nd, with a review by Mr. Christensen at 30 days and 60 days for updates on the condition.

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

Show Cause Hearing on the proposed condemnation of the structure(s) at 1607 Franklin Street, Bellevue, NE 68005. (Chief Building Official)

Mayor Hike opened the meeting to a public hearing to give opportunity for individuals to speak in favor of or in opposition to the proposed condemnation and Resolution 2020-04, which would declare the structures condemned.

Mr. Christensen provided a video of the property at 1607 Franklin Street. He advised the stairs were recently replaced but have not gone through inspection. He noted the issues on the exterior of 1607 which need to be addressed. He explained the foundation is failing on the garage, pointing out the garage is leaning.

MINUTE RECORD

Bellevue City Council Meeting, February 7, 2023, Page 4

Councilman Preister commented from the looks of the video, there is serious damage to 1607. Mr. Christensen advised the exterior is in poor condition. The interior had received a certificate of occupancy in the late 80s. He has not been inside.

Mr. Hurlbutt pointed out in the pictures he provided earlier, the garage has been resided and restabilized and structurally corrected. The back landing and stairs are in progress, and the siding will be corrected. His intent is to have the infractions addressed for the 1607 property by March 31st.

No one else in the audience came forth to speak in support of or in opposition to the application. Mayor Hike declared the public hearing closed.

Resolution No. 2023-03: Condemning the structure(s) at 1607 Franklin Street, Bellevue, NE 68005. (Chief Building Official)

Motion was made by Welch, seconded by Preister, to postpone Resolution No. 2023-03 to the April 4th City Council meeting.

Councilman Burns requested clarification on the process, if by April 4th no progress has been made. Mr. Christensen explained the resolution to condemn would be presented to the City Council again. If the resolution is passed to condemn the owner has 30 days to remove the property. If he does not remove it in 30 days, the city would remove the property.

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

RESOLUTIONS: NONE

CURRENT BUSINESS:

Approve and authorize the Mayor to sign the Community Development (CDBG) Funding Approval Agreement, in an amount of \$353,161.00. (CDBG Program Specialist)

Motion was made by Welch, seconded by Burns, to approve and authorize the Mayor to sign the Community Development (CDBG) Funding Approval Agreement, in an amount of \$353,161.00.

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

Approve the purchase of (15) vehicles for the Police Department, in an amount not to exceed \$720,909.00. (Chief Clary)

Motion was made by Cook, seconded by Welch, to approve the purchase of (15) vehicles for the Police Department, in an amount not to exceed \$720,909.00.

Councilman Burns mentioned this is not a budgeted item. The item reads the amount is to be covered by unspent funds in other areas of the Police Department or other departments. He questioned what is being cut from the police budget to fund the purchase. Chief Ken Clary, Police Department, replied nothing. Discussion followed. He explained this isn't new information. The vehicles were addressed with the Council Members who were present at the Finance Committee meeting. The need was for 18 vehicles when this item was budgeted in a couple of years ago. Due to price increases, the amount now covers 15 vehicles. The purchase was postponed due to cancellation of vehicles nationwide. Discussion followed.

Councilman Burns questioned what happens if the vehicles are ordered and the City Council votes no to purchase the vehicles. Ms. Matthews responded an agreement has not been signed, therefore the city is not contractually bound. Hepatically, if the City Council votes no on this item, the city would communicate to the vendor there is no longer a need for the vehicles.

Councilman Burns expressed concerns with the process issue. Conversation ensued.

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, and Welch voted yes; voting no: Burns; absent: McCaw. Motion carried.

Recommendation to approve the amended budget request by South Sarpy Wastewater Agency (SSWWA) to bring the budget into line with work required to complete the project and operate the agency. (Public Works Director)

Motion was made by Welch, seconded by Burns, to recommend approving the amended budget request by South Sarpy Wastewater Agency (SSWWA) to bring the budget into line with work required to complete the project and operate the agency. (Public Works)

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

MINUTE RECORD

Bellevue City Council Meeting, February 7, 2023, Page 5

Approve the amended Employee Handbook and authorize the Mayor to sign the contract for the Bellevue University Campus@Work Program. (HR Director)

Motion was made by Welch, seconded by Burns, to approve the amended Employee Handbook and authorize the Mayor to sign the contract for the Bellevue University Campus@Work Program. (HR Director)

Roll call vote to approve the motion was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

ADMINISTRATION REPORTS: Comments must be limited to items on the current reports (December and January Reports Attached)

Councilman Preister requested an update on the installation of Fastwyre and other companies installing fiber optics. Mr. Jim Ristow, City Administrator, explained Fastwyre is currently the only company installing. The city is working with Fastwyre on promoting effective communication to the citizens whose areas receiving installation. Fastwyre has committed to a direct mail to the customers seven to ten days prior to beginning work in their area. Mr. Ristow stated the area the work in should be left in the condition they found it. Because of weather, some of the issues, such as sprinkler heads, would be repaired in the spring. Conversation ensued.

Preister also brought up the concern of ambulance billing which is we are billing out much more than taking in. Citizens need to be aware that if they use ambulance service fees need to be paid. Some of costs may be paid by insurance but the citizen is responsible for what is not paid. It is not a paid service paid for by all the taxpayers but if you use this service, the individual using the service is responsible for the bill.

CLOSED SESSION: NONE

ADJOURNMENT

There being no further business to come before the Council at this time, on motion by Welch, seconded by Preister, the meeting was adjourned at 8:30 p.m. Roll call vote on motion to adjourn was as follows: Casey, Cook, Preister, Burns, and Welch voted yes; voting no: none; absent: McCaw. Motion carried.

Susan Kluthe, City Clerk

Rusty Hike, Mayor

I, the undersigned, City Clerk of the City of Bellevue, Nebraska, hereby certify that the foregoing is a true and correct copy of proceedings had and done by the Mayor and Council on February 7, 2023; that all of the subjects included in the foregoing proceedings were contained in the agenda for the meeting, kept continually current and readily available for public inspection at the office of the City Clerk; that such subjects were contained in said agendas for at least twenty-four hours prior to said meeting; that at least one copy of all reproducible material discussed at the meeting was available at the meeting for examination and copying by members of the public; that the said minutes were in written form and available for public inspection within ten working days and prior to the next convened meeting of said body; that all news media requesting notification concerning meetings of said body were provided advance notification of the time and place of said meeting and the subjects to be discussed at said meeting.

Susan Kluthe, City Clerk

*5b3.
2/21/2023



City of Bellevue

January 10, 2023. Tree Board meeting minutes

Attendance: Joanne Langabee, Don Preister, Nancy Scott and Scott Evans were attending in person. Tom Mruz, Deborah Woracek and Craig Kimball were excused. Jim Shada also was excused as he was attending another meeting.

Jo reminded all to turn their volunteered time and mileage to Deborah.

The Board members present approved the December minutes from the previous meeting and will ask those not present to show their approval or disapproval by email to Deborah.

There was no park report as Jim Shada was attending another meeting and unable to attend.

Tree City USA application and Growth Points have been submitted by Joanne in December. Mayor has signed off on it.

Jo sent out the draft of the Year End Report and asked for the amount for the Whispering Timbers grants to be added (it is also attached to this draft of the minutes).

New Business:

Arbor Day: In April, Don will contact St. Bernadette again and the new elementary school on Fort Crook Road.

Earth Day: Don said will be somewhat different this year. He will let us know when he finds out more. Committee is working on it.

Tree Planting: Jo is not applying for any grants due to drought conditions. City has enough just watering the trees planted last couple of years.

Tree Festival:

Don met with Mayor, Doug Clark, Jim Shada, Alan Weiss, and Jim Meier and all are onboard. It has been decided that it would be held at Hastings Banner Park instead of American Hero since American Hero is still in planning stage and we would hate to plant trees and then have to dig them up. There will be around 25 trees planted on the west end. Don and Alan and possibly Jo will go and look to see where the trees will be planted. Jo will send Alan and Don a map of Banner and a list of the trees already in the park. Brainstormed what could be included in the festival. (See attachment for list). Next meeting will invite Alan and Jim M to come so can talk more about festival.

Meeting adjourned.

Submitted by,
Deborah L. Woracek, Secretary, using notes provided by Joann Langabee, President.

Next meet February 14, 2023

Tentative Agenda:

Attendance

Minutes

Parks Report: Jim Shada

Old Business:

Year End Report update

City Grant

Arbor Day

Earth Day

Tree Festival Work

MINUTE RECORD

*6.
2/21/2023

CLAIMS FOR FEBRUARY 21, 2023

PAGE 1

MAYOR

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	46.33
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	12.97
		<u>\$ 59.30</u>

CITY ADMINISTRATION

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	92.66
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	483.29
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	25.10
CITY OF BELLEVUE	REIMB FOR 36TH ST RIBBON CUTTING SUPPLIES	59.90
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	4,883.31
NEDA - MEMBERSHIP SERVICES	MEMBERSHIP DUES-ELBERT	150.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	90.72
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	44.12
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	84.48
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(779.52)
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	223.65
		<u>\$ 5,357.71</u>

CITY COUNCIL

LEAGUE OF NEBRASKA MUNICIPALITIES	MID-WINTER CONFERENCE-CASEY	447.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	81.04
		<u>\$ 528.04</u>

LEGAL

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	92.66
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	85.29
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	25.52
DROP BOX	CPS-CASE MANAGEMENT	19.99
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	1,238.44
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	30.24
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	31.40
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	52.90
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(83.28)
SARPY COUNTY COURT	CLAIMS LIST	34.00
		<u>\$ 1,527.16</u>

CABLE ADVISORY

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	46.33
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	426.43
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	8.65
COX BUSINESS SERVICES	2023/01/19-02/18 MONTHLY SERVICE	9.04
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	4,077.78
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	60.48
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	25.75
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	32.98
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(176.64)
		<u>\$ 4,510.80</u>

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 2

CITY CLERK

BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	739.15
CAPITAL BUSINESS SYSTEMS, INC	COPIER EXPENSE 2022/12/26-2023/01/25	57.52
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	12.97
CITY OF BELLEVUE	SARPY COUNTY CLERK/ REGISTER OF DEEDS	94.00
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	2,032.26
GRETNA GUIDE & NEWS	LEGAL AD	8.84
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	60.48
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	24.96
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	31.83
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(348.60)
ROYCE CORNHUSKER, LLC	ROYCE CORNHUSKER #2-TIF 8798-INTEREST	5,865.87
ROYCE CORNHUSKER, LLC	ROYCE CORNHUSKER #2-TIF 8798-PRINCIPAL	9,334.47
TRISTAR	WORK COMP FUNDING JANUARY 2023	962.20
UNIVERSITY OF NEBRASKA-OMAHA	CPS-CLERK'S SCHOOL-S HARBIN	393.00
		<u>\$ 19,268.95</u>

FINANCE/RISK MANAGEMENT

AMAZON.COM, LLC	CPS-CALENDARS, OFFICE SUPPLIES, SAFETY GLASSES	577.47
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	92.66
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	625.44
CARHARTT, INC	CPS-UNIFORM-T WOODARD	286.69
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	62.84
CITY OF BELLEVUE	MENARDS REBATES USED ON PURCHASES	(31.12)
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	5,225.88
INFOSAFE SHREDDING	DOCUMENT SHREDDING SERVICE	30.00
RED WING BUSINESS ADVANTAGE ACCT	SAFETY SHOES-P BARRETT	200.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	211.68
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	83.84
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	129.99
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(441.12)
		<u>\$ 7,054.25</u>

LIBRARY

AMAZON.COM, LLC	CPS-BOOKS, OFFICE SUPPLIES, PROGRAM SUPPLIES, TELESCOPES, VIDEOS	1,935.30
AMAZON.COM, LLC	VIDEOS	19.96
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	1,248.25
CAPITAL BUSINESS SYSTEMS, INC	COPIER EXPENSE 2022/12/31-2023/01/30	319.89
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	43.23
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	6,801.81
INDOFF, INC	COPY PAPER	430.85
INGRAM LIBRARY SERVICES	BOOKS	2,811.73
MATRIX BUSINESS SYSTEMS INC	COPIER EXPENSE 2022/12/31-2023/01/30	15.22
OMAHA PUBLIC POWER DISTRICT	2022/12/08-2023/01/11 MONTHLY SERVICE	1,516.37
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	241.92
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	84.15
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	105.14
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(531.24)
RUFF WATERS	AQUARIUM MAINTENANCE	65.00

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 3

LIBRARY (cont'd)

SCOTT WELCH	CPS-MONTHLY WEB MAINTENANCE	125.00
VERIZON WIRELESS	2022/12/17-2023/01/16 MONTHLY SERVICE	393.65
WALMART COMMUNITY	PROGRAM SUPPLIES-HIP PACKS	36.89
WALMART-CAPITAL ONE	PROGRAM SUPPLIES	62.40
		<hr/>
		\$ 15,725.52

ADMINISTRATIVE SERVICES/PERSONNEL

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	138.99
BENEFIT PLANS	PARTICIPANTS PLAN FEE	1,051.25
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	483.29
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	60.42
DILLONS CUSTOMER CHARGES	CPS-PRIZES PAID BY DONATIONS	124.26
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	13,319.80
INFOSAFE SHREDDING	DOCUMENT SHREDDING SERVICE	30.00
INTEGRATED CARE, LLC	PHYSICAL/RANDOM TESTING-OCT/DEC 2022	3,390.00
LUGIS ITALIAN BAR & GRILL	CPS-PRIZES PAID BY DONATIONS	100.00
MATRIX BUSINESS SYSTEMS INC	COPIER EXPENSE	129.00
OMAHA PUBLIC POWER DISTRICT	2022/12/20-2023/01/20 MONTHLY SERVICE	269.32
ONE SOURCE	BACKGROUND CHECKS-2023/01/01-2023/02/01	87.50
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	241.92
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	94.36
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	119.94
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(294.03)
SAM'S CLUB DIRECT	CPS-PRIZES PAID BY DONATIONS	348.04
SPARTAN NASH STORES, LLC	CPS-PRIZES PAID BY DONATIONS	34.98
UPS	PAYROLL MAILINGS	20.86
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	2,508.79
WALMART COMMUNITY	CPS-PRIZES PAID BY DONATIONS	53.28
		<hr/>
		\$ 22,311.97

CODE ENFORCEMENT

AMAZON.COM, LLC	CPS-PEN REFILLS	29.98
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	431.85
BELLEVUE PRINTING COMPANY	FORMS, TOW NOTICES	1,935.18
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	91.12
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	25.41
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	8,961.09
GALLO PROFESSIONAL POLYGRAPH SERVICES	POLYGRAPH SERVICE	400.00
INFOSAFE SHREDDING	DOCUMENT SHREDDING SERVICE	30.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	181.44
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	62.49
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	74.86
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(525.80)
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	467.99
		<hr/>
		\$ 12,165.61

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 4

PUBLIC WORKS

ALFRED BENESCH & COMPANY	BPW-220814 PROF SVC -FIBER OPTIC 2022/12/29-2023/01/15	8,593.57
AMAZON.COM, LLC	CPS-PLANNERS	22.29
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	345.48
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	153.03
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	51.88
DINA'S TAILOR SHOP	CPS-LNIFORMS	513.60
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	7,881.45
HI-VIZ SAFETY WEAR, LLC	CPS-HATS	240.95
MATRIX BUSINESS SYSTEMS INC	COPIER EXPENSE	77.40
NEBRASKA IOWA SUPPLY CO	DIESEL FUEL FOR CITY TANKS	4,945.02
ONE CALL CONCEPTS	LOCATE FEE-JAN 2023	1,083.56
PATCHED MANIA LIMITED	CPS-PATCHES FOR UNIFORMS	300.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	211.68
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	89.18
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	130.80
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(633.46)
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	104.62
		<u>\$ 24,111.05</u>

PARKS

AMAZON.COM, LLC	CPS-DOG WASTE ROLL BAGS	329.60
A-RELIEF SERVICES	PORTABLE RESTROOMS-CITY PARKS	1,155.00
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	86.37
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	1,651.48
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	38.91
COURTYARD BY MARRIOTT	CPS-LODGING FOR TRAINING-3 EMP	732.48
DILLONS CUSTOMER CHARGES	SUPPLIES FOR LUNCH	89.94
DULTMEIER SALES LLC	MALE ADAPTER, BALL VALVE	51.00
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	8,496.58
HDR ENGINEERING, INC	BPW-211123 HAWORTH COLLECTION SYSTEM 2023/01/01-01/28	37,165.29
J & J SMALL ENGINE SERVICE	CHAINSAW	511.99
MARKING REFRIGERATION, INC	REPAIR ICE MACHINE-PARKS	640.50
OMAHA PUBLIC POWER DISTRICT	2022/11/30-12/30 MONTHLY SERVICE	2,794.87
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	272.16
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	91.06
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	108.66
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(304.58)
TRACTOR SUPPLY CREDIT PLAN	TOOL BOX	899.96
TRISTAR	WORK COMP FUNDING JANUARY 2023	29.03
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	2,198.23
WALMART COMMUNITY	ICE MELT	899.64
WESTLAKE ACE HARDWARE	2 CYCLE OIL	81.86
		<u>\$ 58,020.03</u>

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 5

RECREATION

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	92.66
BELLEVUE PRINTING COMPANY	SUMMER REGISTRATIONS PRINTING	231.45
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	54.62
CSI-SOUTH SIDE PRESS	2023 SUMMER BROCHURE	2,471.00
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	2,660.65
OMAHA PUBLIC POWER DISTRICT	2022/12/20-2023/01/20 MONTHLY SERVICE	176.05
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	60.48
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	27.63
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	37.18
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(23.04)
THE HOME DEPOT PRO	JANITORIAL SUPPLIES	525.77
TIDAL WAVE AUTO WASH	CPS-CAR WASH	21.40
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	180.59
		<u>6,516.44</u>
		\$

FACILITY MAINTENANCE

AMAZON.COM, LLC	CPS-BATTERY POWERED FLOOR SCRUBBER, FLOOD LIGHTS, SOLENOID	3,017.03
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	138.99
BIL-DEN GLASS	INSTALL NEW DOOR CLOSER, PIVOTS-WW	2,323.20
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	4,858.20
CARPENTER PAPER CO	JANITORIAL SUPPLIES	598.12
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	4.32
CITY OF BELLEVUE	CLEANING SUPPLIES FOR 1500 WALL ST	32.61
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	11,964.31
FASTENAL COMPANY	PARTS-POOLS	50.69
FERGUSON ENTERPRISES INC #1657	WAX RING, COMM SEAT, PLUMBING SUPPLIES	304.30
FIRE PROTECTION SERVICES, LLC	RE-WIRE DAMPER AND FLOW SWITCH-FLEET	315.00
HANKS SPECIALTIES, INC	TILES-WW	14.90
HOSE & HANDLING, INC	HOSE ADAPTER, FEMALE SWIVEL	27.65
IDEAL PURE WATER COMPANY	BOTTLED WATER	26.00
JACKSON SERVICES, INC	DOOR MAT SERVICE-LIBRARY	86.27
JOHNSTONE SUPPLY	MINI PUMP-BPD SERVER ROOM	205.22
MENARDS	TILE, HOSE, LIGHTS, ICE MELT, LIMESTONE, FLOORING SUPPLIES	600.92
METAL LOGOS	REVISION TO EXTERIOR WALL DISPLAY-PD	424.06
MMC MECHANICAL CONTRACTORS, INC	FALL INSPECTION-PLANNING	5,958.06
NEB STATE FIRE MARSHALL AGENCY	ANNUAL BOILER CERTIFICATE	72.00
OMAHA DOOR & WINDOW COMPANY	BOTTOM WEATHERSTRIP-DIST 2	116.55
OMAHA PUBLIC POWER DISTRICT	2022/12/08-2023/01/11 MONTHLY SERVICE	1,121.21
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	272.16
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	84.47
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	99.47
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(532.32)
ROCHESTER MIDLAND CORPORATION	WATER ENERGY TEAM FIXED BILLING	405.60
SHERWIN WILLIAMS CO	PAINT-FLEET	162.25
THE HOME DEPOT PRO	JANITORIAL SUPPLIES	1,148.16
TK ELEVATOR CORPORATION	ELEVATOR MAINTENANCE	674.56
TOTAL BACKFLOW RESOURCES	TRAINING-NIEMIER, ZIMMER	300.00
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	443.49
WESTLAKE ACE HARDWARE	COUPLER, HOOK, SUPPLIES	21.57
		<u>35,339.02</u>
		\$

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 6

CEMETERY

AMAZON.COM, LLC	CPS-STREET LAMP GLOBE-CEMETERY	205.90
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	46.33
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	39.63
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	4.32
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	1,849.93
OMAHA PUBLIC POWER DISTRICT	2022/12/20-2023/01/20 MONTHLY SERVICE	929.23
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	90.72
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	28.26
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	33.82
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(33.00)
		<u>\$ 3,195.14</u>

STREETS

AMAZON.COM, LLC	CPS-VACUUM FILTERS	26.98
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	231.65
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	4,374.57
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	38.91
CHARLES VRANA & SONS CONSTRUCTION	BPW-211224 FT CROOK BRIDGE THRU 2023/01/21	174,036.05
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	42,525.78
HEIMES CORPORATION	STORM SEWER PIPE MODIFICATION	14,733.00
INDEPENDENT SALT CO	ICE CONTROL SALT	17,169.08
INTERSTATE ALL BATTERY CENTER	BATTERIES	85.60
LOGAN CONTRACTORS SUPPLY	ADAPTER	23.00
LYMAN RICHEY SAND & GRAVEL	SAND/GRAVEL	8,149.81
MENARDS	MOUSE TRAP	9.00
METROPOLITAN COMMUNITY COLLEGE	TUITION-B LUDWIG	2,565.00
MID-AMERICAN SIGNAL	CABINET INTERFACE DEVICES	13,302.00
MIDWEST SALES & SERVICE CO	U-CHANNELS	7,572.00
OMAHA PUBLIC POWER DISTRICT	2022/11/30-12/30 MONTHLY SERVICE	13,504.92
OMAHA PUBLIC POWER DISTRICT	2022/12/29-2023/01/30 MONTHLY SERVICE	82,174.68
OMNI ENGINEERING	ASPHALT	1,426.25
READY MIXED CONCRETE COMPANY	CONCRETE	11,669.27
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	967.68
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	315.57
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	368.79
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(1,354.19)
TRISTAR	WORK COMP FUNDING JANUARY 2023	1,092.00
UNIVERSITY OF NEBRASKA-OMAHA	CPS-PESTICIDE TRAINING-5 EMP	380.00
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	12,142.86
WESTLAKE ACE HARDWARE	SPARE KEYS FOR TRUCKS	24.95
		<u>\$ 407,555.21</u>

FLEET MAINTENANCE

911 CUSTOM, LLC	T-SERIES LIGHTS	785.32
A + UNITED RADIATOR REPAIR	REBUILD RADIATOR-WW109	175.00
AIR COMPRESSOR SERVICES	CPS-PIPE GASKET REPLACEMENT	85.22
ALLIED OIL & SUPPLY COMPANY	BULK OIL	1,291.35
AMAZON.COM, LLC	CPS-ANTI-FOG LENS, COUPLINGS, FILTERS, HEADLAMPS, TOOLS	1,059.67
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	46.33
AUTO VALUE PARTS - SOUTH OMAHA	CIRCUIT BREAKER, DISC BRAKES, FUSES, CALIPER, WATER PUMP	402.80

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 7

FLEET MAINTENANCE (cont'd)

AUTOMOTIVE WAREHOUSE DIST, INC	PARTS, CLAMP, STAND, SEAL, GREASE	2,311.62
BAUER BUILT TIRE & SERVICE	TIRES-WW111	263.48
BAXTER FORD	STEP ASSEMBLY, FILTERS, SEALS, ELEMENTS, LATCHES	1,255.52
BENDIX ACOM PRO	CPS-SOFTWARE FOR BENDIX AIR COMPRESSOR	426.94
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	2,595.25
BUMPER & AUTO OF OMAHA	HEADLAMP	495.00
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	30.26
CORNHUSKER INTERNATIONAL TRUCKS	INSTALL NEW FUEL SENDING UNIT, MUFFLER CLAMP	290.03
DXP ENTERPRISES, INC	BALL BEARINGS	102.40
EDS WIRE ROPE & RIGGING	WIRE ROPE SLING	97.32
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	21,842.57
FACTORY MOTOR PARTS CO	BAG, SPARK PLUGS	251.07
FARM PLAN	BROOM ASSEMBLY, ROLLER CHAIN	6,041.80
FORCE AMERICA DISTRIBUTING, LLC	EXT CABLE	414.01
GRAHAM TIRE COMPANY	NEW TIRES	861.24
GRAINGER	TERMINAL STRIPS	34.23
HOSE & HANDLING, INC	POLYBRAID HOSE	69.56
HUBER'S CHEVROLET CO, INC	CPS-COVER	66.83
INTERSTATE BATTERIES	BATTERIES	1,605.57
JIM HAWK TRUCK TRAILERS	HEATED MIRROR	36.74
JONES AUTOMOTIVE	DOME LIGHT	328.80
KRIHA FLUID POWER CO	FITTINGS, COUPLINGS	1,378.13
LAWSON PRODUCTS, INC	CERAMIC DISC	167.04
LIONS AUTOMOTIVE, I NC	REPAIR SEATSPA601, ST 141, NETTING ENG31	1,105.00
MACQUEEN EQUIPMENT, LLC	FOAM SEAL KIT, SEAT BELT BUCKLE	625.55
MATHESON TRI-GAS INC	WELDING SUPPLIES	282.29
MENARDS	SUPPLIES, PROPANE, ICE MELT, PAINT, PIPE	335.02
MICHAEL TODD & COMPANY	NO-DRILL LIGHT BAR MOUNT	169.00
NAPA AUTO PARTS	BALL BEARINGS, FILTERS, FITTINGS, TRAILER WIRE, CLAMPS, GLOVES	1,396.69
NEBRASKA IOWA INDUSTRIAL FASTENERS	NUTS, RIVETS, CONNECTORS, DRILL BITS, TY-RAP, SUPPLIES	1,475.60
OMAHA PUBLIC POWER DISTRICT	2022/12/21-2023/01/23 MONTHLY SERVICE	1,209.19
PAUL LUCHT & SONS, INC	FRAME AND ALIGNMENT-TRUCK 31	455.40
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	483.84
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	168.30
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	210.68
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(994.24)
TERMINAL SUPPLY CO	MOUNTING BASES	274.97
THE EASTWOODCOMPANY	CPS-HOSE, AIR JET	133.73
TY'S OUTDOOR POWER & SERVICE	PLEATED CANVAS, PIGTAILS, TERMINALS, BOLTS	694.43
UPS STORE	FREIGHT TO RETURN GAUGE	18.82
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	842.36
WALKERS UNIFORM RENTAL	UNIFORM CLEANING SERVICE, FENDER COVERS	257.68
WATEROUS COMPANY	GAUGE PRESSURE	21.23
WELDON PARTS INC	CRUISER RED LIGHTS	418.63

\$ 54,395.27

SOLID WASTE

PAPILLION SANITATION	GLASS RECYCLING	424.34
		\$ 424.34

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 8

PLANNING

AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	46.33
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	138.42
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	12.97
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	2,832.71
GRETNA GUIDE & NEWS	LEGAL AD	23.14
OMAHA WORLD HERALD	LEGAL AD	34.64
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	90.72
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	37.05
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	48.54
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(208.68)
		<u>\$ 3,055.84</u>

PERMITS & INSPECTIONS

AMAZON.COM, LLC	CPS-CALENDARS	41.97
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	277.98
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	184.94
CAPITAL BUSINESS SYSTEMS, INC	COPIER EXPENSE	70.87
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	21.62
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	11,880.34
INTERNATIONAL CODE COUNCIL, INC	CPS-MEMBERSHIP RENEWAL-CHRISTENSEN	145.00
JOHN COOK	PER DIEM ADVANCE FOR TRAINING	383.50
NE STATE ELECTRICAL DIVISION	CPS-LICENSE RENEWAL-CHRISTENSEN	253.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	241.92
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	91.37
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	117.73
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(709.98)
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	582.79
		<u>\$ 13,583.05</u>

POLICE

AARDVARK	ROBOTICS SUITE PACKAGE	21,425.00
ACTION SIGNS	INSTALL GRAPHICS-UNITS 607, 643, 644, 627	600.00
AMAZON WEB SERVICES, INC	AMAZON WEB SERVICES-JAN 2023	435.58
AMAZON.COM, LLC	CPS-BELT LOOPS, FLAG CASE, OFFICE SUPPLIES, TOOLS, CARD READER, TRIPOD	2,048.34
A-RELIEF SERVICES	PORTABLE RESTROOM-RANGE	128.00
ARKANSAS' FLAG AND BANNER	DEPARTMENT OUTDOOR FLAGS	877.99
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	4,194.64
AVERY L LOSCHEN	RENT FOR K9 BUILDING-MARCH 2023	1,248.00
BENEFIT PLANS	POLICE PENSION PLAN- FEB 2023 MD, JG, MG	8,817.56
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	3,277.41
BLAUER MANUFACTURING CO, INC	CPS-TRAINING UNIFORMS-PLEISS	264.95
BROWNELLS	MAGAZINES FOR GLOCK	219.90
CAPITAL BUSINESS SYSTEMS, INC	COPIER EXPENSE 2022/12/17-2023/01/16	35.42
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	370.40
CHAD W REED	REIMB TRAINING EXPENSES	587.33
CITY OF BELLEVUE	SARPY COUNTY - VEHICLE REGISTRATION	30.00
CITY OF BELLEVUE	TROY BOYLE - RIEMB FOR KEYS	6.83
CITY OF OMAHA	FORENSIC SERVICES Q4/2022	600.00
CITY OF OMAHA	OFF-SITE INCINERATION OCT/DEC 2022	1,053.20

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 9

POLICE (cont'd)

COMPLETE TACTICAL CONSULTANTS	TACTICAL ATHLETE CERT COURSE	200.00
COX BUSINESS SERVICES	2023/02/02-03/01 MONTHLY SERVICE	285.00
CULLIGAN OF OMAHA	BOTTLED WATER 2023/02/01-02/28	459.90
DOMINO'S PIZZA	CPS-WELCOME CEREMONY	96.00
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	145,423.03
FBI LEEDA	CPS-MEMBERSHIP-CLARY	130.00
FBI LEEDA	CPS-REGISTRATION-6 EMP	4,770.00
FEDERAL EXPRESS CORPORATION	MAILING CHARGES	23.51
FIRST RESPONDERS FOUNDATION	IN-HOUSE MENTAL HEALTH CLINICIAN-JAN 2023	1,250.00
FORCE SCIENCE INSTITUTE	CPS-REGISTRATION-STUCK	545.00
GALLO PROFESSIONAL POLYGRAPH SERVICES, LLC	POLYGRAPH SERVICES	800.00
GREAT PLAINS UNIFORMS	PATCHES	91.50
HITOUCH BUSINESS SERVICES	CREDIT TAKEN TWICE	37.79
HTS AG	SOFTWARE SUBSCRIPTION	720.00
INFOSAFE SHREDDING	ON-SITE DOCUMENT SHREDDING	150.00
INSTITUTE OF POLICE TECHNOLOGY & MANAGEMENT	CPS-REFUND REGISTRATION-MILLER	(595.00)
J P COOKE COMPANY	POCKET STAMPER-DUCKER, MILOS	121.80
JACKSON SERVICES, INC	DOOR MAT SERVICES	152.91
JO DONS	PLAQUES	270.00
JOSHUA MARRS	REIMB MEAL FOR TRAINING	12.00
JULIE COOMBS	MATH CLASS PREPARATIONS	200.00
LEGAL & LIABILITY RISK MGT INSTITUTE	CPS-REGISTRATION-MILLER	175.00
LP POLICE	MONTHLY LOCATE PLAN-JAN 2023	259.90
MATRIX BUSINESS SYSTEMS INC	COPIER EXPENSE	357.12
MYZONE, INC	CPS-WELLNESS PROGRAM	75.00
NEBRASKA SECRETARY OF STATE	NOTARY FEE-RIDLEY	30.00
OFFUTT COLLISION REPAIR CENTER	REPAIR CRUISER DAMAGE-UNIT 634	1,006.87
OMAHA PUBLIC POWER DISTRICT	2022/12/08-2023/01/11 MONTHLY SERVICE	121.90
PABLO SOLORIO	REIMB PER DIEM FOR TRAINING	265.50
POLICE EXECUTIVE RESEARCH FORUM	RENEW MEMBERSHIP	475.00
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	3,659.04
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	991.77
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	2,037.75
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(503.42)
SIG SAUER, INC	STRIKER ASSEMBLY	130.50
SOUTHWEST AIRLINES	CPS-TRAVEL-JASHINSKE	471.95
TRISTAR	WORK COMP FUNDING JANUARY 2023	43,831.51
TRI-TECH FORENSICS, INC	SHOE COVERS	105.25
U.S. CELLULAR	2023/01/09-02/08 MONTHLY SERVICE	88.56
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	14,020.34
VIKTOS, LLC	CPS-TRAINING UNIFORMS-MARRS	453.95
VISTA PRINT	CPS-BUSINESS CARDS	295.18
WESTLAKE ACE HARDWARE	SUPPLIES, KEYS	34.94
		\$ 269,747.60

FIRE & RESCUE

AIRGAS USA, LLC	MEDICAL OXYGEN	152.43
AMAZON.COM, LLC	CPS-BOOTS, NOTEBOOKS, PRINTER SUPPLIES	337.60
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	1,917.81
BLACK HILLS ENERGY	2022/12/30-2023/01/30 MONTHLY SERVICE	3,233.68

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 10

FIRE & RESCUE (cont'd)

BOUND TREE MEDICAL, LLC	MEDICAL SUPPLIES	1,962.48
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	110.19
DISCOUNT RUBBER STAMPS	CPS-SELF INKING STAMPS	106.33
EC DATA SYSTEMS, INC	CPS-SHARE OF FAX SERVER	7.95
ED M FELD EQUIPMENT CO	FIRE HOSE, COMPRESSOR MAINTENANCE	1,206.58
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	96,160.45
FIRE DEPARTMENT CLOTHING	UNIFORM SHIRTS	4,699.62
GREAT PLAINS UNIFORMS	UNIFORM ITEMS-3 EMP	519.48
HORWATH LAUNDRY EQUIPMENT	GEAR WASHER REPAIR	454.51
JACQUELINE SMEALL	REIMB FOR SERVICE	130.14
MARCO TECHNOLOGIES, LLC	COPIER EXPENSE	172.05
MENARDS	12 GAL VACUUM, BLADES, SPONGES	250.79
NEBRASKA FURNITURE MART	DISHWASHER-DIST 4	710.00
NORTHERN TOOL & EQUIPMENT	CPS-SNOW PUSHERS	374.45
OMAHA PUBLIC POWER DISTRICT	2022/11/30-12/30 MONTHLY SERVICE	5,986.58
PAMELA WOLFSBAUER	REIMB FOR SERVICE	50.00
RACOM CORP	STATION ALERT SYSTEM 2023/01/01-2023/12/31	14,177.17
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	2,600.64
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	745.28
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	1,258.03
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(740.04)
STRYKER SALES CORPORATION	YEARLY MAINTENANCE ON AMBULANCE COTS	15,917.12
SURVEY MONKEY.COM, LLC	2022/01/21-2027/1/20	384.00
TRI-MUTUAL AID FIREFIGHTERS ASSN	CPS-SUBSCRIPTION	450.00
TRISTAR	ANNUAL MEMBERSHIP 2022-2024	36.20
US BANK VOYAGER FLEET SYSTEMS	WORK COMP FUNDING JANUARY 2023	11,569.62
WESTLAKE ACE HARDWARE	FUEL FOR CITY VEHICLES - JAN 2023	9.18
	SUPPLIES	
		\$ 164,950.32

NON-DEPARTMENTAL/CONTRACTS

CENTURY LINK	2022/12/20-2023-01/19 MONTHLY SERVICE	323.41
GOTOMEETING	CPS-MONTHLY CONFERENCE CALLS	17.12
METRO AREA TRANSIT	MAT 2022-11 2,087 MILES	5,143.20
STATE OF NEBRASKA-BUSINESS SERVICE	BIENNIAL REPORT-BCMBC, MARINA	83.00
DIISION	ANIMAL CONTROL-MARCH 2023	17,231.00
SARPY COUNTY COURT HOUSE	CPS-MONTHLY WEB MAINTENANCE	125.00
SCOTT WELCH		
		\$ 22,922.73

INFORMATION TECHNOLOGY

AMAZON.COM, LLC	CPS-HEADSETS FOR PHONE	545.98
GRAYBAR ELECTRIC	BACKUP UPS	997.68
HOSTGATOR.COM	CPS-MONTHLY DOMAIN MAINTENANCE	69.95
HUNTEL COMMUNICATIONS, INC	VOICE AND DATA SERVICE FOR PHONE SYSTEM	8,500.00
INTERSTATE ALL BATTERY CENTER	BATTERIES	232.50
MOTOROLA SOLUTIONS, INC	EARPIECES	96.96
ONE CALL CONCEPTS	LOCATES	6.60
SHI INTERNATIONAL CORP	OFFICE 365 SOFTWARE	2,093.58
TJ CABLE	LOCATED FOR JANUARY 2023	100.00
		\$ 12,643.25

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 11

2206 LONGO DR - NEW LIBRARY

CENTURY LINK	2022/12/04 - 2023/01/03 SERVICE	118.04
COX BUSINESS SERVICES	2022/12/27 - 2023/01/23 SERVICE	115.30
HEIMES CORPORATION	REPLACED URINAL DIAPHRAM	195.00
METROPOLITAN UTILITIES DIST	2022/12/03 - 2023/01/05	2,000.96
MIDWEST PROTECTION SERVICE	2022/04-2023/05 FIRE ALARM MONITORING	282.48
OMAHA PUBLIC POWER DISTRICT	2022/11/22 - 12/21 MONTHLY SERVICE	4,750.55
PAPILLION SANITATION	JANUARY 2023 SERVICE	289.28
PRESTO-X	2023/01/19 PEST CONTROL MAINTENANCE	107.00
SELDIN LLC	MANAGEMENT FEES	1,450.00
SELDIN LLC	MET WITH MUD RE GAS LEAK	514.00
SELDIN LLC	REPLACED LIGHTS IN COMMON HALLWAYS & STOREFRONT WINDOW	2,340.37
SELDIN LLC	WATER LEAK IN VA & REPLACED LIGHTS	547.95
STERICYCLE	2023/01/01 MONTHLY SERVICE	164.04
TITANIUM FIRE SPRINKLER COMPANY	FIRE INSPECTION DEFICIENCY CORRECTIONS	2,935.00
WATERLINK INC	MONTHLY WATER TREATMENT SERVICE	431.63
		\$ 16,241.60

WASTEWATER

AMAZON.COM, LLC	CPS-CALENDARS, CHAIR MAT, OFFICE SUPPLIES	439.59
AMAZON.COM, LLC	STORAGE BOXES	47.77
AT&T MOBILITY	2022/12/22-2023/01/21 MONTHLY SERVICE	688.66
CAPITAL BUSINESS SYSTEMS, INC	COPIER EXPENSE 2022/12/09-2023/01/08	88.71
CENTURY LINK	2023/01/13-02/12 MONTHLY SERVICE	192.59
CENTURY LINK	2023/01/22-02/21 MONTHLY SERVICE	456.90
ELLIOTT EQUIPMENT CO	ROOT SAWS, DRAG BRAKE, HUB ASSEMBLY, PIGTAILS, PARTS	4,004.04
EMPLOYEE BENEFITS SYSTEMS	HEALTH INSURANCE-FEB 2023	9,221.10
GENERAL FIRE & SAFETY CO	GAS DETECTOR CALIBRATION	453.00
GRAINGER	VACUUM PUMP, COMPRESSOR REPAIR KIT	776.09
HDR ENGINEERING, INC	BPW-181013 QUAIL CREEK LIFT 2023/01/01-01/28	2,685.81
HDR ENGINEERING, INC	BPW-190409 SO LIFT STATION 2023/01/01-01/28	1,783.28
HDR ENGINEERING, INC	BPW-201109 SO LIFT STATION 2023/01/01-01/28	2,515.51
HOA OPTIMIZATION & AUTOMATION SOLUTIONS, INC	SCREENCONNECT HOSTING 2023	500.00
HTM SALES, INC	SOLENOID VALVE, SEAL ASSEMBLY	1,459.93
KERSTEN PRECAST CONCRETE LLC	MANHOLE STEPS, JOINT COMPOUND	368.00
MENARDS	MEETING SUPPLIES, CASTERS, CAULK, FLOORING SUPPLIES	475.53
OMAHA PUBLIC POWER DISTRICT	2022/12/08-2023/01/11 MONTHLY SERVICE	4,063.81
RELIANCE STANDARD LIFE INSURANCE	DENTAL INSURANCE-FEB 2023	504.40
RELIANCE STANDARD LIFE INSURANCE	GROUP LIFE WAGE ADJUSTMENT	(559.64)
RELIANCE STANDARD LIFE INSURANCE	LIFE INSURANCE - JANUARY 2023	128.58
RELIANCE STANDARD LIFE INSURANCE	LTD INS - JANUARY 2023	159.23
RJN GROUP INC	BPW-221017 FLOW METER PLANNING THRU 2022/10/28	1,365.00
RJN GROUP INC	BPW-221016 GIS GAP THRU 2023/01/27	1,215.00
US BANK VOYAGER FLEET SYSTEMS	FUEL FOR CITY VEHICLES - JAN 2023	2,674.38
		\$ 35,707.27

MINUTE RECORD

CLAIMS FOR FEBRUARY 21, 2023

PAGE 12

COMMUNITY BETTERMENT

OMAHA PUBLIC POWER DISTRICT	2023/01/26 MONTHLY SERVICE	100.19
		<u>\$ 100.19</u>

FEDERAL FORFEITURES

TACTICAL MEDICAL SOLUTIONS, INC	STOCKED RAID BAGS	2,133.96
		<u>\$ 2,133.96</u>

TOTAL CLAIMS FOR FEBRUARY 21, 2023	<u>\$ 1,219,151.62</u>
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TOTAL PAYROLL FOR FEBRUARY 3, 2023	<u>\$ 1,605,860.97</u>
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9a.
2/21/2023



City of Bellevue
Office of the City Administrator
1500 Wall Street • Bellevue, Nebraska 68005 • (402) 292-3023

TOPIC FOR CONSIDERATION FOR CITY COUNCIL AGENDA

If you have a specific topic that you would like the City Council to consider at a future meeting, please list your name and contact information and the topic. The matter will be reviewed and forwarded to the city staff for appropriate action or scheduled for a future meeting of the City Council, as may be necessary. You will be notified of any staff recommendation or action take on your request or when the matter will be presented to the City Council for consideration.

Name: Kyle Rhone

Address: 1908 Madison Street

Telephone Number: 501-707-7775 Email Address: kbrhone@gmail.com

Date Submitted: 2/14/23 Date of Requested City Council Meeting: 2/21/23

Description of Requested Topic:

I want to ask how the process of purchasing \$720,909 of police vehicles is possible when it wasnt in the budget for this year. I would also like to know how we have a surplus when the coucil voted to approve a property tax increase against much public displeasure stating that funds were tight given the inflationary pressures of our current economy. Did we decide not to spend the 21% increase in wage expense that was approved in this years budget? Not to mention a 2% raise the council approved for itself in perpetuity in 2019. Where is this surplus coming from? The Nebraskra Budget Act 13-502, 505, 510, 511 all read, to me, as this is improper practice. I would like my concerns to be a part of the public record by addressing the coucil.

For Office Use Only:

Date of City Council Meeting: 2/21/23 Applicant Contacted: _____

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

12a.
2/21/2023

COUNCIL MEETING DATE: 02/07/2023		SUBMITTED BY: Administration		
AGENDA ITEM:		CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LICQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>		
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER <input type="checkbox"/>		

SUBJECT:

An Ordinance to Approve the Sale and Conveyance of One Parcel of City Property to Jeffrey Nazeck and to Provide an Effective Date.

SYNOPSIS/BACKGROUND:

The City of Bellevue currently owns one vacant lot, legally described as Lot 1 Nazeck Addition. Jeffrey Nazeck desires to enter into a Purchase Agreement with the City for the sale of said parcel for the purchase price of \$10,000.00. The City does not have any reasonable and foreseeable use for the property.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NUMBER:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRUBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve Ordinance 4115 and authorize the Mayor to sign.

ATTACHMENTS:

1. Ordinance 4115	2. Purchase Agreement	3. <input type="text"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

[Handwritten signatures]

8.2 PURCHASER AGREES TO MAKE APPLICATION FOR FINANCING: (Continued) If the original loan application is denied, the Purchaser authorizes and instructs the Lender to notify the Purchaser, the Seller and all real estate licensees involved in the transaction, in writing. Upon notification of denial, this Purchase Agreement shall be null and void and the deposit will be refunded to Purchaser unless Seller and Purchaser mutually agree in writing within 5-business days from receipt of notification of loan denial that an additional loan application will be made or that additional loan information will be submitted to the original lender.

9. **A. SELLER FINANCING:** See attached Seller Financing Addendum

B. LOAN ASSUMPTION: See attached Loan Assumption Addendum

10.1 REAL ESTATE TAXES, PRORATION: If the Property is located in Douglas or Sarpy County, then all consolidated real estate taxes which become delinquent in the year in which closing takes place shall be treated as though all are current taxes and shall be prorated as set forth below. If the Property is located in a county other than Douglas or Sarpy, then all consolidated real estate taxes for the year in which closing takes place shall be prorated as set forth below and shall be based upon the county assessor's valuation at the date of closing and the most recently certified mill levy. Taxes shall be prorated as of the date of closing.

10.2 GREENBELT TAX RATE: "Greenbelt" (or as it is formally known "Special Valuation") is defined as agricultural land which may be valued without regard to market influences that cause the value to be inflated to an amount exceeding its agricultural value. Special Valuation allows property owners who wish to continue the agribusiness nature of their Property to do so without the value of their Property being inflated by residential or commercial development. Purchaser understands that the Property's location, its use (whether actual or intended) and Nebraska laws, may subject the Property to tax rates which may not be consistent with the Property's actual or intended use. To this end, it would be in Purchaser's best interest to consult with an attorney regarding taking the necessary steps to ensure a favorable tax rate on the Property. (Purchaser's Initials) _____

11. ADDITIONAL PROVISIONS: (Check all that apply)

A. Contingent upon Sale and Closing: This offer is contingent upon the sale and closing of Purchaser's Property located at _____

If such closing does not occur, this offer shall be null and void; the earnest money shall be returned to the Purchaser.

B. Contingent upon Closing: This offer is contingent upon Purchaser first obtaining the proceeds from the closing of the Purchaser's property located at _____, scheduled to close on _____. If such closing does not occur on or before such date, this offer shall be null and void; the earnest money shall be returned to the Purchaser.

C. OTHER: Cit

See Attached Addendum if additional space is needed.

12. RENTS, DEPOSITS, LEASES AND VENDOR CONTRACTS IF RENTED: All rents, leases and vendor contracts shall be current at time of closing. All tenant deposits and leases shall be assigned to Purchaser at no cost. Seller shall provide all current leases and vendor contracts to Purchaser within 5 days of acceptance of this offer. Offer contingent upon Purchaser's satisfactory review of all current leases and vendor contracts within 10 days of acceptance of this offer. (Purchaser initials, if applicable): _____

13. SANITARY AND IMPROVEMENT DISTRICT (SID): Purchaser understands that this property is located within SID # _____.

14. HOMEOWNER'S ASSOCIATION/COVENANTS: Purchaser acknowledges that the Property may be subject to protective covenants that govern Purchaser's use of the Property, which may be enforced by the homeowner's association or its members. Purchaser may obtain a copy of the covenants from the designated Title and Escrow Company. Seller shall pay all homeowner's and/or neighborhood association assessments levied and due as of closing. Homeowner's or neighborhood association dues shall be prorated to the date of closing. Purchaser shall be responsible for all future homeowner's/neighborhood association dues, if any.

15. **TITLE INSURANCE:** Seller shall, through Seller's Agent or Closing Agent, furnish a current title insurance commitment or complete abstract of title to Purchaser as soon as practical. If title defects are found, Seller must cure them within a reasonable time. If title defects are not cured within a reasonable time period, the Purchaser may rescind this Agreement and the deposit shall be refunded. The Real Estate Settlement Procedures Act ("RESPA") 14 U.S.C. 2601 et.seq. and its accompanying regulations make it clear that if the Purchaser pays any part of the title insurance policy, the Seller cannot make the sale conditioned on the use of a particular title insurance company.

According to the Purchaser's rights under RESP A, Purchaser hereby directs title insurance work to _____ or _____ Purchaser hereby selects Basic Title Insurance Coverage*. The cost of any title insurance policies and endorsements shall be equally divided between Purchaser and Seller. Any questions involving title insurance coverage should be directed to your Title Insurance Agent.

*Expanded Title Insurance is not used for vacant land or new construction. Purchaser can however, at their choosing, purchase an owner's policy from the title insurance provider.

16. **ESCROW CLOSING:** Purchaser and Seller acknowledge and understand that the closing of the sale will be handled by an Escrow Agent. The charge for the escrow closing shall be equally divided between Purchaser and Seller. Purchaser selects _____ as Escrow Agent, or _____ as Escrow Agent.

17. **CLOSING AND POSSESSION:** Closing to be on or before Sixty (60) days following execution of this Agreement. Closing cannot take place before completion of the Remonstrance Period as outlined in the Addendum. Possession date to be Closing or _____ at _____ AM PM.

18. **UTILITIES TRANSFER:** (Check if applicable) Purchaser agrees as of date of closing possession to have any utilities on the property transferred to Purchaser's name. (Purchaser Initials): _____

19. **CONDITION OF PROPERTY:** Seller represents to the best of their knowledge, information and belief that there is no material or latent defects on neither the Property nor any conditions present or existing which may give rise to, or produce, environmental hazards or liabilities. Seller represents that there are no enforcement actions pending or threatened with respect to the Property or any conditions present on it, except what has been disclosed by the Listing Broker or the Sellers Limited Agent for the Broker. Seller agrees to maintain landscaping, mowing, septic and/or well in operable condition until delivery of possession. Seller will allow Purchaser walk through or preview the Property within 48 hours of closing to confirm compliance with this Purchase Agreement.

20. **WOOD INFESTATION:** (Check if applicable) If Purchaser desires or if required by Purchaser's Lender, Purchaser agrees to pay the cost of a wood destroying insect inspection of any structures or buildings on Property. This inspection shall be performed by _____, _____, or _____. Seller agrees to pay for any treatment or repair work found necessary for issuance of a wood destroying insect warranty. Purchaser agrees to accept the treated property upon completion of repairs. Provided, however, if treatment and repairs exceed 2% or _____ of purchase price, this Purchase Agreement may be cancelled by Seller and/or Purchaser, by written notice delivered to the other party within 5 days of receipt of a wood destroying insect inspection report.

Purchaser chooses to waive wood destroying insect inspection, if not required. (Purchaser's Initials): JW/K

21. **SELLER PROPERTY CONDITION STATEMENT:** Purchaser acknowledges that the Property is land only, and due to that fact, the Seller is exempt from Nebraska Revised Statute §76-2,120 requiring sellers of real property to provide a Seller's Property Disclosure Statement. (Purchaser's Initials): JW/K

22.1 **PROPERTY FEASIBILITY STUDY:** (Check if applicable) Purchase Agreement is contingent upon land feasibility study by Purchaser. Feasibility study is intended to allow Purchaser a time period of due diligence to have inspections, tests or studies completed on the Property to assess the properties suitability for the Purchaser intended use. Seller to allow all of Purchaser's business professionals and contractors reasonable access to the Property for any and all inspections, test, or compilation of study information. Check all that are applicable.

- | | |
|---|--|
| <input type="checkbox"/> Water Quality Tests | <input type="checkbox"/> Electrical Contractor |
| <input type="checkbox"/> Well Inspection or Well Installation Contractor | <input type="checkbox"/> Utility Companies |
| <input type="checkbox"/> Septic System Inspection/Installation Contractor | <input type="checkbox"/> Lenders and/or Appraisers |
| <input type="checkbox"/> Surveyor and/or Civil Engineer | <input type="checkbox"/> Insurance Companies |
| <input type="checkbox"/> Building Contractor | <input checked="" type="checkbox"/> Other #1 <u>Land Survey to confirm Property Boundaries</u> |
| <input type="checkbox"/> Architect and Subcontractors | <input type="checkbox"/> Other #2 _____ |
| <input type="checkbox"/> Arborists and Subcontractors | |

22.2 TIMELINES FOR FEASIBILITY STUDY: All costs of inspections, test, or compilations of study information shall be at the costs of the Purchaser. Copies of all reports and studies on the Property shall be the property of the Purchaser and shall survive release of Purchase Agreement or removal of the contingency. If holes are dug on the Property for the purpose of inspections, test, or studies, it shall be the Purchaser's professionals or contractor's responsibility to refill the holes and return the Property to as near as possible of the condition that the Property was found in, prior to the inspection, tests or studies. Purchaser shall not be responsible for replacing sod or reseeding areas where holes were dug.

Feasibility studies shall begin following final acceptance of this Agreement by all parties and receipt of accepted Agreement by the Purchaser's Agent, and shall run for a time period of 14-days, or 10 business days thereafter. If the Seller has in their possession any studies, tests, or survey reports on the Property, they shall make them available to the Purchaser upon acceptance of the Purchase Agreement.

Within five (5) business days of the feasibility studies completion, the Purchaser shall select either options A, B, or C below in a Land Feasibility Study Contingency Removal Addendum. Purchaser's Agent shall deliver said addendum to the Listing Broker/Broker's Agent or Seller. Receipt by the Listing Broker/Broker's Agent shall be the same as if delivery was made to the Seller.

Option A- Purchaser removes contingency in regards to feasibility study with written notice to the Seller.

Option B- Feasibility studies revealed the following defects on the Property and the Purchaser shall provide a list of requested repairs to the Seller.

Option C- The feasibility studies revealed that the Property is not suitable or satisfactory for the Purchaser's intended use and the Purchase Agreement shall be terminated with written notice to the Seller.

Time is of the essence and failure to deliver the contingency removal, request for repairs, remedy, or release within the specified time period will operate to remove the feasibility study contingency. If additional time is required to inspect, test or compile study information on the Property due to recommendations of a business professionals or contractors compiling information for the feasibility study, or due to weather conditions, strikes, or acts of God, time will be given by the Seller to the Purchaser and deadlines shall be extended only as to the facets of the Property that require additional time to compile study information on.

Within five (5) business days of receipt of the written request for repairs, the Seller shall notify the Purchaser's Agent in writing of what steps, if any, the Seller will take to correct any defects before closing. If the Seller is unwilling or unable to remedy any defects to the Purchaser's reasonable satisfaction, the Purchaser can elect to give written notice to accept the Property without repairs, done by the Seller or elect, in writing, to terminate the Purchase Agreement. The written notification must be received within five (5) business days of the Seller's response.

The earnest money shall be returned to the Purchaser if: the feasibility study report(s) or subsequent follow-up inspections reveals that the Property is deemed unsuitable, or unsatisfactory for the Purchaser needs: or the Purchaser has requested items noted in feasibility study report or subsequent inspections be remedied by the Seller and the Seller is unwilling, or unable to remedy said items. A dispute over the termination of the Purchase Agreement may necessitate by law the holding of earnest money even though this does not affect a party's ultimate right to the money.

Nothing in this agreement shall relieve the Seller from keeping fixtures, equipment, or items on the property in "functional and operable condition until delivery of possession" as specified in the Purchase Agreement.

23. STATE DOCUMENTARY TAX: The State Documentary Tax on the deed shall be paid by the Seller.

24. RESPONSIBILITY OF INSURANCE & RISK OF LOSS: Seller shall insure the property for a value no less than purchase price until closing. Risk of loss or damage to Property, prior to closing, shall be the responsibility of the Seller. If, prior to closing, any part of the Property including fixtures, attachments, or elements are materially damaged; Seller shall immediately notify the Purchaser in writing of the damage. Purchaser, at Purchaser's choice, may: 1) rescind this agreement; or 2) take the Property subject to the damage with the Seller paying to the Purchaser the insurance proceeds and deductible for the loss or restoration of the fixtures, attachments and elements, or at a price discounted by the cost of restoration of the premises.

25. SELLING BROKER COMPENSATION: Purchaser shall pay \$ _____ at closing to ~~XXXXXX~~ for Broker's costs associated with this transaction unless the Purchaser is obtaining a VA loan. Purchaser and Seller acknowledge that Selling Broker may be compensated by more than one party.

26. RELEASE OF INFORMATION: Purchaser and Seller authorize the release of sale information on the purchase of this Property including price, financing, and property information to their local Multiple Listing Service (MLS) or any other applicable listing service.

27. **ELECTRONIC TRANSACTION AUTHORIZATION:** Purchaser and Seller agree that all documents relating to the sale of this Property, including this offer, counteroffers, and acceptances 1) may be transmitted by electronic means including email and fax, and shall be treated in all respects as originals, 2) electronic signatures shall be treated as original signatures and shall satisfy all legal requirements and be binding.
28. **PURCHASER'S PERSONAL INSPECTION:** This offer is based upon Purchaser's personal inspection or investigation of the Property and not upon any representation or warranties of condition by Seller or any Limited Agents involved in this transaction. If locations of Property lines, lot size, and/or condition of improvements are important to Purchaser's decision to purchase, Purchaser acknowledges the Limited Agents have advised Purchaser to make independent investigations.

29. **MEDIATION AND ARBITRATION:**

Section 29 is hereby waived by all parties if this Section Initialed (Purchaser's Initials): _____

- A. **Disputes:** The term "Dispute" shall include, without limitation, any controversy, complaint, dispute, claim or disagreement relating to or arising out of the construction, interpretation, enforcement, or breach of the terms of this Purchase Agreement.
- B. **Mediation:** In the event of any dispute, any party to the dispute may seek non-binding mediation in an attempt to resolve the dispute by giving fifteen (15) days written notice of a request for such mediation to all other parties to the dispute. The request for mediation must be made within three hundred sixty (360) days after the party making the request knew, or exercising reasonable diligence and care, should have known, of the dispute. In no case shall such request be made after the statute of limitations on a civil suit based on the dispute would have run. Such mediation shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (including a Mediation Alternative) or such other mediation service versed in real estate practices of the locality.
- C. **Arbitration:** Any dispute that is not resolved by informal settlement or mediation shall be resolved exclusively by binding arbitration. Such arbitration shall be administered by the American Arbitration Association and shall be conducted according to the American Arbitration Association's Commercial Rules – Real Estate Industry Arbitration Rules (Including a Mediation Alternative). The arbiter(s) shall apply Nebraska substantive and procedural law to the arbitration proceeding. Arbitration shall be commenced by written demand made by any one or more of the parties to the Dispute given to all other parties to the Dispute. The demand for arbitration must be in writing and must be given by personal delivery or certified mail, return receipt requested, within three hundred sixty (360) days after the party making the demand knew, or exercising reasonable diligence and care, should have known, of the dispute. Notwithstanding the previous sentence, in the case that the parties unsuccessfully attempt mediation to resolve a dispute, the demand for arbitration shall be made within sixty (60) days of the final mediation session. However, in no case shall such demand be made after the statute of limitations on a civil suit based on the dispute would have run. The prevailing party shall be entitled to costs and fees of the arbitration and, in the discretion of the arbitrator who shall take into account the relative merits of the opponent's case, the arbiter may award attorney's fees to the prevailing party.
- D. **Provisional Remedies.** The filing of a judicial action to enable the reporting of a notice of pending action, for order of attachment, receivership, injunction, or other like provisional remedies, shall not constitute a waiver of mediation or arbitration under this provision, nor shall it constitute a breach of the duty to arbitrate.
- E. **Exclusions.** The terms of the Paragraph shall not apply to: 1) Foreclosure of other action or proceeding to enforce a deed of trust, mortgage or land contract; 2) The filing or enforcement of a construction or similar lien, or 3) an action filed and held in "Small Claims Court" as defined by Neb. Res. Stat 25-2801 to 2804, provided however, that any attempt to transfer such a proceeding to county or district court shall make section 29 applicable to such action.
- F. **Waiver.** BY SIGNING THIS PURCHASE AGREEMENT, THE PARTIES AGREE THAT EVERY DISPUTE DESCRIBED ABOVE THAT IS NOT RESOLVED BY INFORMAL SETTLEMENT OR MEDIATION WILL BE DECIDED EXCLUSIVELY BY ARBITRATION AND THAT ANY ARBITRATION DECISION WILL BE FINAL AND BINDING. THE PARTIES AGREE THAT THEY WILL RECEIVE ALL THE RIGHTS AND BENEFITS OF ARBITRATION BUT ARE GIVING UP RIGHTS THEY MIGHT HAVE TO LITIGATE THOSE CLAIMS AND DISPUTES IN A COURT OR JURY TRIAL, OR TO PARTICIPATE AS A REPRESENTATIVE OR MEMBER OF ANY CLASS OF CLAIMANTS IN CONNECTION WITH ANY SUCH DISPUTES. NO PARTY TO THIS AGREEMENT, WHETHER REALTOR® OR SELLER, SHALL BE ENTITLED TO JOIN OR CONSOLIDATE DISPUTES BY OR AGAINST OTHERS IN ANY ARBITRATION, OR TO INCLUDE IN ANY ARBITRATION ANY DISPUTE AS A REPRESENTATIVE OR MEMBER OF A CLASS, OR TO ACT IN ANY ARBITRATION IN
30. **ENTIRE AGREEMENT:** This document contains the entire Agreement of the parties and supersedes all prior agreements or representations oral or written with respect to the property which are not expressly set forth herein or incorporated herein by reference. **This Agreement may be modified only in writing, signed and dated by both parties.** All express representations and warranties shall survive closing. Both parties acknowledge that they have not relied on any statements of the Real Estate Agent or Broker which are not herein expressed. Whenever required by context, singular shall include the plural, the plural the singular, and one gender shall include all genders. Time is of the essence in this Agreement.
31. **AUTHORITY TO SIGN:** The undersigned Seller and Purchaser each represent and warrant that they are duly empowered and/or authorized, whether individually, on behalf of any entity or as a fiduciary, to enter into this Purchase Agreement and create a valid and binding contract. And that, as to Seller, all parties required to transfer title to the Property are parties to this contract.

32. List of Attachments, Addenda & Disclosures:

- Affiliated Business Arrangement Disclosure
- Authorization to Release Closing Disclosure & Settlement Statement
- Limited Dual Agency Agreement
- S.I.D. Statement
- Wire Fraud Notice
- Addendum to Purchase Agreement**
- _____
- _____
- _____

33. OFFER EXPIRATION: This offer to purchase is subject to acceptance by Seller on or before _____ at _____ o'clock a.m. p.m. Purchaser acknowledges receipt of a signed copy of this offer to purchase.

The undersigned parties executed the AGREEMENT.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION UNLESS WAIVED IN SECTION 29 WHICH MAY BE ENFORCED BY THE PARTIES. The arbitration provision is contained in Section 29.

Purchaser: _____	Purchaser: _____
_____	_____
Purchaser's Name (Printed)	Purchaser's Name (Printed)
Address: _____	Address: _____
City: _____ State: ____ Zip: _____	City: _____ State: ____ Zip: _____
Phone: _____	Phone: _____

Names for Deed: _____

BUYER AGENT INFO:

REALTOR® (Company Name), Broker	AGENT NAME (Printed)
OFFICE ADDRESS	AGENT E-MAIL ADDRESS
OFFICE MLS ID #	AGENT MLS ID # / AGENT NREC LICENSE #
OFFICE PHONE #	AGENT PHONE #

RECEIPT

Deposit is: delivered with Agreement to be delivered later (If deposit to be delivered later, see Section 11C).

Deposit payable to Escrow Agent Broker Seller

RECEIVED FROM: _____
the sum of _____

(\$ _____) DOLLARS (by _____) to apply to the purchase price of the Property on terms and conditions as stated. This receipt is not an acceptance of the above offer to purchase.

RECEIVED BY: _____ SIGNATURE: _____

SELLER ACCEPTANCE

The Seller accepts the foregoing offer to purchase on _____ at _____ o'clock ____ M., Omaha, NE time, on the terms stated and agrees to convey title to the Property, deliver possession, and perform all the terms and conditions set forth except as follows:

Seller acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Seller's Closing Statement. The undersigned Seller executes this agreement as of the date set forth above.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION UNLESS WAIVED IN SECTION 29 WHICH MAY BE ENFORCED BY THE PARTIES. The arbitration provision is contained in Section 29.

Seller: _____ Seller: _____

Seller Name (Printed) _____ Seller Name (Printed) _____

SELLER AGENT INFO:

REALTOR® (Company Name), Broker _____ AGENT NAME (Printed) _____

OFFICE ADDRESS _____ AGENT E-MAIL ADDRESS _____

OFFICE MLS ID # _____ AGENT MLS ID # / AGENT NREC LICENSE # _____

OFFICE PHONE # _____ AGENT PHONE # _____

PURCHASER ACCEPTANCE OF COUNTER OFFER

The Purchaser, whether one or more, accepts the foregoing Seller's counteroffer to purchase on _____ at _____ o'clock ____ M., Omaha, NE time, on the terms stated and perform all the terms and conditions set forth, except as follows:

Purchaser acknowledges receipt of a copy of this Agreement with all identified addenda and, if required by law, an Estimated Purchaser's Closing Statement. The undersigned Purchaser executes this agreement as of the date set forth above.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION UNLESS WAIVED IN SECTION 29 WHICH MAY BE ENFORCED BY THE PARTIES. The arbitration provision is contained in Section 29.

Purchaser: _____ Purchaser: _____

SELLER ACCEPTANCE OR COUNTER OFFER

The undersigned Seller (check one):
 accepts the terms above.
 makes a counter-offer with an attached addendum.

THIS CONTRACT CONTAINS AN ARBITRATION PROVISION UNLESS WAIVED IN SECTION 29 WHICH MAY BE ENFORCED BY THE PARTIES. The arbitration provision is contained in Section 29.

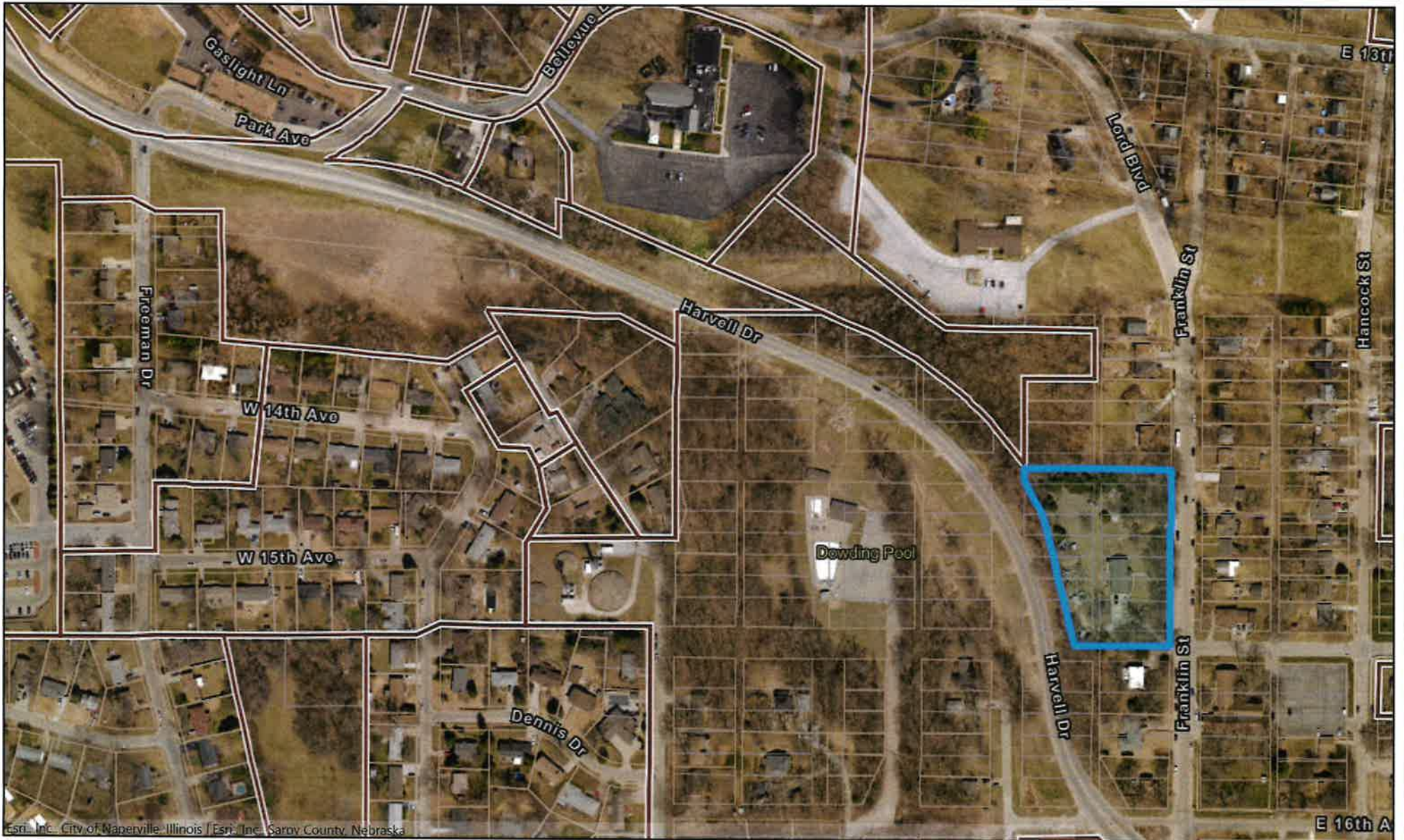
Seller: _____ Seller: _____

PURCHASER'S RECEIPT OF ACCEPTED CONTRACT

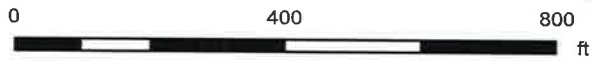
Purchaser acknowledges a fully executed copy of this Purchase Agreement, all associated addenda and disclosures on _____.

Purchaser: Jeff Nazek

Purchaser: Kelly Nazek



Esri, Inc. City of Naperville, Illinois | Esri, Inc. Sarpy County, Nebraska



Map Scale 1: 4514

This product is for informational purposes and may not have been prepared for, or be suitable for, legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.

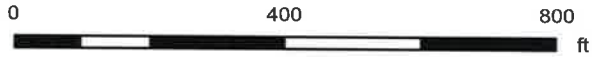


Notes





Esri, Inc. Ctrv of Naperville, Illinois | Esri, Inc. Sarpy County Nebraska



Map Scale 1: 4514

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Notes



ORDINANCE NO. 4115

AN ORDINANCE TO APPROVE THE SALE AND CONVEYANCE OF ONE PARCEL OF CITY PROPERTY TO JEFFREY NAZECK AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, the City of Bellevue owns the land legally described in the attached Purchase Agreement, consisting of one parcel in the City of Bellevue in Sarpy County, Nebraska; and

WHEREAS, Jeffrey Nazeck is an individual that desires to purchase from the City the above-described parcel of City-owned land; and

WHEREAS, the City is not currently utilizing said land, and has not identified any reasonably foreseeable use for said land; and

WHEREAS, Neb. Rev. Stat. § 16-202 grants to the City of Bellevue the power to sell and convey any real estate owned by the City by ordinance directing the sale or conveyance of such real estate and the manner and terms thereof; and

WHEREAS, the City deems it to be in the best interests of the City to sell and convey the above-described parcel to Jeffrey Nazeck for the price of Ten Thousand and No/100 Dollars (\$10,000.00); and

THEREFORE, BE IT ORDAINED by the Mayor and the City Council of the City of Bellevue as follows:

Section 1: That the real estate legally described in the Purchase Agreement attached hereto shall be sold and conveyed to Jeffrey Nazeck.

Section 2: That the Mayor is hereby authorized to execute on behalf of the City of Bellevue the Purchase Agreement attached hereto.

Section 3: That upon compliance with the requirements for publication and remonstrance period, the Mayor is hereby authorized to execute on behalf of the City of Bellevue all written documents, including the Warranty Deed referenced in Paragraph four (4) of the Purchase Agreement, necessary to carry into full force and effect the terms and intent of this Ordinance.

Section 4: Effective Date and Publication. This ordinance shall be in full force and effect fifteen (15) days after its passage. The City Clerk is directed to effectuate the publishing of this Ordinance in electronic form, which publication must take place within fifteen (15) days after the passage of the ordinance by City Council.

Section 5: Additional Publication and Remonstrance. That notice of this conveyance and the terms thereof shall be published for three consecutive weeks in a legal newspaper published in or of general circulation on the City immediately after the passage and publication of such ordinance. If within thirty days after the passage and publication of this ordinance a remonstrance petition against such sale is signed by registered voters of the City equal to thirty percent of the registered voters of the city voting at the last regular municipal election held therein and is filed with the governing body of the City, the property shall not then, nor within one year thereafter, be sold.

ADOPTED by the Mayor and City Council this ____ day of _____ 2023.

ATTEST:

Mayor, Rusty Hike

City Clerk

APPROVED AS TO FORM:

First Reading: _____
Second Reading: _____
Third Reading: _____

City Attorney

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

12b.
2/21/2023

COUNCIL MEETING DATE: February 7, 2023		SUBMITTED BY: Tammi Palm, Planning Manager	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input checked="" type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Request to rezone Lots 1 and 2, Compass Hill, being a replat of Tax Lot 8A, located in the Southeast 1/4 of Section 22, T14N, R13E of the 6th P.M., Sarpy County, NE, from AG to RD-60 for the purpose of single family residential development, and small subdivision plat Lots 1 and 2, Compass Hill. Applicant: Habitat for Humanity of Sarpy County. General location: 820 W Avery Rd.

SYNOPSIS/BACKGROUND:

Habitat for Humanity of Sarpy County is requesting a small subdivision plat and rezoning for property located near 820 Avery Road. Habitat for Humanity is making this request in order to facilitate a purchase of a portion of the property. They currently own 13 acres to the north of this proposed plat, and desire to eventually combine proposed Lot 2, Compass Hill, with their property to the north. The property is presently a nonconforming AG lot. The proposed platting and zoning would bring the property into conformance and be consistent with the adjacent neighborhood.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department and Planning Commission are recommending approval of this request.

ATTACHMENTS:

- | | | |
|-------------------------|-------------------------|-------------------------|
| 1. PC Recommendation | 2. Staff Report | 3. Ord. No. 4116 |
| 4. <input type="text"/> | 5. <input type="text"/> | 6. <input type="text"/> |

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

[Handwritten signatures]

ORDINANCE NO. 4116

AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF BELLEVUE, NEBRASKA, AS PROVIDED FOR BY ARTICLE 3 OF ORDINANCE NO. 3619 BY CHANGING THE ZONE CLASSIFICATION OF LAND LOCATED AT OR ABOUT 820 WEST AVERY ROAD, MORE PARTICULARLY DESCRIBED IN SECTION 1 OF THE ORDINANCE AND TO PROVIDE AN EFFECTIVE DATE.

WHEREAS, having received a recommendation from the city of Bellevue Planning Commission and proper notice having been given and public hearing held as provided by law:

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF BELLEVUE, NEBRASKA:

Section 1. That part of the official zoning map of the City of Bellevue, Nebraska, as provided in Article 3, of Ordinance No. 3619 is hereby amended to change the zone classification of the following described parcel of land:

Lots 1 and 2, Compass Hill, located in the Southeast ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska.

From AG (Agricultural District) to RD-60 (Duplex Residential – 6,000 Square Foot Zone).

(Habitat for Humanity of Sarpy County)

Section 2. This ordinance shall not take effect until such time as the final plat of Compass Hill is filed with the Sarpy County Register of Deeds in accordance with Section 5-10 of the City of Bellevue Subdivision Regulations.

Section 3. Except as amended herein, the official zoning map and the classification shown therein shall remain as heretofore existing.

Section 4. This ordinance shall take affect and be in force from and after its adoption and publication according to law.

ADOPTED by the Mayor and City Council this _____ day of _____, 2023.

APPROVED AS TO FORM:

City Attorney

ATTEST

City Clerk

Mayor

First Reading: _____

Second Reading: _____

Third Reading: _____

City of Bellevue

PLANNING COMMISSION RECOMMENDATION

APPLICANT: Habitat for Humanity of Sarpy County

CASE #'s: Z-2212-13, S-2212-27

CITY COUNCIL HEARING DATE: February 21, 2023

REQUEST: to rezone Lots 1 and 2, Compass Hill, being a replat of Tax Lot 8A, located in the Southeast ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, NE, from AG (Agricultural District) to RD-60 (Duplex Residential – 6,000 Square Foot Zone) for the purpose of residential development, and small subdivision plat Lots 1 and 2, Compass Hill.

On January 26, 2023, the City of Bellevue Planning Commission voted seven yes, zero no, two absent and zero abstained:

APPROVAL based upon conformance with the Zoning Ordinance, and Subdivision Regulations, as well as a lack of perceived negative impact upon the surrounding area.

VOTE:

Yes:	Seven:	No:	Zero:	Abstain:	Zero:	Absent:	Two:
	Hankins						Aerni
	Ritz						Sims
	Cutsforth						
	Ackley						
	Bennett						
	Jacobson						
	Perrin						

Planning Commission Hearing (s) was held on: January 26, 2023

CITY OF BELLEVUE PLANNING DEPARTMENT

RECOMMENDATION REPORT # 2

CASE NUMBERS: Z-2212-13
S-2212-27

FOR HEARING OF:
REPORT #1: January 26, 2023
REPORT #2: February 21, 2023

I. GENERAL INFORMATION

A. APPLICANT:

Habitat for Humanity of Sarpy County
8012 Bruin Blvd.
Bellevue, NE 68005

B. PROPERTY OWNER:

David and Constance Reiman
820 West Avery Road
Bellevue, NE 68147

C. GENERAL LOCATION:

820 West Avery Road

D. LEGAL DESCRIPTION:

Lots 1 and 2, Compass Hill, being a replat of Tax Lot 8A, located in the Southeast $\frac{1}{4}$ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, Nebraska.

E. REQUESTED ACTIONS:

1. Rezone Lots 1 and 2, Compass Hill, from AG to RD-60.
2. Small Subdivision Plat Lots 1 and 2, Compass Hill.

F. EXISTING ZONING AND LAND USE:

AG, Single Family Residential

G. PURPOSE OF REQUEST:

The purpose of this request is to obtain approval for a rezoning and small subdivision plat for the purpose of future residential development.

H. SIZE OF SITE:

The site is approximately 2.11 acres.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

Proposed Lot 1 is presently developed with a single-family two-story residence built in 1946, a detached garage, and a pole barn. Proposed Lot 2 is currently vacant and covered in vegetation.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

- 1. **North:** Agricultural/Vacant, AG
- 2. **East:** Beardmore Dealership, MH
- 3. **South:** Single Family Residential, RD-60
- 4. **West:** Single Family Residential, RD-60

C. RELEVANT CASE HISTORY:

1. On July 28, 2022, the Planning Commission recommended approval of a request to declare as blighted and substandard Lot 21A, Old Orchard Place, Lot 3, Old Orchard Place I, Lots 1 and 2, Old Orchard Place II, Lots 1 through 3, Old Orchard Place III, Lots 4 and 5, High School View, and Tax Lot 8A. City Council approved the aforementioned request on September 6, 2022.

2. On January 26, 2023, the Planning Commission recommended approval of a request to rezone Lots 1 and 2, Compass Hill, being a replat of Tax Lot 8A, located in the Southeast ¼ of Section 22, T14N, R13E of the 6th P.M., Sarpy County, NE from AG to RD-60 for the purpose of residential development; and small subdivision plat Lots 1 and 2, Compass Hill.

D. APPLICABLE REGULATIONS:

- 1. Section 5.11, Zoning Ordinance, regarding RD-60 uses and requirements.
- 2. Chapter 5, Subdivision Regulations, regarding Small Subdivisions.

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan designates this area as medium-density residential.

B. OTHER PLANS:

None

C. TRAFFIC AND ACCESS:

1. There is no MAPA traffic data available for this location.
2. Proposed Lot 2 will have direct access from South 9th Street. Proposed Lot 1 will have a 30' wide permanent access easement through Lot 2.

D. UTILITIES:

All utilities are available to this development.

E. ANALYSIS:

1. Ken Mar has submitted a request for a small subdivision plat for Lots 1 and 2, Compass Hill for the purpose of single-family residential development.
2. The applicant is also requesting a change of zone from AG to RD-60 (Duplex Residential) for both lots, which is consistent with the adjacent single family residential neighborhood. Proposed Lot 1 contains a house, detached garage, and pole barn, and proposed Lot 2 is currently vacant.

The property is presently zoned AG. The current tax lot is non-conforming due to the fact it is less than 20 acres. The proposed zoning will bring this property into conformance.

The proposed lots are in conformance with the regulations of the RD-60 zoning district.

3. Habitat for Humanity has indicated they are requesting this platting and rezoning to facilitate a land purchase. Habitat for Humanity owns the 13 acre parcel to the north, and is planning on a future subdivision which will also contain Proposed Lot 2 of this small subdivision. Habitat for Humanity plans to purchase Lot 2 once the platting is approved. Habitat for Humanity is focused on finishing other projects at this point and unsure of their development timeline for these parcels.

4. Access to proposed Lot 1 is from a permanent access easement located in proposed Lot 2.

5. This application was sent out to the following departments for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Planning, Sarpy County Public Works Department, Sarpy County Deputy Administrator, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department, and also stated if the requested department did not have comments pertaining to the application, no response was needed.

Public Works Engineer Matt Knight had technical comments regarding the small subdivision plat. The applicant's engineer has since satisfied these comments.

No other comments were received on this case.

6. This request is in conformance with the Comprehensive Plan.

F. TECHNICAL DEFICIENCIES:

None

IV. DEPARTMENT RECOMMENDATION

APPROVAL based upon conformance with the Zoning Ordinance and Subdivision Regulations, and lack of perceived negative impact to the surrounding area.

V. PLANNING COMMISSION RECOMMENDATION

Under Review.

VI. ATTACHMENTS TO REPORT

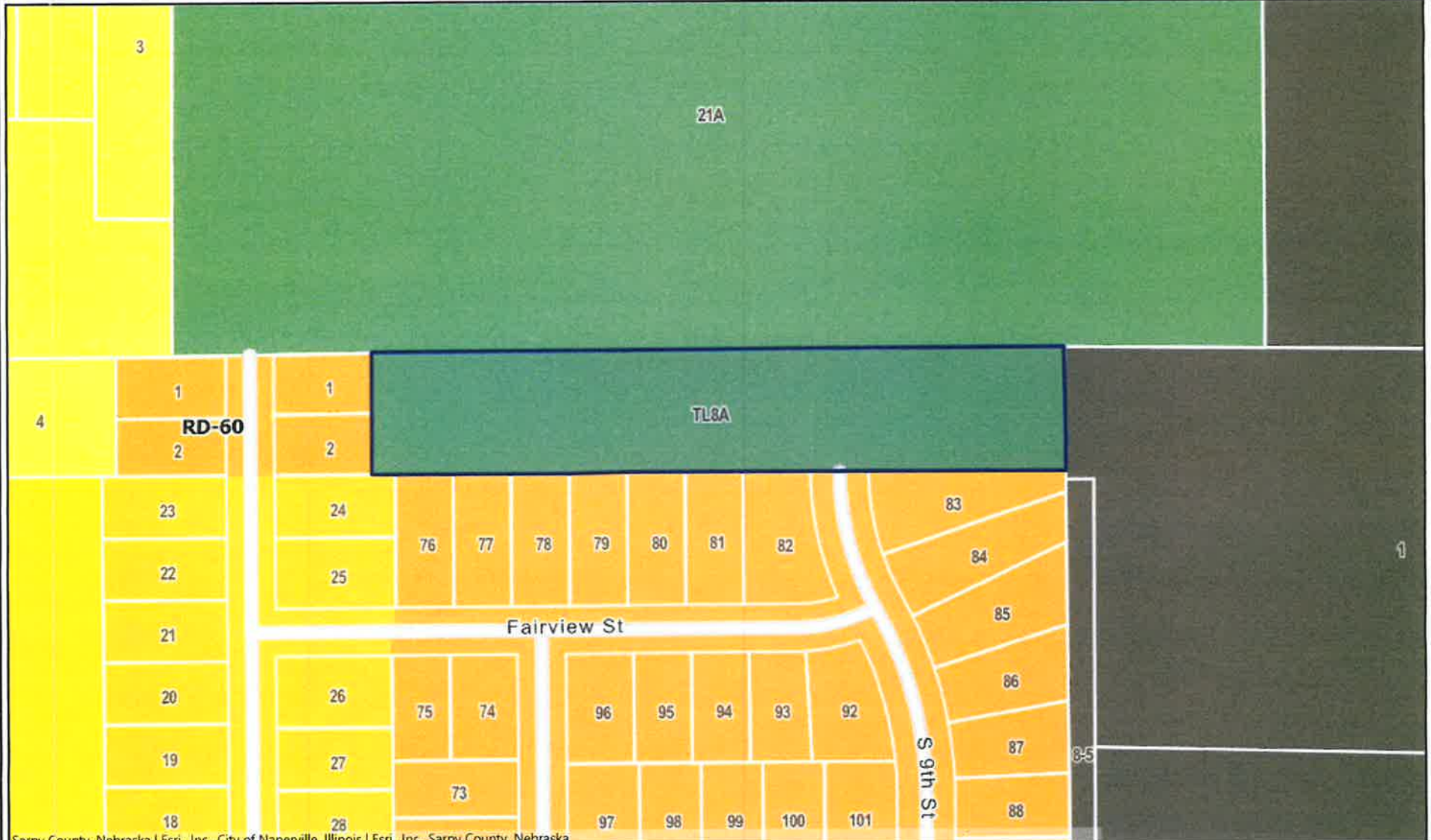
1. Zoning Map
2. 2022 GIS aerial photo of the property
3. Letter from the applicant received December 22, 2002
4. Small subdivision plat received January 16, 2023
5. Letter from Ralph and Laurel Unstad received January 25, 2023
6. Letter from Nicholas and Diane Ferrara received January 26, 2023

VII. COPIES OF REPORT TO:

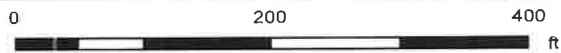
1. Habitat for Humanity (Ken Mar)
2. Olsson, Inc (Aaron Wiese)
3. Woods Aitken, LLP (Michael Matejka)
4. David & Constance Reiman
5. Public Upon Request


Assistant Planning Manager


Planning Manager 01/01/23
Date

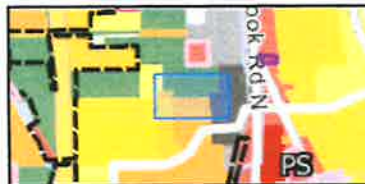


Sarpy County, Nebraska | Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



Map Scale 1: 2257

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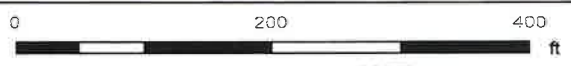


Notes





Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



Map Scale 1: 2257

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. Users of this information should review or consult the source records and information sources to ascertain the usability of the information.



Notes





December 21, 2022

Tammi Palm
City of Bellevue Planning Manager
1510 Wall Street
Bellevue, NE 68005

Re: Proposed Compass Hill Subdivision
Change of Zoning Request
Olsson Project Number 021-08042

The existing property (Tax Lot 8A 22-14-13) is zoned AG – Agriculture District and is non-conforming to the zoning regulations for an AG lot, therefore it is requested to be rezoned to RD-60. This zoning is consistent with the surrounding development and is also in compliance with the future land use plan.



Figure 1. Existing Zoning Map

Sincerely,

Aaron Wiese, PE
Olsson Project Manager

RECEIVED
DEC 22 2022
PLANNING DEPT.

DWG: F:\2021\08001-08500\021-08042\40-Design\Exhibits\22-08-26_Zoning Map\22-08-26_Existing Zoning_021-08042.dwg
DATE: Dec 21, 2022 1:21pm
XREFS: C_XBNDY_02108042
USER: jvelo



FORT CROOK RD. N.

RECEIVED
DEC 22 2022
PLANNING DEPT.

PROJECT NO: 021-08042
DRAWN BY: CJR
DATE: 08/26/2022

EXISTING ZONING MAP

olsson

2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1116

EXHIBIT

1

DWG: F:\2021\08001-08042\40-Design\Exhibits\22-08-26_Zoning_Map\22-08-26_Proposed_Zoning_021-08042.dwg
DATE: Dec 21, 2022 1:17pm
USER: jvelo
XREFS: C_XBNDY_02108042



FORT CROOK RD. N.

RECEIVED
DEC 22 2022
PLANNING DEPT.

PROJECT NO: 021-08042
DRAWN BY: CJR
DATE: 08/26/2022

PROPOSED ZONING MAP

olsson
2111 South 67th Street,
Suite 200
Omaha, NE 68106
TEL 402.341.1118

EXHIBIT
2

RECEIVED

JAN 16 2023

PLANNING DEPT.

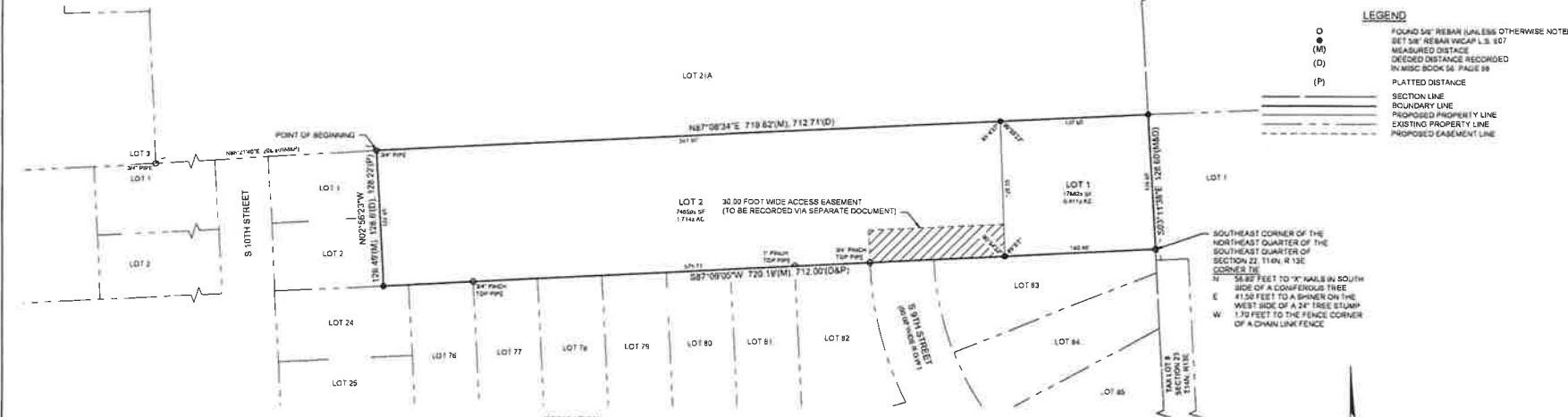
olsson

7111 South 67th Street, Suite 200
Overland Park, KS 66210
TEL: 482.241.1118
FAX: 482.241.5885
www.olsson.com

ALSO LOCATED IN:
SE ¼ 22-14-13
NE ¼ SE ¼ 22-14-13

COMPASS HILL LOTS 1 AND 2

A PLAT OF TAX LOT 8A, IN SECTION 22, TOWNSHIP 14 NORTH, RANGE 13 EAST OF THE 6TH P.M., AS SURVEYED AND RECORDED IN SARPY COUNTY, NEBRASKA



REVIEW BY SARPY COUNTY PUBLIC WORKS
THIS PLAT OF COMPASS HILL LOTS 1 AND 2 WAS REVIEWED BY THE SARPY COUNTY SURVEYOR'S OFFICE THIS DAY OF _____ 2023.

COUNTY SURVEYOR/ENGINEER _____

SARPY COUNTY TREASURER'S CERTIFICATE
THIS IS TO CERTIFY THAT I FIND NO REGULAR NOR SPECIAL TAXES DUE OR DELINQUENT AGAINST THE PROPERTY AS DESCRIBED IN THE SURVEYOR'S CERTIFICATE, AND ENROLLLED IN THIS PLAT, AS SHOWN BY THE RECORDS OF THIS OFFICE.
ON THIS _____ DAY OF _____ 2023.

SARPY COUNTY TREASURER _____

APPROVAL OF THE BELLEVUE CITY COUNCIL
THIS PLAT OF COMPASS HILL LOTS 1 AND 2 WAS APPROVED AND ACCEPTED BY THE CITY COUNCIL OF BELLEVUE.
ON THIS _____ DAY OF _____ 2023.
APPROVAL OF THIS FINAL PLAT SHALL BECOME NULL AND VOID IF NOT RECORDED WITHIN NINE (9) DAYS OF THE ABOVE DATE.

MAYOR _____
ATTEND _____
CITY CLERK _____

APPROVAL OF BELLEVUE CITY PLANNING COMMISSION
THIS PLAT OF COMPASS HILL LOTS 1 AND 2 WAS APPROVED BY THE BELLEVUE CITY PLANNING COMMISSION.
ON THIS _____ DAY OF _____ 2023.

CHAIRMAN _____

NOTES
1. ALL INTERNAL ANGLES ARE 90° UNLESS OTHERWISE NOTED.
2. ALL REQUIRED EASEMENTS TO BE RECORDED VIA SEPARATE DOCUMENT.

DEDICATION
KNOW ALL MEN BY THESE PRESENTS THAT WE, DAVID B. & CONSTANCE M. REIMAN, OWNERS OF THE PROPERTY DESCRIBED IN THE SURVEYOR'S CERTIFICATE AND ENROLLLED WITHIN THIS PLAT, HAVE CAUSED SAID LAND TO BE SUBDIVIDED INTO LOTS TO BE NUMBERED AS SHOWN SAID SUBDIVISION TO BE HEREINAFTER KNOWN AS COMPASS HILL LOTS 1 AND 2 AND WE DO HEREBY RATIFY AND APPROVE THE DESCRIPTION OF OUR PROPERTY AS SHOWN ON THE PLAT. PERPETUAL EASEMENTS SHALL BE GRANTED TO THE GRAND PUBLIC POWER DISTRICT AND ANY TELECOMMUNICATIONS ENTITY OR OTHER CORPORATION TRANSMITTING COMMUNICATION SIGNALS AUTHORIZED TO USE THE CITY STREETS, TO ERRECT, OPERATE, MAINTAIN, REPAIR AND REMOVE POLES, WIRES, CABLES, CONDUITS, AND OTHER RELATED FACILITIES, AND TO EXTEND THEREON WIRES OR CABLES FOR THE CARRYING AND TRANSMISSION OF ELECTRIC CURRENT FOR LIGHT, HEAT AND POWER AND FOR THE TRANSMISSION OF SIGNALS AND SOUNDS OF ALL KINDS AND THE RECEICTION OR CVER, THROUGH, UNDER AND ACROSS A (5) FIVE-FOOT-WIDE STRIP OF LAND ADJUTING ALL FRONT AND SIDE BOUNDARY LOT LINES, AN (8) EIGHT-FOOT-WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY LINES OF ALL INTERIOR LOTS, AND A 16-FOOT-WIDE STRIP OF LAND ABUTTING THE REAR BOUNDARY LINES OF ALL EXTERIOR LOTS. THE TERM "EXTERIOR LOT" IS HEREBY DEFINED AS THOSE LOTS FORMING THE OUTER PERIMETER OF THE ABOVE DESCRIBED ADDITION. SAID 16-FOOT-WIDE EASEMENT WILL BE REDUCED TO AN (8) EIGHT FOOT-WIDE STRIP WHEN THE ADJACENT LAND IS SURVEYED, PLATTED AND RECORDED, NO PERMANENT BUILDINGS OR RETAINING WALLS SHALL BE PLACED IN SAID EASEMENT THERE, BUT THE SAME MAY BE USED FOR GARDENS, DRIVEWAYS, LANDSCAPING AND OTHER PURPOSES THAT DO NOT THEN OR LATER INTERFERE WITH THE AFORESAID USES OR RIGHTS HEREBY GRANTED.
IN WITNESS WHEREOF, WE DO SET OUR HANDS
DAVID B. & CONSTANCE M. REIMAN

DAVID B. REIMAN OWNER
CONSTANCE M. REIMAN OWNER

ACKNOWLEDGEMENT OF NOTARIES
STATE OF _____
COUNTY OF _____
ON THIS _____ DAY OF _____ 2023, BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED FOR SAID COUNTY AND STATE, PERSONALLY APPEARED DAVID B. REIMAN, WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE ABOVE INSTRUMENT AS INDIVIDUAL, AND HE ACKNOWLEDGED THE SIGNING OF THE SAME TO BE HIS VOLUNTARY ACT AND DEED AND THE VOLUNTARY ACT AND DEED OF SAID CORPORATION.
WITNESS MY HAND AND OFFICIAL SEAL, THE DATE LAST AFFORSAID.

NOTARY PUBLIC
ACKNOWLEDGEMENT OF NOTARIES
STATE OF _____
COUNTY OF _____

ON THIS _____ DAY OF _____ 2023, BEFORE ME, A NOTARY PUBLIC, DULY COMMISSIONED AND QUALIFIED FOR SAID COUNTY AND STATE, PERSONALLY APPEARED CONSTANCE M. REIMAN, WHO IS PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE ABOVE INSTRUMENT AS INDIVIDUAL, AND HE ACKNOWLEDGED THE SIGNING OF THE SAME TO BE HIS VOLUNTARY ACT AND DEED AND THE VOLUNTARY ACT AND DEED OF SAID CORPORATION.
WITNESS MY HAND AND OFFICIAL SEAL, THE DATE LAST AFFORSAID.

NOTARY PUBLIC _____

LEGAL DESCRIPTION
A PLAT OF TAX LOT 8A, IN SECTION 22, TOWNSHIP 14, RANGE 13 EAST OF THE 6TH P.M., SARPY COUNTY, NEBRASKA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHWEST CORNER OF SAID TAX LOT 8A, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 1, HIGH SCHOOL VIEW, A PLATTED AND RECORDED ADDITION TO SAID SARPY COUNTY, NEBRASKA, SAID POINT ALSO BEING ON THE SOUTH LINE OF LOT 25A, OLD ORCHARD PLACE, A PLATTED AND RECORDED ADDITION TO SAID SARPY COUNTY, NEBRASKA, THENCE ON THE NORTH LINE OF SAID TAX LOT 8A ON AN ASSUMED BEARING OF N89°58'14"E, 174.22 FEET TO THE NORTHWEST CORNER OF SAID TAX LOT 8A, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 1, HIGH SCHOOL VIEW, A PLATTED AND RECORDED ADDITION TO SAID SARPY COUNTY, NEBRASKA, THENCE ON THE EAST LINE OF SAID TAX LOT 8A, SAID CORNER ALSO BEING THE NORTHWEST CORNER OF LOT 8A, JERRY NORTH, A PLATTED AND RECORDED ADDITION TO SAID SARPY COUNTY, NEBRASKA, THENCE ON THE SOUTH LINE OF SAID TAX LOT 8A, SAID CORNER ALSO BEING THE SOUTH CORNER OF SAID TAX LOT 8A, SAID CORNER ALSO BEING THE SOUTH CORNER OF LOT 2, SAID HIGH SCHOOL VIEW, THENCE ON THE WEST LINE OF SAID TAX LOT 8A, NORTH 27°18'12" W, 122.48 FEET TO THE POINT OF BEGINNING.
SAID TRACT OF LAND CONTAINS A CALCULATED AREA OF 62.5429 AC. OR 2.123 ACRES MORE OR LESS.

SURVEYOR'S CERTIFICATION
I, TERRY L. ROTHAUS, DO HEREBY CERTIFY THAT I HAVE MADE A BOUNDARY SURVEY OF THE SUBDIVISION HEREIN AND THAT PERMANENT MONUMENTS AS NOTED HEREON HAVE BEEN PLACED ON THE BOUNDARY OF THE PLAT AND AT ALL CORNERS, ANGLE POINTS, AND ENDS OF ALL CURVES ON THE BOUNDARY AND ON THE LOTS IN THE SUBDIVISION. TO BE KNOWN AS COMPASS HILL LOTS 1 AND 2 BEING A PLATTING OF TAX LOT 8A, ALL SURVEYED, AND RECORDED IN SARPY COUNTY, NEBRASKA.
TERRY L. ROTHAUS
NEBRASKA L.S. 607
DATE 1-16-2023



REV. NO.	DATE	REVISION DESCRIPTION

SMALL SUBDIVISION
COMPASS HILL
LOTS 1 AND 2
BELLEVUE, NEBRASKA

2023

Prepared by _____
Reviewed by _____
Checked by _____
Drawn by _____
Plotted by _____
Survey no. _____
Date 1-16-2023

SHEET 1 of 1

RECEIVED

JAN 25 2023

PLANNING DEPT.

To whom it may concern,

Well you've heard from us before. We live on the property west of the ~~Habitat~~ property, on Kasper St.

Of course we would love to have the soy bean/cornfield next to us and all the wildlife we have enjoyed through the years.

Our wish would be that the City would buy back the land from habitat and perhaps put a nice big park in this annexed area (perhaps adjoining the dog park and the future Ft. Crook project), before that opportunity is gone!

If none of this is possible I appeal to you to look at the plans, and for a little safer area for 10th St. to be run through would be to run it more straight through instead of curving up next to our driveway. It is somewhat of a blind hill there. I also appeal to the City to encourage

some of the trees to be left bordering our property.

I know it is okay for trees to grow along city streets, so why take them all? they are places for wildlife, give us clean air, windbreaks, snow-breaks and shade for walkers along sidewalks.

We were encouraged to buy the outlots from habitat, but have heard nothing about that.

The property line issue has not been resolved as of yet.

At first we were promised 15 ft. would be dedded, but then it was changed to 7 ft.?

We do need to get a lawyer to pursue the adverse possession law on this if necessary.

My relatives have owned this property and assumed and maintained the property to the existing fence line for over 100 years. (Running 10th through is a good idea)
(Since 1912) Sincerely, Ralph & Laurel United
1201 Kasper St.

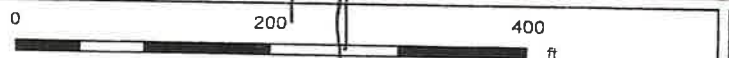
SARASOTA COUNTY GIS

SARASOTA COUNTY NEURAMA

Suggested



Est. Inc. City of Sunnyside, Illinois | Est. Inc. Sarasota County, Neura



Map Scale 1: 2257

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Notes



RECEIVED
 JAN 25 2023
 PLANNING DEPT.

9601 S 10th Street
Bellevue, NE 68147
January 23, 2023

Bellevue Planning Department
1510 Wall Street
Bellevue, NE 68005

RECEIVED
JAN 26 2023
PLANNING DEPT.

RE: Rezone request for Compass Hill lots 1 and 2

Planning Commission:

We are writing to let you know we are not opposed to the rezoning request. However, we are strongly opposed to any proposed plats that would put South 10th Street straight through to Kasper. Such a move would turn 10th Street into a heavily traveled thoroughway for high school traffic, with nothing but their consciences to slow drivers down between Thurston and Kasper.

The proposed plat shown to residents last year had South 9th Street ending in a T-intersection on the proposed development plan. As a result, drivers would have to stop at the intersection and turn one way or the other before proceeding.

We would have no objection if 10th Street also ended in a T-intersection barely north of its current termination point.

Thank you.



Nicholas and Diane Ferrara

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

14a.
2/21/2023

COUNCIL MEETING DATE: February 21, 2023		SUBMITTED BY: Tammi Palm	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING	<input checked="" type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Request for a Conditional Use Permit for Lot 1, Tiller's 5th Addition, for the purpose of a church in an existing commercial building. Applicant: The Glory Tabernacle, Inc. Location: 1620 Wilshire Drive.

SYNOPSIS/BACKGROUND:

Pastor Clifton Hobbs III is requesting a Conditional Use Permit (CUP) to allow religious assembly in an existing commercial building. The property is currently zoned BG, which allows for churches, synagogues, chapels, and similar places of worship and instruction of a quiet nature with a conditional use permit when located in a business building or on the same lot as a business building. The applicant states the church will meet every Sunday morning at 10:30 a.m. for worship and Wednesday evenings at 6:30 p.m. for Bible study. The church will not hold service or play music Monday through Friday, 8 a.m. to 6 p.m., during normal business hours of the building. The property currently has 150 parking stalls, which exceeds the minimum requirement of 4.5 parking spaces per 1,000 square feet of gross leasable area for a multi-tenant commercial strip building.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department and Planning Commission recommended approval of this request.

ATTACHMENTS:

1. Planning Commission Recommendation Sheet	2. Staff Report	3. Conditional Use Permit Agreement
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:





*REVISED 11/2022

City of Bellevue

PLANNING COMMISSION RECOMMENDATION

APPLICANT: The Glory Tabernacle, Inc.

CASE #: CUP-2212-06

CITY COUNCIL HEARING DATE: February 21, 2023

REQUEST: for a conditional use permit for Lot 1, Tiller's 5th Addition, located in the Northeast ¼ of Section 35 T14N, R13E of the 6th P.M., Sarpy County Nebraska, for the purpose of a church in an existing commercial building.

On January 26, 2023, the City of Bellevue Planning Commission voted seven yes, zero no, two absent and zero abstained:

APPROVAL based upon conformance with Section 6.06 of the Zoning Ordinance, as well as a lack of perceived negative impact upon the surrounding area.

VOTE:

Yes:	Seven:	No:	Zero:	Abstain:	Zero:	Absent:	Two:
	Hankins						Aerni
	Ritz						Sims
	Cutsforth						
	Ackley						
	Bennett						
	Jacobson						
	Perrin						

Planning Commission Hearing (s) was held on: January 26, 2023

CITY OF BELLEVUE PLANNING DEPARTMENT

RECOMMENDATION REPORT # 2

CASE NUMBER: CUP-2212-06

FOR HEARING OF:

REPORT #1: January 26, 2023

REPORT #1: February 21, 2023

I. GENERAL INFORMATION

A. APPLICANT:

The Glory Tabernacle, Inc.
Attn: Pastor Clifton Hobbs III
2214 Lindyview Road
Bellevue, NE 68005

B. PROPERTY OWNERS:

Wilshire Properties, LLC
Attn: Jerry Teeter
11418 South 44th Street
Bellevue, NE 68123

C. LOCATION:

1620 Wilshire Drive

D. LEGAL DESCRIPTION:

Lot 1, Tiller's 5th Addition, located in the Northeast $\frac{1}{4}$ of Section 35, T14N, R13E of the 6th P.M., Sarpy County, Nebraska.

E. REQUESTED ACTION:

Conditional Use Permit for Lot 1, Tiller's 5th Addition, for the purpose of church assembly.

F. EXISTING ZONING AND LAND USE:

BG, Commercial.

G. PURPOSE OF REQUEST:

The purpose of this request is to obtain approval of a conditional use permit to allow for church assembly in a commercial building.

H. SIZE OF SITE:

The site is approximately 2.01 acres.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

The site is presently developed with a commercial office building and an adjacent parking lot.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

- 1. **North:** Multi-Family Residential/Senior Living, RG-8-PS
- 2. **East:** Commercial/City Hall, BG
- 3. **South:** Commercial/Vacant, BG
- 4. **West:** Multi-Family Residential/Senior Living, RG-8-PS

C. RELEVANT CASE HISTORY:

- 1. On August 25, 2022, the Planning Commission recommended approval of a conditional use permit for Lot 1, Tiller’s 5th Addition, to allow for auto sales. The City Council approved this request on September 20, 2022.
- 2. On January 26, 2023, the Planning Commission recommended approval of a conditional use permit for Lot 1, Tiller’s 5th Addition, to allow for a church in an existing commercial building.

D. APPLICABLE REGULATIONS:

- 1. Section 5.22, Zoning Ordinance, regarding BG uses and requirements.
- 2. Article 6, Zoning Ordinance, regarding Conditional Use Permits.

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan designates this area as commercial.

B. OTHER PLANS:

None

C. TRAFFIC AND ACCESS:

1. There is no MAPA traffic data information available for this area.
2. The property has access from both Wilshire Drive and Wall Street.

D. UTILITIES:

All utilities are available to this property.

E. ANALYSIS:

1. Pastor Clifton Hobbs III, on behalf of The Glory Tabernacle, Inc. has submitted a request for a conditional use permit for Lot 1, Tiller's 5th Addition, for the purpose of religious assembly in a commercial building.
2. This property is currently zoned BG (General Business). The BG zoning district allows for churches, synagogues, chapels, and similar places of worship and instruction of a quiet nature as a conditional use permit when located in a business building or on the same lot as a business building.
3. The applicant has indicated the church has access to 3,600 square feet of space in the business building located at 1620 Wilshire Drive. The applicant states the church intends to meet every Sunday morning at 10:30 a.m. for worship and Wednesday evenings at 6:30 p.m. for Bible study. The applicant has stated there will be a maximum capacity of 60 seats. The church will not hold services or play music Monday through Friday, 8 a.m. to 6 p.m., during normal business hours of the building.
4. A multi-tenant commercial strip building requires 4.5 parking spaces per 1,000 square feet of gross leasable area. The property currently has 150 parking stalls, which exceeds the minimum requirement. Outside of a commercial building, a church requires one space for each five seats in the main assembly area. In this case, twelve parking stalls would be required. Staff believes the parking provided is adequate to serve this request.
5. This application was sent out to the following departments for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Administrator, Sarpy County Public Works, Sarpy County Planning, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department, and

also stated if the requested department did not have comments pertaining to the application, no response was needed.

Mike Christensen, Chief Building Official, commented the church may require a change of occupancy under the current building codes. The applicant is aware of these requirements and has had discussions with Mr. Christensen. These items will be addressed by the Permits and Inspections Department if this request is approved by City Council.

No other comments were received on this case.

6. Per Section 6.06, the Zoning Ordinance requires no conditional use permit shall be granted unless the Planning Commission or City Council has found:

6.06.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.

6.06.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

6.06.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.

6.06.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

6.06.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

6.06.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

6.06.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.06.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.06.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.06.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.06.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

The Planning Department believes this application meets the criteria for approval of the Conditional Use Permit.

F. TECHNICAL DEFICIENCIES:

None

IV. DEPARTMENT RECOMMENDATION

APPROVAL based upon conformance with Section 6.06, Zoning Ordinance, as well as lack of perceived negative impact upon the surrounding area.

V. PLANNING COMMISSION RECOMMENDATION

APPROVAL based upon conformance with Section 6.06, of the Zoning Ordinance, as well as lack of perceived negative impact upon the surrounding area

VI. ATTACHMENTS TO REPORT

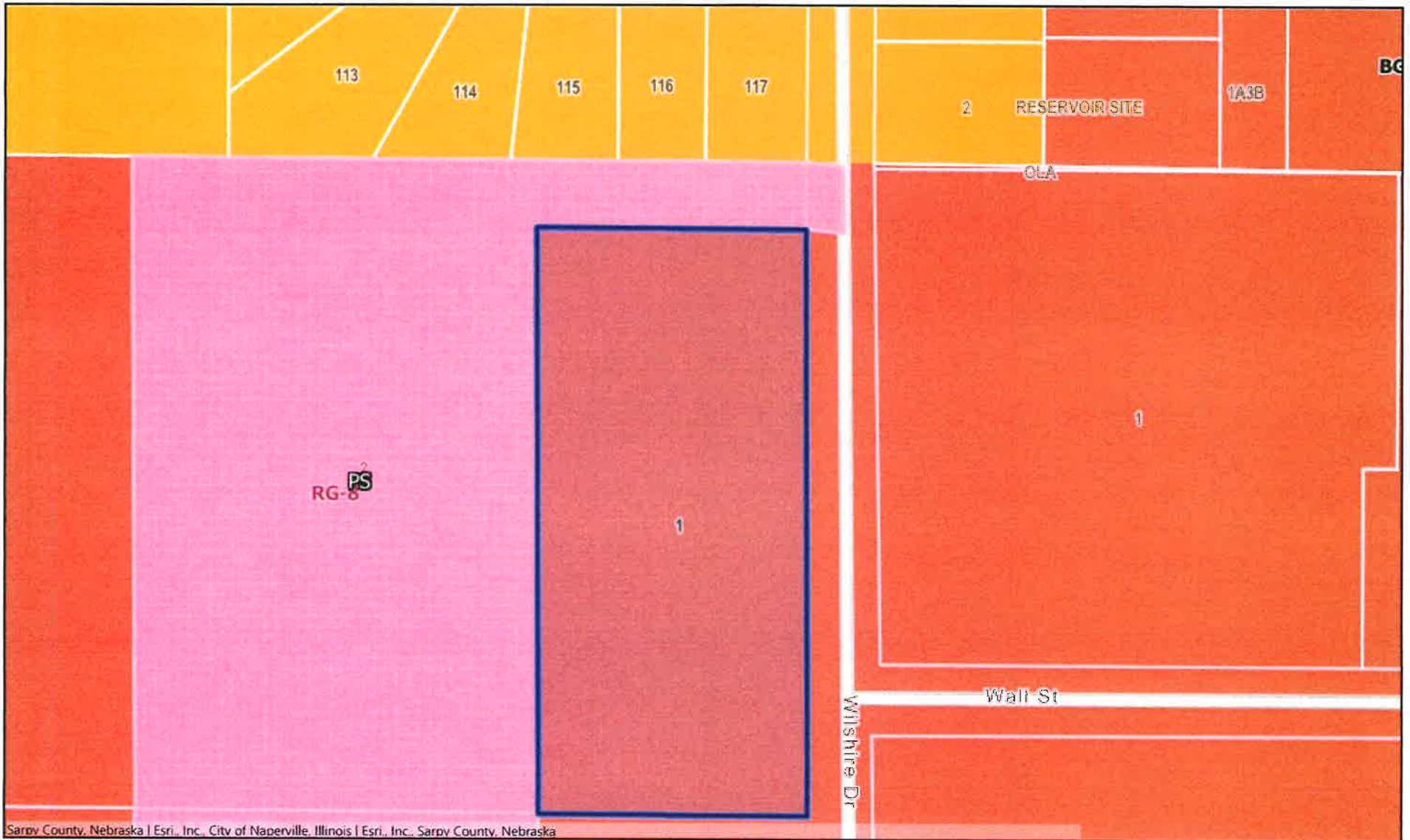
1. Zoning Map
2. 2022 GIS aerial
3. Justification letter from Pastor Hobbs received December 23, 2022
4. Proposed church layout received December 23, 2022
5. Letter from Jerry Teeter received January 6, 2023
6. Parking lot layout received January 6, 2023
7. Conditional Use Permit Agreement

VII. COPIES OF REPORT TO:

1. The Glory Tabernacle, Inc. (Clifton Hobbs III)
2. Wilshire Properties, LLC (Jerry Teeter)
3. Public Upon Request


Assistant Planning Manager


Planning Manager 02/13/23
Date of Report



Sarpy County, Nebraska | Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



Map Scale 1: 1592

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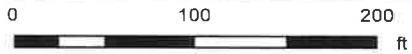


Notes





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Notes





The Glory Tabernacle

Ministry where you are!

12/21/2022

To the Bellevue Planning Department,

This letter is submitted along with The Glory Tabernacle's CUP application to occupy suite 103 at 1620 Wilshire Dr, Bellevue, NE for religious purposes as our lease at our current location is coming to end in March 2023. The space at 1620 Wilshire has been offered to us by Legion Properties at the same location.

Our services will be held in this space every Sunday Morning at 10:30a.m. – 12:00p.m. and Wednesday evening at 6:30p.m. The space is approx. 3600sqft. At the present moment we will plan to seat about 50-60 chairs within this space.

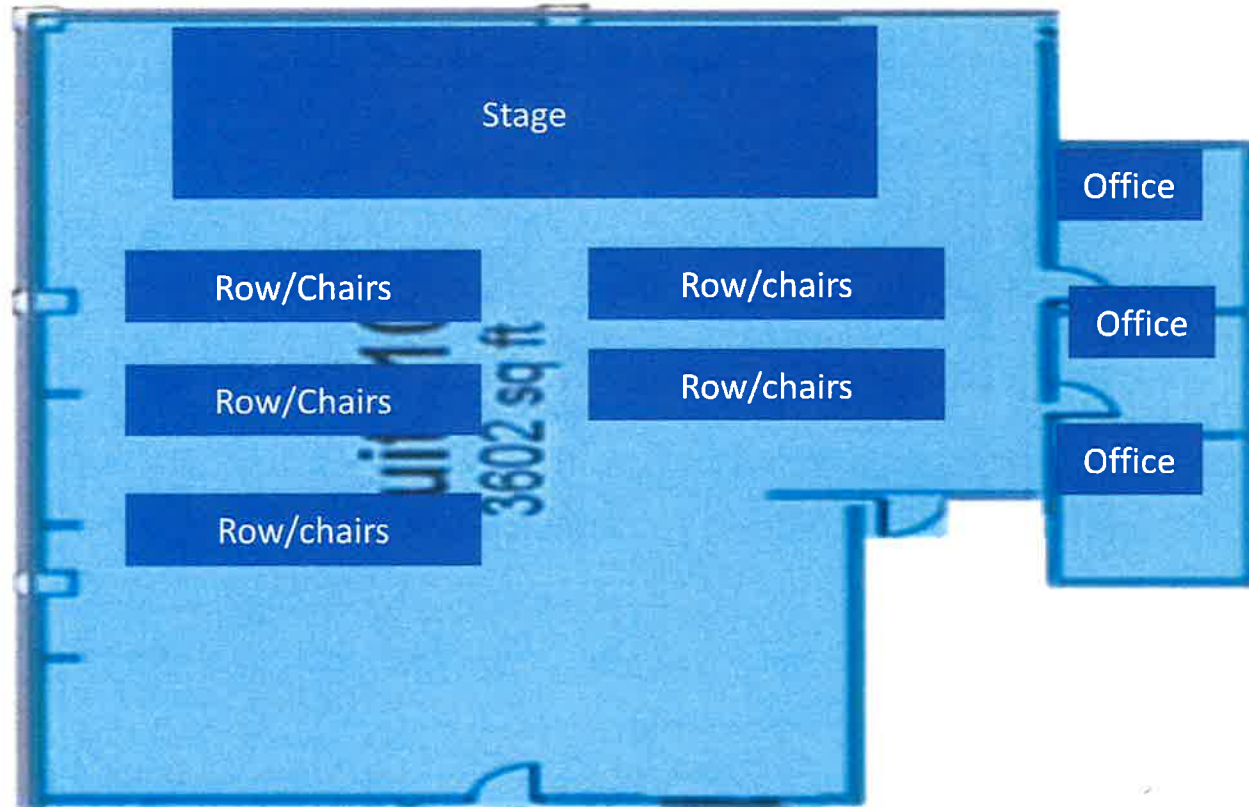
There are two parking lots at this location with ample parking for our congregation as our services will be held after normal business hours, leaving the parking lot open.

We appreciate your time and consideration in this manner, and we look forward to hearing from you soon.

Thank you,
Clifton Hobbs III,
Pastor, The Glory Tabernacle, Inc.

RECEIVED
DEC 23 2022
PLANNING DEPT.

The Glory Tabernacle Planned Use



RECEIVED
DEC 23 2022
PLANNING DEPT.



JERRY TEETER | CEO
JERRY@LEGIONENTERPRISESINC.COM

OFFICE: 402.403.4097
1620 WILSHIRE DR, SUITE 300
BELLEVUE, NE 68005

January 6, 2023

City of Bellevue Planning Department
Attn: Tammi Palm
1510 Wall St.
Bellevue, NE 68005

RE: Glory Tabernacle CUP for 1620 Wilshire Dr, Suite 103, Bellevue, NE 68005

Ms. Palm-

Per your letter dated January 6, I am replying with the requested information.

Item 2: There are 150 stalls on the property. We have plans to have the parking lot re-stripped in the Spring when the weather warms up. In the mean time, I have done a graphical overlay to represent the 150 stalls. It is below.

Item 3: As of the date of this letter, the following types of businesses occupy the building. Business consultant, multiple Defense Contractors, Counseling services, Attorney, Craft Store, Auto Transport, Billboard Advertising Company (includes mobile billboard sales)

All businesses currently in the building operate normal business hours, Monday thru Friday, 8a-6p. The lease stipulates that Glory Tabernacle can not hold services or play music during these hours. They are limited to Sunday services.

The current tenant roster has been made aware of the church moving in and no one raised any concern.

If there are any further questions, email me at jerry@legionproperties.us or call at 402-880-4101

Thank you.

A handwritten signature in black ink, appearing to read "Jerry Teeter", is written over a white rectangular area.

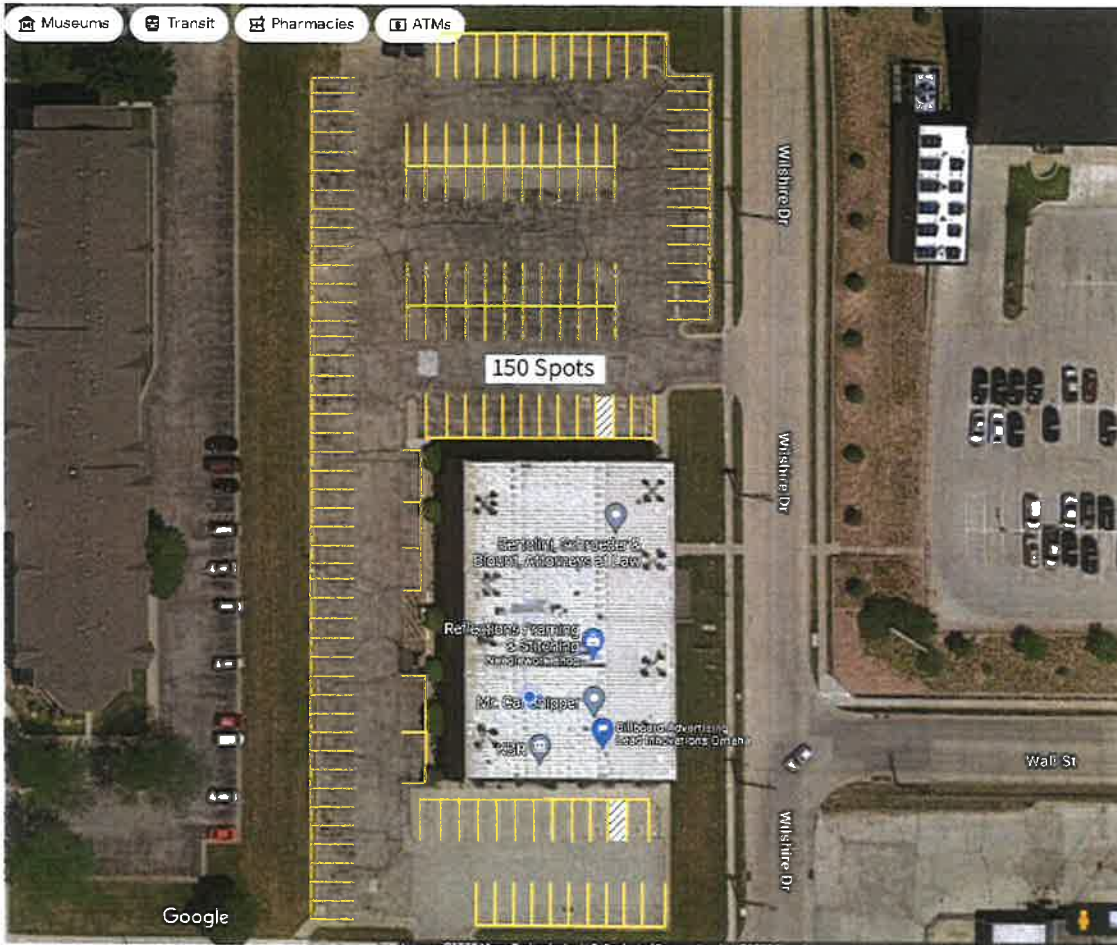
Jerry Teeter, President
Legion Properties, LLC dba Wilshire Properties
1620 Wilshire Dr.
Bellevue, NE 68005

RECEIVED
JAN · 6 2023
PLANNING DEPT.

Tammi Palm

From: Jerry Teeter <jerry@legionenterprisesinc.com>
Sent: Friday, January 6, 2023 10:41 AM
To: Tammi Palm
Cc: Clifton Hobbs III; Angela Curry
Subject: [EXT] Re: CUP revisions letter
Attachments: PLanning Commission Info Request 1-6-23.pdf

Hey Tammi- See attached info you requested.



Cell 402-880-4101
Office 402-403-4097
[View My Online Business Card](#)

On Fri, Jan 6, 2023 at 9:33 AM Tammi Palm <Tammi.Palm@bellevue.net> wrote:

Good morning,

RECEIVED
JAN · 6 2023
PLANNING DEPT.

Record & Return To:
City of Bellevue Planning Department
1510 Wall Street
Bellevue, NE 68005

CITY OF BELLEVUE
CONDITIONAL USE PERMIT
LOT 1, TILLER'S 5TH ADDITION,
LOCATED IN THE NORTHEAST ¼ OF SECTION 35, T14N, R13E OF THE 6TH P.M., SARPY
COUNTY, NEBRASKA

Conditional Use Permit for 1620 Wilshire Drive

This Conditional Use Permit issued this 21st day of February, 2023 by the City of Bellevue, a municipal corporation in the County of Sarpy County, Nebraska ("City") to The Glory Tabernacle, Inc., ("Applicant"), pursuant to the Bellevue Zoning Ordinance.

WHEREAS, Wilshire Properties, LLC, is the legal owner of Lot 1, Tiller's 5th Addition, located in the Northeast ¼ of Section 35, Township 14 North, Range 13 East of the 6th P.M., Sarpy County, Nebraska, consisting of approximately 2 acres, more or less ("Property"). Applicant desires to use the Property for the purpose of church assembly; and

WHEREAS, Applicant has applied for a conditional use permit for the purpose of using the Property as described above; and

WHEREAS, the Mayor and City Council of the City of Bellevue are agreeable to the issuance of a conditional use permit to the Applicant for such purpose, subject to certain conditions and agreements as hereinafter provided (the "Permit").

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this Permit is issued to the Applicant to use the Property for the purpose described above, said use hereinafter being referred to interchangeably as a "Permitted Use" or "Use".

Conditions of Permit

The conditions to which the granting of this Permit is subject are as follows:

1. Development and operation on the Property is governed by this Permit. The rights granted by this Permit are transferable and any breach of any terms hereof shall cause Permit to expire and terminate, subject to the rights of the Applicant to cure such default or deficiency as set forth in this Permit.
2. In respect to the proposed Use:
 - a. A site plan showing the Property's boundaries, proposed structures, parking, access points, and drives, is attached hereto and incorporated herein as Exhibit "A."

- b. The Property shall be developed and maintained in accordance with the site plan (Exhibit "A") and all other exhibits, if any, of this Agreement. Any modifications to the site plan must be submitted to the Planning Department for approval. Modifications of any other document or exhibit shall be subject to approval of the City, as directed by the City Administrator, unless otherwise expressly provided in the document or exhibit to be modified.
 - c. Applicant hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court costs) arising out of or resulting from the acts, omissions or negligence of the Applicant or its agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violations of any applicable environmental or safety law, rule or regulation relating to the Applicant's Use of the Property.
3. The Applicant's right to maintain the Use of the Property, as contemplated by this Permit, shall be based on the following conditions:
 - a. A periodic inspection to determine compliance with the conditions of this Permit. The Permit may be revoked only upon a finding by the City that there is a material violation of the material terms of this Permit if the violation occurs after written notice from the City to Applicant and opportunity to cure in the time and manner described below.
 - b. The Use authorized by this Permit must be initiated within 12 months after the date of the approval of this Permit otherwise such Permit shall become void.
 - c. Church assembly shall be done outside of the hours of Monday through Friday 8:00 a.m.-6:00 p.m., so as not to conflict with the regular business hours of the building.
 - d. There shall be no more than 60 people in the proposed assembly area.
 - e. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed from the Property at Applicant's expense within twelve (12) months of cessation of the Use of the Property.
 - f. All signage on Property related to Use shall be in conformance with the City Zoning Ordinance.
 - g. Applicant shall record this Permit with the Sarpy County Register of Deeds at Applicant's expense.
4. Notwithstanding any other provision herein to the contrary, this Permit, and all rights granted hereby, shall expire and terminate as to a Permitted Use hereunder upon the first of the following to occur:
 - a. Applicant's abandonment of the Permitted Use. There shall be a presumption that the project on the Property has been abandoned if the Applicant fails to use the Property for the Permitted Uses for any twelve (12) consecutive month period.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and such cancellation, revocation, denial or failure to maintain any federal, state or local rights are provided under laws, rules and regulations governing said permit.
 - c. Applicant's breach of other terms hereof and its failure to cure such breach in the time and manner set forth below.
5. In the event the Applicant fails to promptly remove any safety, environmental or other hazard or nuisance from the Property, or upon the expiration or termination of this Permit the Applicant fails to promptly remove any remaining safety, environmental or other hazard or nuisance, the City may at its option (but without any obligation to the Applicant or any third party to exercise said option) cause the same to be removed at Applicant's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable in connection with the removal thereof) and the Applicant shall

reimburse the City the costs incurred to remove the same. Applicant hereby irrevocably grants the City, its agents and employees, the rights, provided notice is furnished to the Applicant along with a reasonable time to remove or cure such hazard, to enter the Property and to take whatever action as is necessary or appropriate to remove any such hazards, nuisances in accordance with the terms of this Permit, and the right of the City to enter the Property as may be necessary or appropriate to carry out any other provision of this Permit.

6. If any provisions, or any portion thereof, contained in this Permit are held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

7. The conditions and terms of this Permit shall be binding upon Applicant, its successors and assigns.

a. Delay of City to terminate this Permit on account of breach of Applicant of any terms hereof in accordance with the terms hereof shall not constitute a waiver of City's right to terminate this Permit, unless the City has expressly waived said breach. A waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.

b. Cure Rights. Notwithstanding any other provision of this Permit to the contrary, Applicant shall be entitled to notice and opportunity to cure a breach of this Permit as follows. City will notify the Applicant of any breach of this Permit. Cure shall be commenced and completed as soon as possible and in all cases within thirty (30) days after City provides notice of breach; provided, however, in any case that cure cannot be completed within 30 days, additional time will be allowed, so long as cure is commenced within the time required in this Section b and diligently pursued and completed as soon as possible, and allowing additional time does not present or increase risk of harm to persons or property. City shall have the right to terminate this Permit if a breach is not timely cured.

c. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this Permit.

d. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed as follows:

The Glory Tabernacle, Inc.
1620 Wilshire Drive, Suite 103
Bellevue, NE 68005

e. All recitals at the beginning of this document and exhibits or other documents referenced in this Permit shall be incorporated herein by reference.

Effective Date:

This Permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

The City of Bellevue

By: _____
Rusty Hike, Mayor

ATTEST:

Susan Kluthe, City Clerk

STATE OF NEBRASKA)
)SS:
COUNTY OF SARPY)

The undersigned, a notary public qualified in and for said county, does hereby certify that Rusty Hike and Susan Kluthe, whose names as Mayor and City Clerk respectively, of the City of Bellevue, Nebraska, a municipal corporation, are signed to the foregoing instrument and who are each known to me and known to be such officers, acknowledged before me on this day and they, in their respective capacities as Mayor and Deputy City Clerk, executed and delivered said instrument as their voluntary act and deed and voluntary act and deed of such corporation.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public

Jerry Teeter for Wilshire Properties, LLC

STATE OF NEBRASKA)
)SS:
COUNTY OF _____)

The undersigned, a notary public qualified in and for said county, does hereby certify that Jerry Teeter signed the foregoing instrument, acknowledged before me on this day and he executed and delivered said instrument as his voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public

Clifton Hobbs III for The Glory Tabernacle, Inc.

STATE OF NEBRASKA)
)SS:
COUNTY OF _____)

The undersigned, a notary public qualified in and for said county, does hereby certify that Jerry Teeter signed the foregoing instrument, acknowledged before me on this day and he executed and delivered said instrument as his voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public



Esri, Inc. Sarpy County, Nebraska | Esri, Inc. City of Naperville, Illinois



Map Scale 1: 1592

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Notes



CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

14b.
2/21/2023

COUNCIL MEETING DATE: February 21, 2023		SUBMITTED BY: Tammi Palm, Planning Manager	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING	<input checked="" type="checkbox"/>
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Request for a conditional use permit for Lot 1, First Presbyterian Church of Bellevue, for the purpose of a 165' monopole tower. Applicant: New Cingular Wireless PCS, LLC. General location: 1220 Bellevue Blvd. South.

SYNOPSIS/BACKGROUND:

Steve Ward, on behalf of New Cingular Wireless PCS, LLC is requesting a Conditional Use Permit (CUP) for Lot 1, First Presbyterian Church of Bellevue, for the purpose of a wireless telecommunications facility consisting of a 165-foot monopole tower support structure with attendant ground-based 40' x 60' fenced equipment compound. The applicant intends to lease a 40' x 60' parcel from the property owner for the construction of the monopole tower and fenced equipment compound. The site is located in the southeast corner of the church parking lot. A 12' wide access easement is proposed with a 12' wide double-swing gate. The compound will be secured with a 6' tall vinyl privacy fence per the proposed site plan. The neighboring property, zoned RD-60, has a 5' required side yard setback if developed. The tower is shown 75' from the church's property line. This nonbuildable area would account for the 80' fall zone.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department and Planning Commission recommended approval of this request.

ATTACHMENTS:

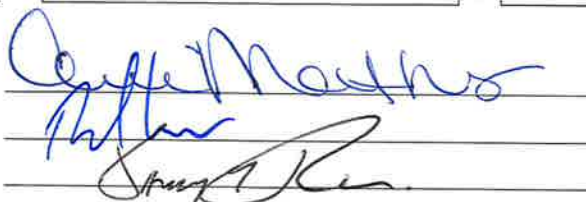
1. Planning Commission Recommendation Sheet	2. Staff Report	3. Conditional Use Permit Agreement
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:



City of Bellevue

PLANNING COMMISSION RECOMMENDATION

APPLICANT: New Cingular Wireless PCS, LLC

CASE #: CUP-2212-07

CITY COUNCIL HEARING DATE: February 21, 2023

REQUEST: for a conditional use permit for Lot 1, First Presbyterian Church of Bellevue, for the purpose of a 165' monopole tower.

On January 26, 2023, the City of Bellevue Planning Commission voted seven yes, zero no, two absent and zero abstained:

APPROVAL based upon conformance with Section 6.06 of the Zoning Ordinance, as well as a lack of perceived negative impact upon the surrounding area; contingent upon receipt of the determination of no hazard from the FAA.

VOTE:

Yes:	Seven:	No:	Zero:	Abstain:	Zero:	Absent:	Two:
	Hankins						Aerni
	Ritz						Sims
	Cutsforth						
	Ackley						
	Bennett						
	Jacobson						
	Perrin						

Planning Commission Hearing (s) was held on: January 26, 2023

CITY OF BELLEVUE PLANNING DEPARTMENT

RECOMMENDATION REPORT #2

CASE NUMBER: CUP-2212-07

FOR HEARING OF:

REPORT #1: January 26, 2023

REPORT #2: February 21, 2023

I. GENERAL INFORMATION

A. APPLICANT:

New Cingular Wireless PCS, LLC
15 Park Place Centre
Swansea, IL 62226

B. PROPERTY OWNERS:

First Presbyterian Church of Bellevue
Attn: Marty Davis
1220 Bellevue Blvd South
Bellevue, NE 68005

C. GENERAL LOCATION:

1220 Bellevue Blvd South

D. LEGAL DESCRIPTION:

Lot 1, First Presbyterian Church of Bellevue, located in the Southeast ¼ of Section 25, T14N, R13E of the 6th P.M., Sarpy County Nebraska.

E. REQUESTED ACTIONS:

Request for a conditional use permit for Lot 1, First Presbyterian Church of Bellevue for the purpose of a 165' monopole tower.

F. EXISTING ZONING AND LAND USE:

RS-84, First Presbyterian Church of Bellevue

G. PURPOSE OF REQUEST:

The purpose of this request is to obtain approval for a conditional use permit to allow for the construction of a 165' monopole tower and 40' x 60' fenced compound.

H. SIZE OF SITE:

The site is approximately 2,400 square feet.

II. BACKGROUND INFORMATION

A. EXISTING CONDITION OF SITE:

The site is located on the southeast corner of the parking lot at the First Presbyterian Church of Bellevue.

B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:

1. **North:** Single Family Residential/RS-84, RS-120 (across Bellevue Blvd S.)
2. **East:** Single Family Residential/Vacant, RD-60
3. **South:** Single Family Residential, RS-84 (across Harvell Dr.)
4. **West:** Single Family Residential/RS-84, RS-120 (across Bellevue Blvd S.)

C. RELEVANT CASE HISTORY:

On January 26, 2023, the Planning Commission recommended approval of the applicant's request for a conditional use permit to allow for a 165' monopole tower and 40' x 60' fenced compound.

D. APPLICABLE REGULATIONS:

1. Section 5.09, Zoning Ordinance, regarding RS-84 uses and requirements.
2. Article 6, Zoning Ordinance regarding Conditional Use Permits.

III. ANALYSIS

A. COMPREHENSIVE PLAN:

The Future Land Use Map of the Comprehensive Plan designates this property as medium-density residential.

B. OTHER PLANS:

None

C. TRAFFIC AND ACCESS:

1. There are approximately 7,450 vehicles per day near the intersection of Harvell and Freeman Drive per the 2020 MAPA Traffic Count data.
2. The applicant will gain access to the proposed monopole tower by way of a guard rail opening at the southeast corner of the church parking lot.

D. UTILITIES:

All utilities are available to this property.

E. ANALYSIS:

1. Steve Ward, on behalf of New Cingular Wireless PCS, LLC, has submitted a request for a conditional use permit for Lot 1, First Presbyterian Church of Bellevue, for the purpose of a wireless telecommunications facility consisting of a 165-foot monopole tower support structure with attendant ground-based 40-foot x 60-foot fenced equipment compound. The compound will have a 6' tall vinyl privacy fence.
2. The applicant intends to lease a 40-foot x 60-foot parcel from the property owner for the construction of the monopole tower and fenced equipment compound.
3. The site is in the southeast corner of the church parking lot. A 12-foot-wide access easement is proposed with a 12-foot-wide double swing gate. The compound will be screened with a 6' tall vinyl privacy fence per the proposed site plan.
4. Section 8.05.04 requires the tower be setback 100% of the tower height from neighboring residential zoning districts unless a reduction is granted by the City Council through the conditional use permit process. The applicant requests a reduction of the required setback for the property to the east currently owned by the City of Bellevue. The proposed tower is designed with a fail point so the tower would break and fall within 80' of the center of the tower.

The neighboring property is zoned RD-60, which has a 5-foot side yard setback if it were to develop. The tower would have a minimum setback of 75 feet to the church's property line. This non-buildable area would account for the 80-foot fall zone. Subsequently, staff is supportive of a reduction of the setback.

This application was routed to OPPD for review, and they have no concerns with the proposed fall zone.

5. No additional landscape is being required based on the existing topography and the mature trees along the site. The monopole will be located at the top of a steep hill away from residential areas. There is an approximate 40' drop from the area where the tower will be located to Harvell Drive.
6. The applicant has filed for a determination of No Hazard to Air Navigation from the FAA and expects to have a response within 60 days. A permit will not be granted until such time the city is in receipt of this approval.
7. A copy of the applicant's letter detailing his requests is attached to this report for reference.
8. This application was sent out to the following departments/individuals for review: Public Works, Permits and Inspections, Chief of Police, Offutt Air Force Base, Fire Inspector, Sarpy County Administrator, Sarpy County Public Works, Sarpy County Planning Department, and the Bellevue Public School District. The cover letter indicated a deadline to send comments back to the Planning Department and stated if the requested department did not have comments pertaining to the application, no response was needed.

Battalion Chief Donald Gifford commented a permit would be required for installation of the generator fuel tank. This has been communicated with the applicant.

Offutt Air Force Base expressed no concerns with this application.

9. Per Section 6.06, the Zoning Ordinance requires no conditional use permit shall be granted unless the Planning Commission or City Council has found:
 - 6.06.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.
 - 6.06.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.
 - 6.06.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.
 - 6.06.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.
 - 6.06.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.
 - 6.06.06 The use shall not include noise which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

6.06.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

6.06.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

6.06.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

6.06.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

6.06.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

The Planning Department believes this application meets the criteria for approval of the Conditional Use Permit.

F. TECHNICAL DEFICIENCIES:

None

IV. DEPARTMENT RECOMMENDATION

APPROVAL based upon conformance with Section 6.06, Zoning Ordinance, as well as lack of perceived negative impact to the surrounding area; contingent upon receipt of the determination of no hazard from the FAA.

V. PLANNING COMMISSION RECOMMENDATION

APPROVAL based upon conformance with Section 6.06 of the Zoning Ordinance, as well as a lack of perceived negative impact upon the surrounding area; contingent upon receipt of the determination of no hazard from the FAA.

VI. ATTACHMENTS TO REPORT

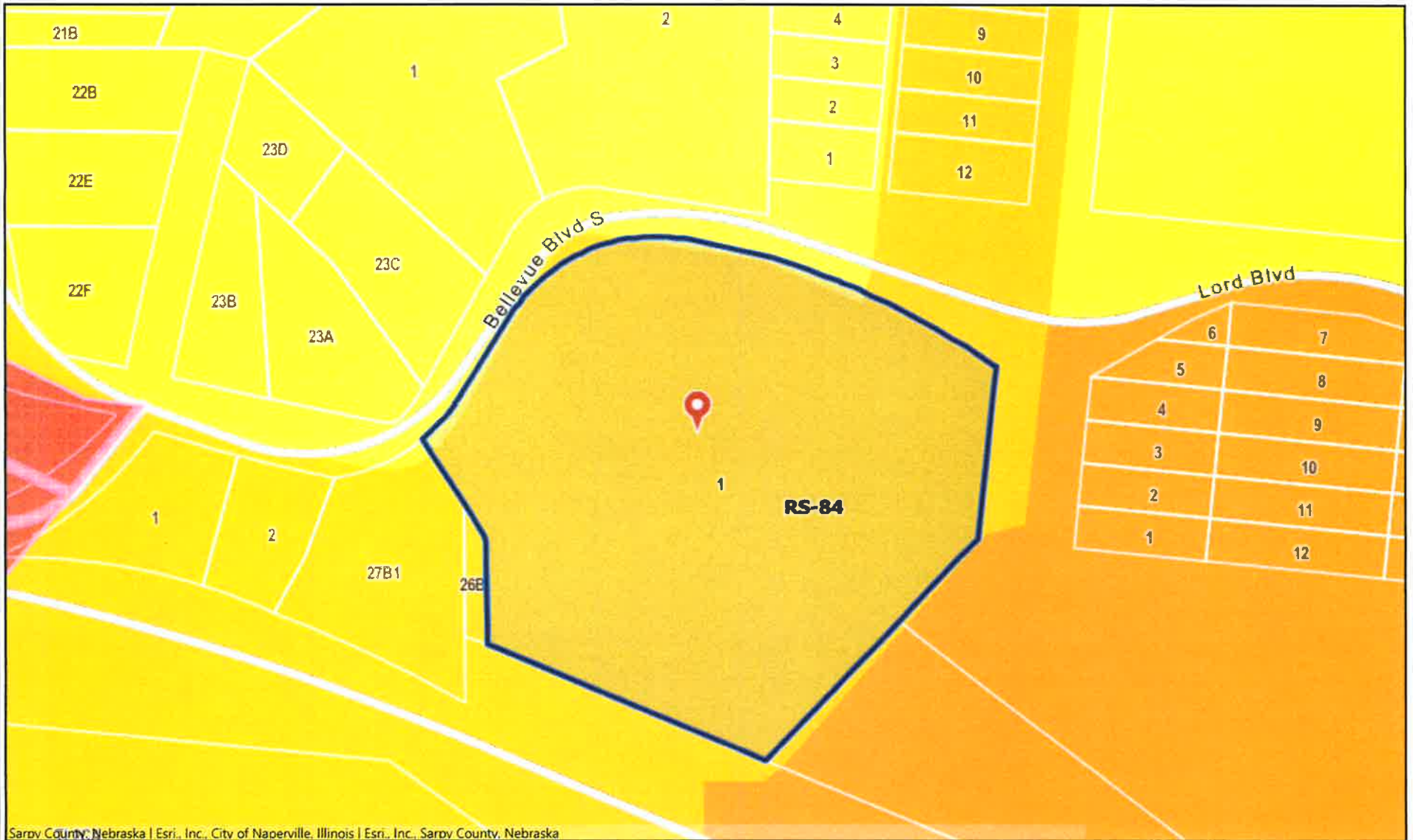
1. Zoning Map
2. 2022 GIS aerial photo of the property
3. Application for Conditional Use Permit Telecommunications Tower Site New Cingular Wireless PCS, LLC AT&T received January 17, 2023
4. Site plan received January 17, 2023
5. Enlarged Site Plan received January 17, 2023
6. Tower Elevation received January 17, 2023
7. Letter from Ed Conoan received January 26, 2023
8. Conditional Use Permit Agreement

VII. COPIES OF REPORT TO:

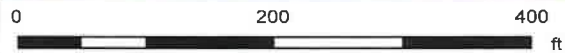
- 1. New Cingular Wireless PCS, LLC (Steve Ward)
- 2. First Presbyterian Church of Bellevue (Marty Davis)
- 3. Public Upon Request


Assistant Planning Manager

 02/13/23
Planning Manager Date of Report



Sarpy County, Nebraska | Esri, Inc., City of Naperville, Illinois | Esri, Inc., Sarpy County, Nebraska



Map Scale 1: 2257

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Notes





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Map Scale 1: 2257

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Notes



RECEIVED
JAN 17 2023
PLANNING DEPT.

APPLICATION FOR CONDITIONAL USE PERMIT
TELECOMMUNICATIONS TOWER SITE
NEW CINGULAR WIRELESS PCS, LLC
AT&T

NEL01282
Bellevue E

City of Bellevue

Respectfully Submitted
Ward Development Services, LLC
December 2022

TABLE OF CONTENTS

- A. **Application for Conditional Use with Bellevue**
- B. **Narrative Statement by Applicant's Representative**
- C. **Compliance with Ordinance**
- D. **Exhibits:**
 - 1. **Vicinity Maps of the Area**
 - 2. **Aerial Maps**
 - 3. **PIN Sheet associated with the Parent Parcel**
 - 4. **TOPO Map**
 - 5. **Flood and Wetlands Maps**
 - 6. **Zoning Map**
- E. **Zoning Drawings.**

A. APPLICATION FOR CONDITIONAL USE PERMIT



CITY OF BELLEVUE
CONDITIONAL USE PERMIT APPLICATION

City of Bellevue
Planning Department
1510 Wall Street
Bellevue, NE 68005

Applicant's Name: New Cingular Wireless PCS, LLC Contact: Steve Ward

Address: 15 Park Place Centre City: Swansea State/Zip: IL/62226

Phone: 314-503-4444 Email: steve@ward-development.com

Owner's Name (if different from applicant): First Presbyterian Church Contact: Marty Davis

Address: 1220 Bellevue S Boulevard City: Bellevue State/Zip: NE/68005

Phone: 402-291-1104 Email: jmarty909@yahoo.com

Zoning: RS-84

Legal Description of Property:

Lot One (1), First Presbyterian Church of Bellevue, an Addition to the City of Bellevue, in Sarpy County, Nebraska

Street Address of Property or Approximate Location:

1220 Bellevue Boulevard S, Bellevue, NE 68005
41.147169, -95.897342

Purpose of Conditional Use:

Construction of a 165' monopole tower and 40' x 60' fenced compound on land leased from the First Presbyterian Church

Conditional Use Fee:

1 Acre or Less \$175
More than 1 acre \$325

The following must be submitted at the time of application: 1) Application Fee, 2) Site Plan, and 3) Explanation of Request for Conditional Use Permit emailed to the City/Planning Manager. * WHEN SUBMITTING THE APPLICATION ELECTRONICALLY MAIL THE ORIGINAL SIGNED APPLICATION AND PAYMENT TO THE ADDRESS LISTED ABOVE.*

I/We the undersigned do hereby acknowledge that I/We do fully understand and agree to comply with the provisions of Chapter 5 of the City of Bellevue Zoning Ordinance No. 3619. I/We the undersigned do hereby agree to allow the City of Bellevue employees or agent working for the City of Bellevue, to enter the above referenced property as it pertains to this application.

Rev. Dr. Michael S. Erhart

Signature of Owner

[Handwritten signature of applicant]

Signature of Applicant

Planning Department Use Only

Date Submitted: _____

Case Number: _____

Filing Fee: _____

Accepted By: _____ Plat Page: _____

*Revised February 2020

NOTICE OF POSTING

NOTICE TO THE APPLICANT/OWNER

The application you submitted to the City of Bellevue is required by State Statute 19-905 to have a notice posted in a conspicuous place on or near the property on which the action is pending. The posted notice shall be placed upon the property so that it is easily visible from the street nearest the property, and shall be posted at least ten days prior to the date of the hearing.

A City employee will post such notice on the property a minimum of ten days prior to the Planning Commission meeting. Such notice shall remain on the property and easily visible from the street nearest the property until after final action by the City Council.

State Statute 19-901 reads, in part, as follows: "It shall be unlawful for anyone to remove, mutilate, destroy, or change such posted notice prior to such hearing. Any person so doing shall be deemed guilty of a misdemeanor." As the legal owner of the property upon which the action is pending, you are responsible to insure such notice remains upon the property until final action by the City Council. If you observe the notice has been removed, mutilated, destroyed, or changed prior to the Board of Adjustment hearing, Planning Commission hearing, or the City Council hearing, please notify the Planning Department at (402) 293-3026, and the necessary action will be taken to re-post the property.

As stated above, the posting of said property is required by State Statute; therefore it is in your best interest to insure the notice remains visible during the entire process. If the notice is removed, mutilated, destroyed, or changed prior to final action by the City Council, this could cause a delay in holding the public hearing and the necessity of rescheduling the hearing.

After the final action by the Board of Adjustment or City Council, a City employee will remove the notice from the property within a reasonable time frame. If you have any questions regarding your application or the posting of your property, please contact the Planning Department at (402) 293-3026.

I/WE, THE UNDERSIGNED, DO HEREBY ACKNOWLEDGE THAT I/WE DO FULLY UNDERSTAND AND AGREE WITH THE PROVISIONS AS DESCRIBED ABOVE.

Rev. Dr. Michael S. Elliott

Signature of Owner/Owners

***PLEASE NOTE THE NOTICE OF PUBLIC HEARING SIGN WILL BE REMOVED BY CITY PERSONNEL. THE PROPERTY OWNER IS NOT TO REMOVE THE SIGN FROM THE PROPERTY.**

NEXIUS SOLUTIONS INC. 04:20
2595 DALLAS PKWY., STE. 300
FRISCO, TX 75034-8530

310228

21-10/830
5686

DATE 12/14/2022

CHECK ARMOR

PAY
TO THE
ORDER OF

City of Bellevue

\$ 325.00

three hundred twenty five ⁰⁰/₁₀₀

DOLLARS

Photo
Safe
Deposit
Credit Union

 PNC BANK

PNC Bank, N.A. 050

FOR

Kristen Weir

⑈ 3 1 0 2 2 8 ⑈ ⑆ 0 8 3 0 0 0 1 0 8 ⑆ 3 0 0 9 0 8 2 6 8 3 ⑈

B. NARRATIVE STATEMENT

December 12, 2022 (Rev. 1/16/2023)

Tammi Palm
Planning Director
City of Bellevue, NE
1510 Wall Street
Bellevue, NE 68005

RE: NEL01282 Bellevue E CUP application

Re: Submittal of Application for a conditional use permit by New Cingular Wireless PCS, LLC (AT&T) to allow for the construction, operation, and maintenance of a wireless telecommunications facility consisting of a 165' monopole tower support structure with attendant ground-based equipment compound on the property leased by the applicant on a tract of land located at 1220 Bellevue S Boulevard, home of the First Presbyterian Church of Bellevue.

Dear Ms. Palm,

I write regarding the above-referenced project to supplement the Application for conditional use permit that is being concurrently filed. This letter is submitted on behalf of the owners of the property in conjunction with AT&T. AT&T is applying for this request for to construct, operate and maintain a communication property on land owned by the First Presbyterian Church of Bellevue. This letter provides a general overview of the project, including the need for the site and its design parameters.

With the filing of this Application, AT&T requests your support and a written determination that AT&T has met the criteria in the Bellevue Code of Ordinances. We also request this Application and supporting documentation be entered as part of the official records of this proceeding.

Applicant:
New Cingular Wireless PCS, LLC
7900 Xerxes Avenue S
Bloomington, MN 55435

Property Owner:
First Presbyterian Church
1220 Bellevue S Boulevard
Bellevue, NE 68005

Agents for Applicant and Property Owner:
Steven K. Ward
Ward Development Services, LLC
15 Park Place Centre
Swansea, IL 62226
(314) 503-4444 Phone
(866) 655-2853 (Facsimile)

I. Location and description of property

AT&T is proposing to provide service to the area of east Bellevue, traffic along S Harvell Dr, and the surrounding area of Sarpy County. The proposal is for AT&T to construct a 165-foot monopole tower as an antenna support structure on agriculturally used property. The site, when completed, will become part of AT&T's network that will provide continued and improved coverage to the current service area that presently in this portion of Sarpy County.

The primary objective for AT&T to place a facility at this location is to provide adequate coverage to the residents in this area of Bellevue, and vehicular traffic in all directions of the proposed site. This geographic area is part of an existing coverage area in AT&T's network. The site will provide for the newest equipment to be installed and provide citizens with additional choices for their communication needs. The site will dramatically improve AT&T in-building coverage as customers continue to use their wireless devices as their principal form of communication. Local Police and Fire departments report that about 75% of 911 calls originate from wireless devices.

II. Why and how this location was chosen

AT&T strives to enhance its network and deliver additional services and coverage to our customers. This area is currently underserved and customers in homes, businesses and cars find themselves experiencing dropped calls and capacity deficiencies. We also will provide this location to the FirstNet network for first responders.

Site Acquisition Contractors, such as Ward Development Services, are instructed by AT&T's management to target existing cell sites, rooftops, towers, and to utilize any existing structures to collocate equipment on within the Search Ring first, in order to minimize new construction, expedite improved coverage, and to meet the spirit and intent of local zoning regulations, which typically encourage collocation. There are sites in the area that were reviewed as part of our work.

1. Black Hills Electric Corp. This is a 100' monopole at 1400 Little John Way. This site does not have the elevation needed and does not meet the coverage objective
2. City of Bellevue 1025365. This is a 100' SST tower on Little John Way near water reservoirs. . This site does not have the elevation needed and does not meet the coverage objective
3. City of Bellevue 1025365. This is a 145' monopole tower on Little John Way near water reservoirs. This site has multiple antenna attachments and the elevation available is too low and does not meet the coverage objective
4. ATS tower 1717 Wayne St behind the Mustaine Apartments. This is a 120' SST Tower. This location is too far south and does not offer the elevation needed fo the network.

The above considerations and processes were followed in selecting the site that is the subject of this Application.

AT&T's objective in placing a facility on the Subject Property is to improve continued service in the area. The Federal Communications Commission ("FCC") restricts the power output on all telecommunications antennae, requiring additional sites to fill in gaps in the network. The number of wireless communications facilities correlates to the size, terrain, and amount of customer traffic in a specific area. While AT&T endeavors to collocate on existing structures wherever possible, the lack of existing structures requires a new wireless communications facility to be built. AT&T's service is limited by (Radio Frequency) coverage, which propagates from antennae located on towers. There is no other possible way to cover this area without building a new tower, as there are no co-locatable structures available in the area that meets the objectives of the Radio Frequency Engineer's criteria. AT&T consistently seeks to increase or supplement their coverage footprint so that they may serve their growing customer base. Due to the present and anticipated growth of cell phone use, complaints from existing AT&T customers losing their signal while driving in the area or while using their devices in their homes necessitate the additional coverage that will be provided by this tower. As there are no existing structures in the area, our search was to locate a property that met the intent of the requirements for a Height Variance.

This location offers good elevation, an existing access off the public street. The site is located on a vacant area away from residential uses.

I hope that by supplying you with this overview of the project that you will agree to the need for this facility and that you will be able to support our Application to provide wireless telecommunications services to the citizens of the City.

Please contact me if you have any questions or if additional information is required.

Thank you very much.

Sincerely,

Steven K Ward

Steven K. Ward,
Ward Development Services, LLC
Authorized Agent for AT&T

C. COMPLIANCE WITH ORDINANCE

Section 8.05 Wireless Communication Towers and Antennas

8.05.01 Purposes

1. This Conditional Use Permit procedure provides for the review and discretionary approval of communication towers and building and rooftop mounted antennas. These uses have site development or operating characteristics that require special consideration.
2. To encourage public review of proposed projects which would be regulated under the provisions of this ordinance.
3. To provide a procedure which allows communication towers to operate according to certain conditions without requiring a rezoning to a higher intensity district, which may not conform to the objectives of the Comprehensive Plan.
4. To maximize the use of any existing or new communication tower to reduce the number of towers needed in the community.

8.05.02 Definition of Terms

Unless specifically defined below, words or phrases used in this ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance its most reasonable application.

“Antenna” - any exterior apparatus designed for telephonic, radio, data, Internet, or video communications through the sending and/or receiving of electromagnetic waves, and includes equipment attached to a tower or building for the purpose of providing personal wireless services, wireless telecommunications services utilizing frequencies authorized by the Federal Communications Commission for cellular, enhanced specialized mobile radio, specialized mobile radio and personal communications services, telecommunications services, and its attendant base station.

“Communication tower” – A structure principally intended to support transmitting and/or receiving antennas and accessory equipment related to telecommunications

“Height of tower” – The vertical distance between the highest point of the tower structure including the antenna, and the natural grade directly below this point.

8.05.03 Applicability

1. Communication towers which may or may not exceed the height limit of the zoning district, but with a maximum height limit of two hundred (200) feet, and accessory facilities are permitted for the following uses, subject to the requirements of Sections 8.05.04, 8.05.05, and 8.05.06:

- A. Cable television
- B. Two-way radio
- C. Common carriers and private carriers
- D. Cellular telephone
- E. Fixed-point microwave
- F. FM/AM Radio
- G. Television

2. Building and rooftop mounted antennas, subject to the requirements of Section 8.05.04, 8.05.05, and 8.05.06.

3. Accessory facilities including, but not limited to, offices, long-term vehicle storage, other outdoor storage, broadcast studios, or other uses not needed to send or receive transmissions, are not permitted unless such facility is a permitted use in the zoning district.

4. An antenna and supporting structure for the following uses are exempt from the requirements of this ordinance and are permitted in any zoning district if accessory to a permitted use and if they comply with applicable regulations of that zone:

- A. Amateur radios licensed by the FCC
- C. Citizens band radios
- D. Home satellite receive-only antennas
- E. UHF or VHF television antennas
- F. Conventional home television antennas

5. Towers for police, fire, and emergency communications, or other municipal communications, are exempt from the requirements of this ordinance.

6. Towers for military radars which are used for the purpose of defense or aircraft safety are exempt from the requirements of this ordinance.

7. Towers which have painting or lighting requirements due to the requirements of the Federal Aviation Administration or the Nebraska Department of Aeronautics are declared incompatible due to their potential hazard to navigation and are hereby expressly excluded.

8.05.04 Conditions for Approval

Conditional use permits for the purpose of installing communication towers shall be evaluated based on the following information:

1. The purpose of the tower as listed in Section 8.05.03 (1) and information pertaining to the operational need or demand for the tower.

2. The type of tower proposed; either monopole, self-supporting, or guyed mast type, and accessory facilities or structures.

The proposed tower is a monopole design.

3. The height of the proposed tower, and a determination of the minimum height necessary to accommodate the communication equipment.

A 160' antenna elevation is the optimum design for the network at this location

4. Minimum setback from all adjoining property equal to:

A. One hundred (100) percent of the tower height from the base of the tower, not including guy anchors, to any adjoining lot zoned residential.

This setback is met to the north, south and west. The site is located in the southeast corner of the church property so as to minimize the impact to parking, snow removal etc. the property to the east is a vacant tract owned by the City of Bellevue and we ask a reduction in the setback to this property. The tower will be set back from the property line a distance of 75'. The underlying setback distance for the side yard in the neighboring RD-60 district is 5 feet. This means no structure will be built within 80' of the proposed tower. A fall letter signed by a Nebraska structural

engineer will be provided demonstrating that a fail point will be designed into the tower so that the tower would break and fall within 80' of the center of the tower.

B. Twenty (20) feet from the base of the tower, not including guy anchors, to any adjoining lot zoned nonresidential.

Not Applicable. All property is residential

C. Tower guy anchors must meet the minimum setback requirements of the zoning district.

Not applicable. Monopole tower is the design

D. The City Council may grant a reduction in the required setbacks upon a determination that such reduction will not adversely affect adjacent properties and is consistent with the intent of this ordinance.

We ask a reduction in the setback to the City property to the east. Please see 8.05.04 (A)

5. Proximity to the nearest existing tower and information to demonstrate that an existing tower cannot accommodate the communication equipment planned for the proposed tower.

This response is in the narrative section. Existing towers were reviewed and found to not meet our needs

6. The landscaping and other buffers proposed to screen the base of the tower from adjacent residential or commercial uses, streets, parks, or other public property.

The site is to be screened with an opaque fence of chain link with privacy slats. There are existing trees in the area of the tower and the tower sits on top of a grade from the roadway which prevents view of the site from the streets

7. Other proposed measures to minimize adverse visual effects on adjacent properties including the design of the tower and accessory buildings, avoidance of artificial lighting, non-interference with television and radio reception, and any other factors.

There is no lighting of the compound proposed. AT&T operates within its licensed frequencies and will not interfere with television, radio or other licensed wireless uses

The Planning Director may issue an administrative permit approving an application to locate a building mounted or rooftop mounted antenna if the application does not exceed the permitted height in the zoning district in which it is located, and will have minimal adverse effect on the surrounding property. Administrative permits will be allowed only in commercial and industrial zones. Permits for the purpose of installing building and rooftop mounted antennas shall be evaluated based on the following information:

- (1) The proposal shall demonstrate the antenna and support structure are safe and the surrounding areas will not be negatively affected by support structure failure, falling ice, or other debris.
- (2) Antenna attached to the wall of an existing building shall be mounted in a configuration as flush to the wall as technically possible and shall not project above the wall on which it is attached.
- (3) The antenna shall be designed and located so as to minimize any aesthetic impact. The antennas shall be constructed, painted, or fully screened to match as closely as possible the color and texture of the building and wall on which it is mounted.

~~(4) If accessory equipment or structures are present, they must blend with the surrounding buildings in architectural character and color.~~

~~(5) Rooftop mounted antenna and any related equipment shall be completely screened from view as visible from the property line by materials that are consistent and compatible with the design, color, and materials of the building.~~

~~(6) Antenna attached to the roof of a building must be either:~~

~~A. _____ Omnidirectional or whip antenna no more than seven inches in diameter; or~~

~~B. _____ Panel antenna no more than two feet wide and eight feet long.~~

~~(7) The fee for the administrative permit shall be in accordance with the Master Fee Schedule.~~

~~Within 30 days of receiving a complete application, the Planning Director shall act on the request for an administrative permit. If a request for an administrative permit is not acted upon within 30 days, or is denied, or the conditions imposed thereon are unacceptable to the applicant, then the applicant may, by written notice to the Planning Director, convert the request for an administrative permit to an application for a conditional use permit through the public hearing process.~~

8.05.05 Application Requirements

An application for a Conditional Use Permit may be submitted by the property owner or their authorized representative. The application shall be filed with the Planning Department and include at least the following information:

1. A site plan showing all existing and proposed structures located within the property, total acreage of the parcel, distance to the property line and distance to structures which are adjacent to the property, scale of the drawing, north arrow and date of the drawing.

See attached plans

2. A landscape plan submitted in accordance with the Landscaping, Buffering, and Screening regulations, although additional buffering and screening may be required as a provision of the Conditional Use Permit.

3. Engineering information pertaining to tower design, building materials, equipment to be attached to the tower, accessory structures, non-interference with television and radio reception, the safety and stability of the structure, and a description of the capacity of the tower, including the number and type of antennas that it can accommodate and the basis for the calculation of capacity.

The tower will be designed to the current EIA-222 code and will be a monopole with a galvanized finish. The tower will be inside a 38' x 55' compound and surrounded by a opaque fence of chain link with privacy slats. The tower will have the capacity to hold AT&T and at least two other carriers. Each carrier uses between 6 and 9 antennas and will have remote radio heads on the platform by he antennas

4. Correspondence with the Federal Aviation Administration, Federal Communications Commission, and the Nebraska Department of Aeronautics to demonstrate progress in compliance with their requirements.

FAA form 7460 will be filed and an FAA review will be performed. We ask that our zoning be approved, and any building issuance will be conditioned on the submittal of the FAA approvals

5. A survey of existing towers including type and location, and a statement which demonstrates the need for the new tower.

This is included in the attached plans

8.05.06 Duration of Conditional Use Permit

1. A Conditional Use Permit and administrative permit shall become void two (2) years after the date of approval unless the applicant has obtained a building permit and is in the process of or has completed construction of the communication tower or antennas.

Undersotod

2. Within sixty (60) days of the completion of the construction of the tower, the applicant is required to submit an inspection certification from a registered professional engineer demonstrating compliance with the minimum criteria for specifying and designing steel antenna towers and antenna supporting structures. Certification of structural integrity must also be provided to the City every three (3) years thereafter.

We ask this be adjusted to the current EIA standard for tower inspections for monopoles at 5-year intervals.

Section 6.06 Standards

No conditional use permit shall be granted unless that Planning Commission or City Council has found:

6.06.01 That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.

The proposed tower will not be detrimental to or endanger the public health, safety, moral, comfort, or general welfare of the community.

6.06.02 That the conditional use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purpose already permitted, nor substantially diminish and impair property values within the neighborhood.

The tower is at the rear of a large property used as a church. The property has mature trees and the site sites on top of a hill that prevents view from travelers to the south. There is no negative impact to property values

6.06.03 That the establishment of the conditional use will not impede the normal and orderly development of the surrounding property for uses permitted in the district.

The surrounding properties are developed

6.06.04 Adequate utilities, access roads, drainage, and/or necessary facilities have been or are being provided.

Adequate utilities are available for the facility

6.06.05 Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The site is visited about once every three weeks using the existing parking lot and drives

6.06.06 The use shall not include noise, which is objectionable due to volume, frequency, or beat unless muffled or otherwise controlled.

The site produces minimal noise. There will be a backup generator and the times of its maintenance can be adjusted to accommodate any required schedule

6.06.07 The use shall not involve any pollution of the air by fly-ash, dust, vapors, or other substance which is harmful to health, animals, vegetation or other property or which can cause soiling, discomfort, or irritation.

There is no air pollution caused by the facility

6.06.08 The use shall not involve any malodorous gas or matter which is discernible on any adjoining lot or property.

The facility does not use gas

6.06.09 The use shall not involve any direct or reflected glare which is visible from any adjoining property or from any public street, road, or highway.

There will be no reflected light or glare from the facility

6.06.10 The use shall not involve any activity substantially increasing the movement of traffic on public streets unless procedures are instituted to limit traffic hazards and congestion.

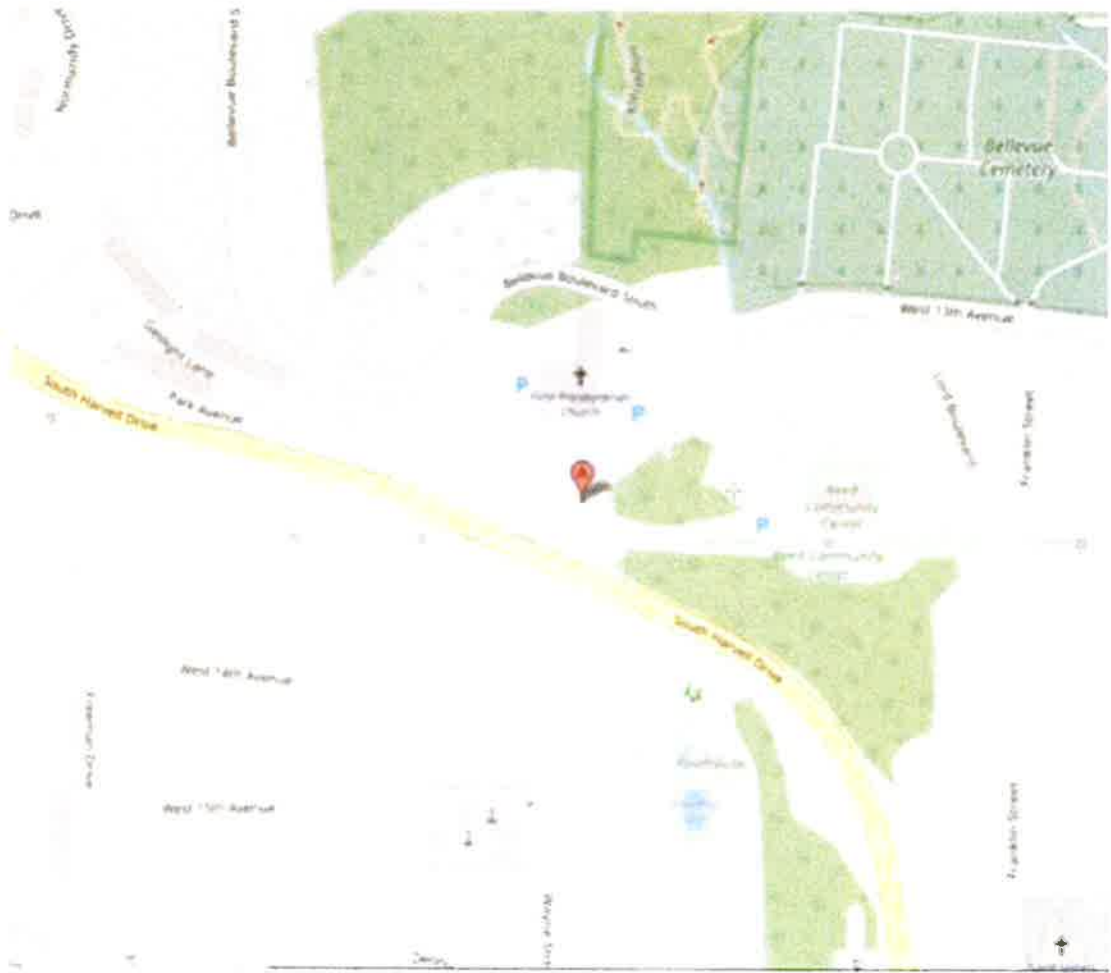
The site is visited about once every three weeks using the existing parking lot and drives

6.06.11 The use shall not involve any activity substantially increasing the burden on any public utilities or facilities unless provisions are made for any necessary adjustments.

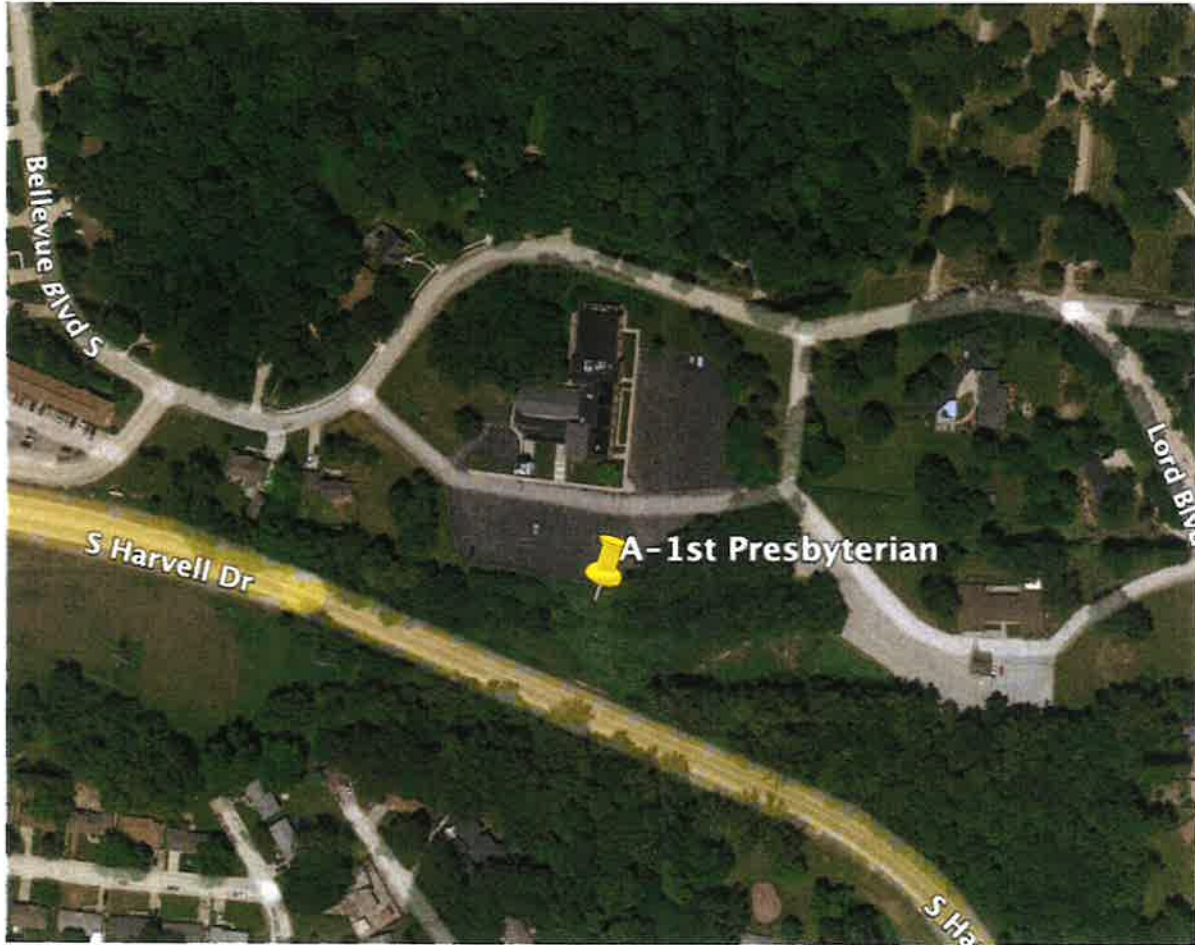
The site uses only electricity and fiber

D. EXHIBITS

1. VICINITY MAPS OF AREA



2. AERIAL MAPS



3. PIN SHEET

Property Detail Report

Parcel ID: 011254513



Parcel Information

Situs: 1220 Bellevue Blvd S Bellevue NE 68005

Owner: First Presbyterian Church
Of Bellevue
1220 Bellevue Blvd S
Bellevue, NE 68005

Legal: Lot 1 First Presbyterian Church Of
Bellevue (5.234 ac)
Subdivision: First Presbyterian Church Of
Bellevue (10410)
Tax District: 10002
Approx. Size: 5.23 ac
PLSS: SE 25-14-13
City: City of Bellevue

Services

School District: Bellevue
Fire District: Bellevue Fire
Law: Bellevue Police
Electricity: OPPD
Water/Gas: MUD
Wastewater: Bellevue

Environmental

Basin(s): Missouri River - 100.0%
Floodway: n/a
Flood Zone(s):
Area of Minimal Flood Hazard - 100.0%



Zoning

Zoning: RS B4 - Single Family Residence - 8,400 Sq Feet (Bellevue) - 98.2%
Future Land Use: MDR - Med Density Residential (Bellevue) - 98.2%

4. TOPO MAP



B.

5. FLOOD AND WETLANDS MAP

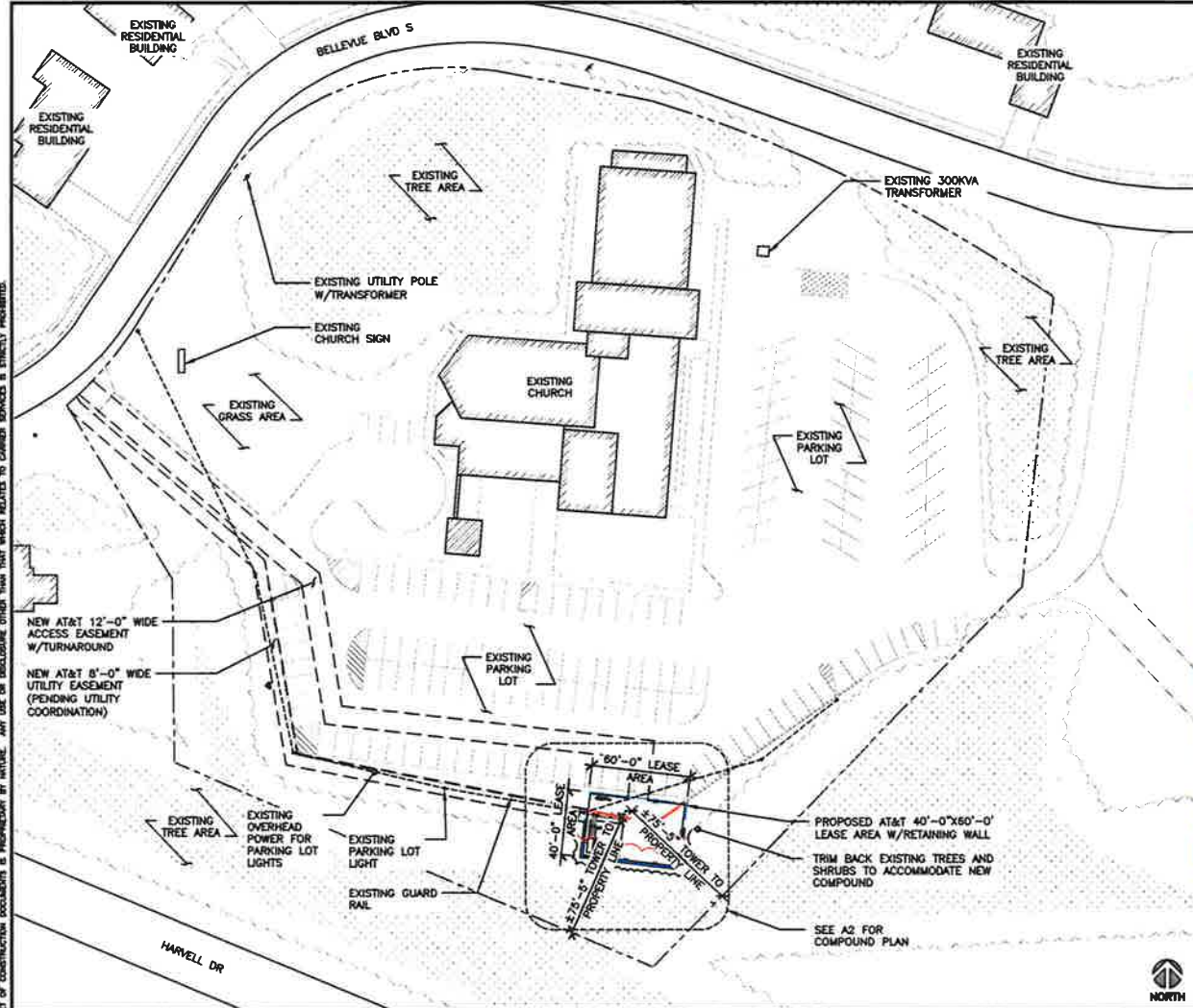


6. ZONING MAP



E. ZONING DRAWINGS

Attached



RECEIVED
JAN 17 2023
PLANNING DEPT.

FA # : 15796368
 PTN # : 3525A13C1N
 PACE # : MRUMW051411



ENLARGED SITE PLAN

SCALE: 1"=30'-0" (11x17)
 (CG: 2"=30'-0" (22x34))

2 AERIAL SCALE: 1"=150'-0" (11x17)

THE NATIONAL NETWORK
 SCHWABER & SUTTS

NEXUS
 CHRISTA SMALL
 SITE ACQUISITION SPECIALIST
 PHONE: 208-671-1141
 CHENKA.SMALL@NEXUS.COM

WESTCHESTER SERVICES LLC
 604 PUX GLEN
 BARRINGTON, IL 60010
 TELEPHONE: 847.277.0878
 FAX: 847.277.0686
 info@westchesterservices.com

NSB
 15796368/NELO1282
 FIRST PRESBYTERIAN
 1220 BELLEVUE BLVD S
 BELLEVUE, NE 68005

REV.	DATE	DESCRIPTION	BY
D	01/17/23	REVISED LEASE COVERT	NSM
B	12/14/22	REVISED LEASE COVERT	NSM
A	08/18/22	LEASE COVERT	JS

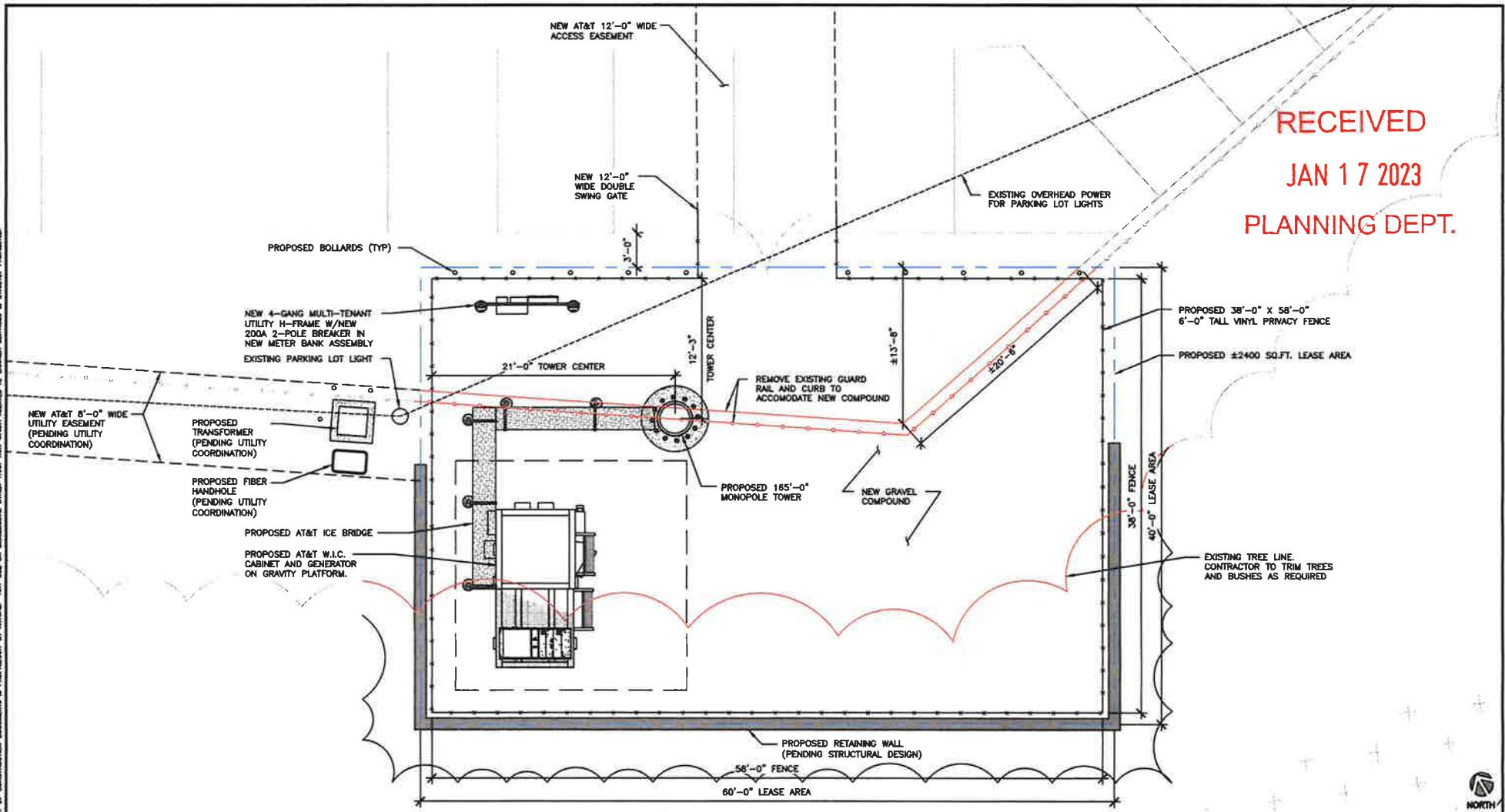
NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
OVERALL SITE PLAN & AERIAL

SHEET NUMBER
LE-1

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY NATURE. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATED TO CARRIED SERVICES IS STRICTLY PROHIBITED.

RECEIVED
 JAN 17 2023
 PLANNING DEPT.



ENLARGED PLAN

SCALE: 1/8"=1'-0" (10/17)
 (OR) 1/16"=1'-0" (20/24) 1

AT&T
 830 NATIONAL PARKWAY
 SCHWABERSO, IL 60173

NEXIUS
 CHERISA SMALL
 SITE ACQUISITION SPECIALIST
 PHONE: 833 946 7741
 CHERISA.SMALL@NEXIUS.COM

WESTCHESTER SERVICES LLC
 384 FOX GLEN
 BARRINGTON, IL 60010
 TELEPHONE: 847 277 0079
 FAX: 847 277 0080
 info@westchester-services.com

NSB
 15796368/NEL01282
 FIRST PRESBYTERIAN
 1220 BELLEVUE BLVD S
 BELLEVUE, NE 68005

REV.	DATE	REVISIONS	DESCRIPTION	INITIALS
0	01/17/23	REVISED LEASE EXHIBIT	NSM	
B	12/14/22	REVISED LEASE EXHIBIT	NSM	
A	08/18/22	LEASE EXHIBIT	JS	

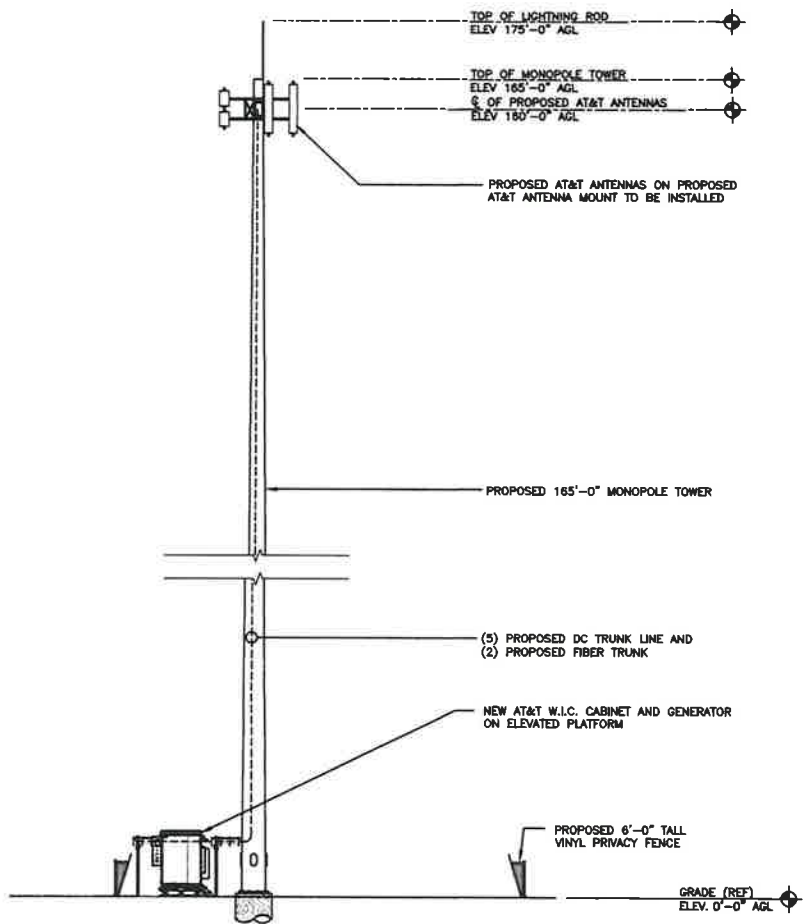
NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
ENLARGED SITE PLAN

SHEET NUMBER
LE-2

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY BY INTENT. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE SERVICES IS STRICTLY PROHIBITED.

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY TO WESTCHESTER SERVICES, INC. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO THE SERVICES PROVIDED BY WESTCHESTER SERVICES, INC. IS STRICTLY PROHIBITED.



RECEIVED
 JAN 17 2023
 PLANNING DEPT.

TOWER ELEVATION

SCALE: 1"=20'-0" (11x17)
 (OR 2"=20'-0" (22x34)) 1



NEXIUS
 CHERISA SMALL
 SITE ACQUISITION SPECIALIST
 PHONE: 609-946-7741
 CHERISA.SMALL@ANDVIUS.COM

WESTCHESTER SERVICES LLC
 604 PUNK GLEN
 BARRINGTON, IL 60010
 TELEPHONE: 847.277.0070
 FAX: 847.277.0080
 www.westchesterservicesllc.com

NSB
 15796368/NELO1282
 FIRST PRESBYTERIAN
 1220 BELLEVUE BLVD S
 BELLEVUE, NE 68005

REV.	DATE	DESCRIPTION	BY
C	01/17/23	REVISED LEASE EXHIBIT	NSB
B	12/14/22	REVISED LEASE EXHIBIT	NSB
A	09/16/22	LEASE EXHIBIT	JS

NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
TOWER ELEVATION

SHEET NUMBER
LE-3

RECEIVED

JAN 26 2023

PLANNING DEPT.

Ed Conoan
1209 Bellevue Blvd. So.

Questions to the Bellevue City Planning Commission Public Hearing 1/26/23
RE: Conditional use permit for Lot 1 , First Presbyterian Church

Is it safe to be around? What is the Peak Transmission power at the top and what is the RF Exposure @ 500 feet or 152 meters from the proposed 5g tower? There is a preschool in the church. I'm retired as are several other neighbors, so that's basically 24/7 exposure at 300-400 feet. What is the expected level of RF exposure at the preschool as a % of FCC guideline?

The conditional use permit requests an 80' fall zone instead of 100% of the height of the tower. Even if the tower fails at 80 feet won't the OPPD high power lines just south of the parking lot get hit? How much of Bellevue will go down if the power lines are struck by the tower?

Is this site suitable for a 165 foot tower? Did the planning department consider the site suitable even though it was created with broken road pavement as back fill? 10-15 years ago the southern parking lot was extended by backfilling the hill top with at least 30-50 Bellevue city dump trucks, full of what looked like broken pavement. Is this stable enough for a foundation?

Is this consistent with a residential neighborhood? The First Presbyterian church is a tax exempt entity. It pays no real estate taxes, I assume it pays no income taxes, and yet it seems to be in the business of leasing land for profit. How does that square with being non-profit? They are now going to profit from non-church related operations on their property. What is the public purpose for a tax exempt non-profit organizations operating for profit operations on their property in a residential neighborhood? Is this the first tower of a Cell Farm like Sherwood Forest Addition 500 Feet to the southwest?

Should the city reconsider the sidewalk waiver issued when the church added a significant northern wing? I was told by Linda Gray, church member that the waiver was granted because it was too expensive. Now the church has a new revenue source shouldn't the city and neighborhood benefit from a long overdue sidewalk to the north of their property line?

Record & Return To:
City of Bellevue Planning Department
1510 Wall Street
Bellevue, NE 68005

CITY OF BELLEVUE
CONDITIONAL USE PERMIT
LOT 1, FIRST PRESBYTERIAN CHURCH OF BELLEVUE,
LOCATED IN THE SOUTHEAST ¼ OF SECTION 25, T14N, R13E OF THE 6TH P.M., SARPY
COUNTY, NEBRASKA

Conditional Use Permit for New Cingular Wireless PCS, LLC

This Conditional Use Permit issued this 21st day of February, 2023 by the City of Bellevue, a municipal corporation in the County of Sarpy County, Nebraska (“City”) to New Cingular Wireless PCS, LLC, (“Applicant”), pursuant to the Bellevue Zoning Ordinance.

WHEREAS, First Presbyterian Church of Bellevue, is the legal owner of Lot 1, First Presbyterian Church of Bellevue, located in the Southeast ¼ of Section 25, Township 14 North, Range 13 East of the 6th P.M., Sarpy County, Nebraska, consisting of approximately 5.23 acres (“Property”). Applicant desires to use a portion of the Property for the construction of a 165’ monopole wireless communication tower and 40 foot by 60 foot fenced compound; and

WHEREAS, Applicant has applied for a conditional use permit for the purpose of using the Property as described above; and

WHEREAS, the Mayor and City Council of the City of Bellevue are agreeable to the issuance of a conditional use permit to the Applicant for such purpose, subject to certain conditions and agreements as hereinafter provided (the “Permit”).

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this Permit is issued to the Applicant to use the Property for the purpose described above, said use hereinafter being referred to interchangeably as a “Permitted Use” or “Use”.

Conditions of Permit

The conditions to which the granting of this Permit is subject are as follows:

1. Development and operation on the Property is governed by this Permit. The rights granted by this Permit are transferable and any breach of any terms hereof shall cause Permit to expire and terminate, subject to the rights of the Applicant to cure such default or deficiency as set forth in this Permit.
2. In respect to the proposed Use:

- a. A site plan showing the Property's boundaries, all existing and proposed easements, proposed structures, parking, access points, and drives, is attached hereto and incorporated herein as Exhibit "A".
 - b. The Property shall be developed and maintained in accordance with the site plan (Exhibit "A" and all other exhibits, if any, of this Agreement. Any modifications to the site plan must be submitted to the Planning Department for approval. Modifications of any other document or exhibit shall be subject to approval of the City, as directed by the City Administrator, unless otherwise expressly provided in the document or exhibit to be modified.
 - c. Applicant hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court costs) arising out of or resulting from the acts, omissions or negligence of the Applicant or its agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violations of any applicable environmental or safety law, rule or regulation relating to the Applicant's Use of the Property.
3. The Applicant's right to maintain the Use of the Property, as contemplated by this Permit, shall be based on the following conditions:
- a. A periodic inspection to determine compliance with the conditions of this Permit. The Permit may be revoked only upon a finding by the City that there is a material violation of the material terms of this Permit if the violation occurs after written notice from the City to Applicant and the opportunity to cure in the time and manner described below.
 - b. The Use authorized by this Permit must be initiated within 12 months after the date of the approval of this Permit otherwise such Permit shall become void.
 - c. The applicant may maintain a 165' monopole wireless communication tower and 40' x 60' fenced compound on the property.
 - d. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed from the Property at Applicant's expense within twelve (12) months of cessation of the Use of the Property.
 - e. All signage on Property related to Use shall be in conformance with the City Zoning Ordinance.
 - f. Applicant shall record this Permit with the Sarpy County Register of Deeds at Applicant's expense.
4. Notwithstanding any other provision herein to the contrary, this Permit, and all rights granted hereby, shall expire and terminate as to a Permitted Use hereunder upon the first of the following to occur:
- a. Applicant's abandonment of the Permitted Use. There shall be a presumption that the project on the Property has been abandoned if the Applicant fails to use the Property for the Permitted Uses for any twelve (12) consecutive month period.
 - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use, and such cancellation, revocation, denial or failure to maintain any federal, state or local rights are provided under laws, rules and regulations governing said permit.
 - c. Applicant's breach of other terms hereof and its failure to cure such breach in the time and manner set forth below.
5. In the event the Applicant fails to promptly remove any safety, environmental or other hazard or nuisance from the Property, or upon the expiration or termination of this Permit the Applicant fails to promptly remove any remaining safety, environmental or other hazard or nuisance, the City may at its option (but without any obligation to the Applicant or any third party to exercise said option) cause the

same to be removed at Applicant's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable in connection with the removal thereof) and the Applicant shall reimburse the City the costs incurred to remove the same. Applicant hereby irrevocably grants the City, its agents and employees, the rights, provided notice is furnished to the Applicant along with a reasonable time to remove or cure such hazard, to enter the Property and to take whatever action as is necessary or appropriate to remove any such hazards, nuisances in accordance with the terms of this Permit, and the right of the City to enter the Property as may be necessary or appropriate to carry out any other provision of this Permit.

6. If any provisions, or any portion thereof, contained in this Permit are held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

7. The conditions and terms of this Permit shall be binding upon Applicant, its successors and assigns.

a. Delay of City to terminate this Permit on account of breach of Applicant of any terms hereof in accordance with the terms hereof shall not constitute a waiver of City's right to terminate this Permit, unless the City has expressly waived said breach. A waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.

b. Cure Rights. Notwithstanding any other provision of this Permit to the contrary, Applicant shall be entitled to notice and opportunity to cure a breach of this Permit as follows. City will notify the Applicant of any breach of this Permit. Cure shall be commenced and completed as soon as possible and in all cases within thirty (30) days after City provides notice of breach; provided, however, in any case that cure cannot be completed within 30 days, additional time will be allowed, so long as cure is commenced within the time required in this Section b and diligently pursued and completed as soon as possible, and allowing additional time does not present or increase risk of harm to persons or property. City shall have the right to terminate this Permit if a breach is not timely cured.

c. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this Permit.

d. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed as follows:

New Cingular Wireless PCS, LLC
15 Park Place Centre
Swansea, IL 62226

e. All recitals at the beginning of this document and exhibits or other documents referenced in this Permit shall be incorporated herein by reference.

Effective Date:

This Permit shall take effect upon the filing hereof with the City Clerk a signed original hereof.

The City of Bellevue

By: _____
Rusty Hike, Mayor

ATTEST:

Susan Kluthe, City Clerk

STATE OF NEBRASKA)
)SS:
COUNTY OF SARPY)

The undersigned, a notary public qualified in and for said county, does hereby certify that Rusty Hike and Susan Kluthe, whose names as Mayor and City Clerk respectively, of the City of Bellevue, Nebraska, a municipal corporation, are signed to the foregoing instrument and who are each known to me and known to be such officers, acknowledged before me on this day and they, in their respective capacities as Mayor and Deputy City Clerk, executed and delivered said instrument as their voluntary act and deed and voluntary act and deed of such corporation.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public

Steve Ward for New Cingular Wireless PCS, LLC

STATE OF ILLINOIS)
)SS:
COUNTY OF _____)

The undersigned, a notary public qualified in and for said county, does hereby certify that Steve Ward signed the foregoing instrument, acknowledged before me on this day and he executed and delivered said instrument as his voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public

Marty Davis for First Presbyterian Church of Bellevue

STATE OF NEBRASKA)
)SS:
COUNTY OF _____)

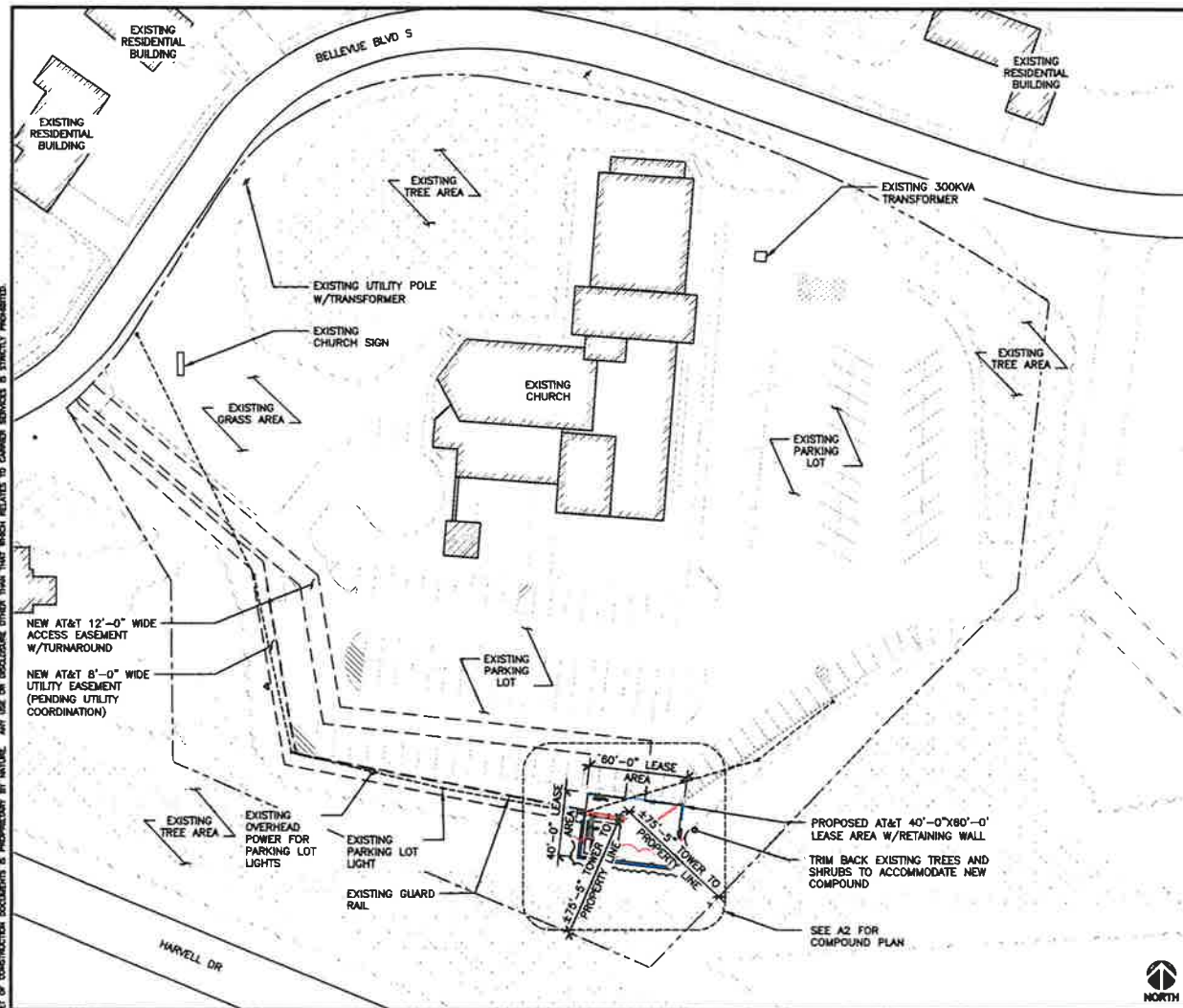
The undersigned, a notary public qualified in and for said county, does hereby certify that Marty Davis signed the foregoing instrument, acknowledged before me on this day and he executed and delivered said instrument as his voluntary act and deed.

Witness my hand and notarial seal this ____ day of _____, 2023.

Notary Public

FA # : 15796368
 PTN # : 3525A13C1N
 PACE # : MRUMW051411

RECEIVED
 JAN 17 2023
 PLANNING DEPT.



ENLARGED SITE PLAN

SCALE 1"=75'-0" (11x17)
 (OR) 2"=300'-0" (22x34) 2 AERIAL SCALE W.T.C. 1



NSB
 15796368/NEL01282
 FIRST PRESBYTERIAN
 1220 BELLEVUE BLVD S
 BELLEVUE, NE 68005

REV.	DATE	DESCRIPTION	BY
0	01/17/23	REVISED LEASE COORDINATE	NSM
B	12/14/22	REVISED LEASE COORDINATE	NSM
A	08/18/22	LEASE COORDINATE	JS

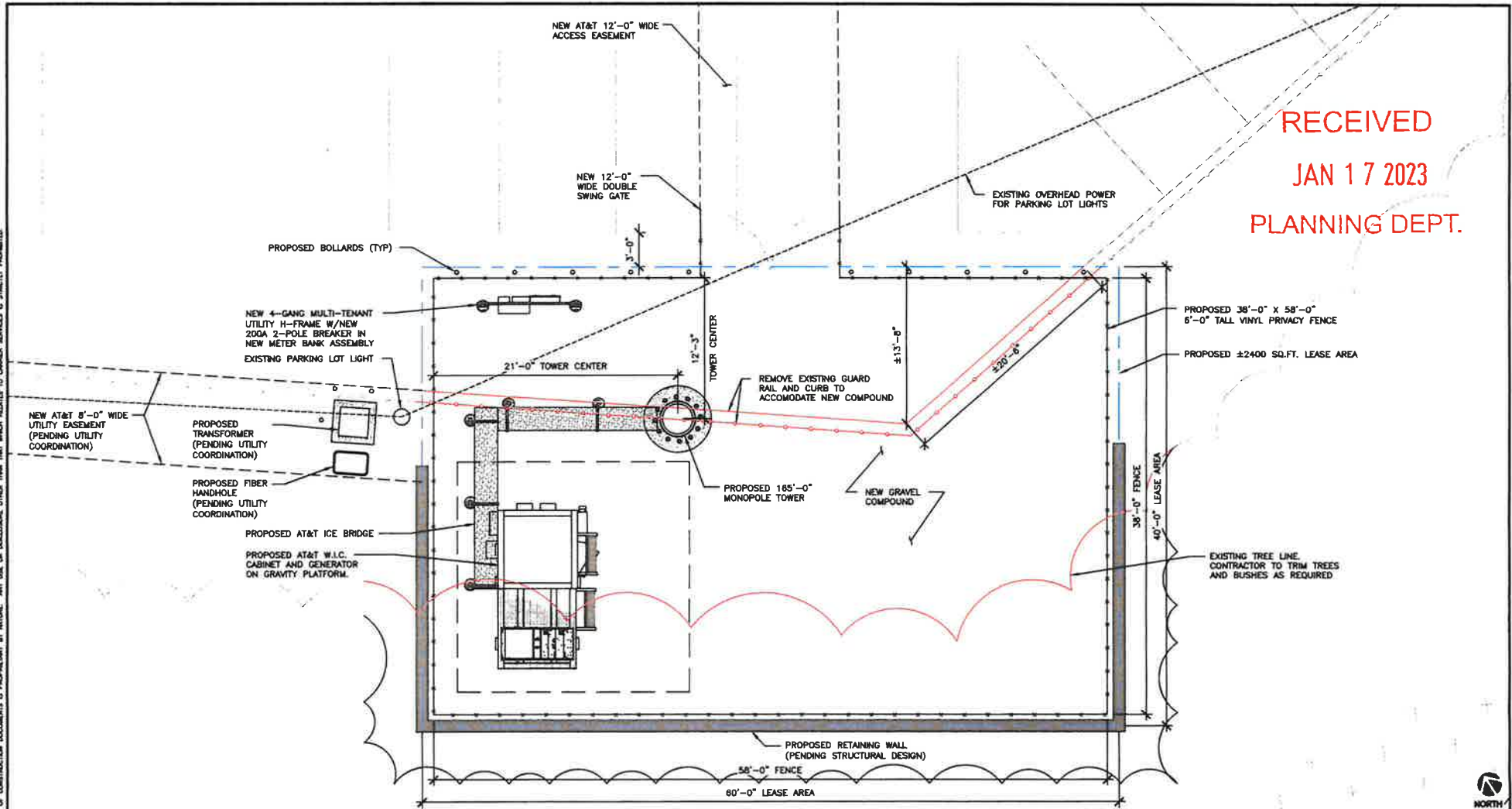
SHEET TITLE
OVERALL SITE PLAN & AERIAL

SHEET NUMBER
LE-1

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY TO NEXUS. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CANNON SERVICES IS STRICTLY PROHIBITED.

NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

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THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PROPRIETARY TO AT&T. ANY USE OR DISCLOSURE OTHER THAN THAT WHICH RELATES TO CARRIER SERVICES IS STRICTLY PROHIBITED.

ENLARGED PLAN

SCALE 1/8"=1'-0" (1 in 17)
 (OR 1/16"=1'-0" (1 in 16))

1

AT&T

320 NATIONAL PARKWAY
 SECAUENBURG, NJ 08173

NEXUS

CHERRIA SMALL
 AITE ACQUISITION SPECIALIST
 PHONE: 302-866-7141
 CHERIA.SMALL@NEXUS.COM

WESTCHESTER SERVICES LLC

604 FOX GLEN
 HARRINGTON, IL 61811
 TELEPHONE: 847.277.0070
 FAX: 847.277.0080
 ac@westchester-services.com

NSB
 15796368/NEL01282
 FIRST PRESBYTERIAN
 1220 BELLEVUE BLVD S
 BELLEVUE, NE 68005

REV.	DATE	DESCRIPTION	BY	CHKD.
0	01/17/23	REVISED LEASE DIBEST	NSB	
1	12/14/22	REVISED LEASE DIBEST	NSB	
A	08/18/22	LEASE DIBEST	JE	

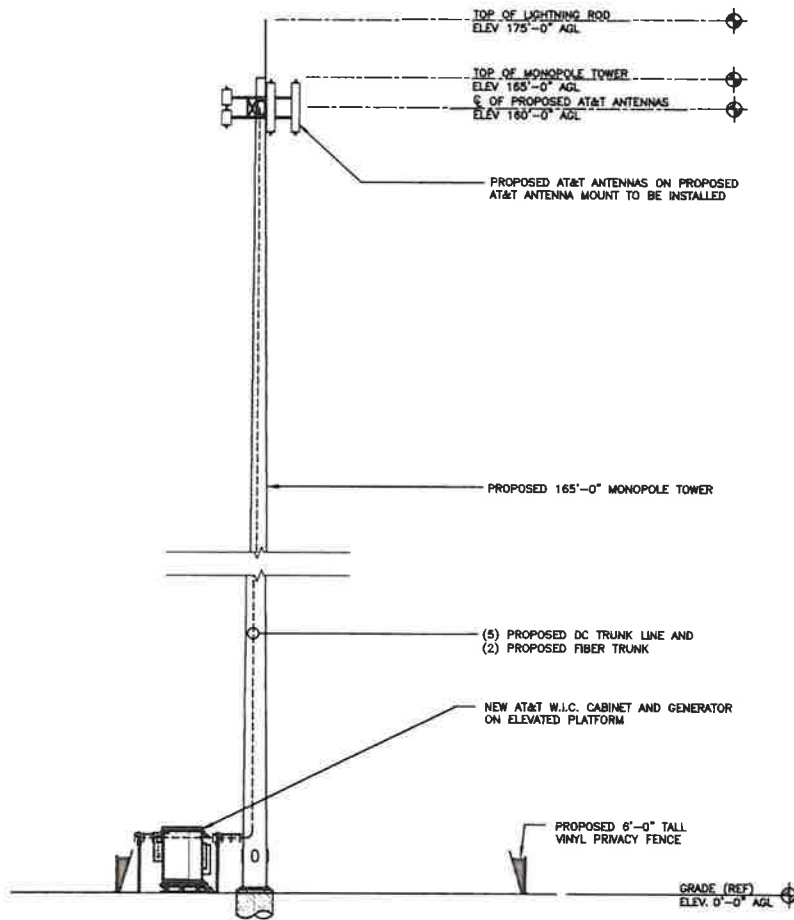
NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET

SHEET TITLE
ENLARGED SITE PLAN

SHEET NUMBER
LE-2






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 PLANNING DEPT.

TOWER ELEVATION

SCALE: 1"=30'-0" (11x17)
 (OR) 1"=60'-0" (22x34) 1

 <small>322 NATIONAL PARKWAY SCHENECTADY, NY 12302</small>	 <small>CHEMUNDA SMALL 215 ACADAMISTON (SPECIALIST) PHONE 420-846-7174 CHEMUNDA.SMALL@NEXIUS.COM</small>	 <small>604 FOX GLEN BARRINGTON, IL 60010 TELEPHONE: 847.277.0070 FAX: 847.277.0084 us@westchesterservices.com</small>	NSB 15796368/NEL01282 FIRST PRESBYTERIAN 1220 BELLEVUE BLVD S BELLEVUE, NE 68005	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>REV.</th> <th>DATE</th> <th>DESCRIPTION</th> <th>BY</th> </tr> </thead> <tbody> <tr> <td>C</td> <td>01/17/23</td> <td>REVISED LINE EXHIBIT</td> <td>NSB</td> </tr> <tr> <td>B</td> <td>12/14/22</td> <td>REVISED LINE EXHIBIT</td> <td>NSB</td> </tr> <tr> <td>A</td> <td>08/18/22</td> <td>LINE EXHIBIT</td> <td>JS</td> </tr> </tbody> </table> <p style="font-size: small;">NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET</p>	REV.	DATE	DESCRIPTION	BY	C	01/17/23	REVISED LINE EXHIBIT	NSB	B	12/14/22	REVISED LINE EXHIBIT	NSB	A	08/18/22	LINE EXHIBIT	JS	SHEET TITLE <h2 style="margin: 0;">TOWER ELEVATION</h2>	SHEET NUMBER <h2 style="margin: 0;">LE-3</h2>
REV.	DATE	DESCRIPTION	BY																			
C	01/17/23	REVISED LINE EXHIBIT	NSB																			
B	12/14/22	REVISED LINE EXHIBIT	NSB																			
A	08/18/22	LINE EXHIBIT	JS																			

Ed & Beth Conoan
1209 Bellevue Blvd. So.
(402) 291-7926 econoan@cox.net

RECEIVED
FEB 15 2023
CITY CLERK

Questions to the Bellevue City Council Public Hearing 2/21/23

RE: Conditional use permit for Lot 1 , First Presbyterian Church – Proposal for a 165 foot Monopole Cell Tower.

Is this consistent with a residential neighborhood? The Lot is currently zoned RS-84 with a 35 Foot Maximum height restriction. A 165 foot proposed tower would be an order of magnitude of **3.7 times the current height standard**, (see exhibits A-1 and A-2). This is not a small variance. The tower will exceed the tree line by at least 85 feet. The elevation of the site is 1,210 feet, one of the highest areas in Bellevue. Once built, the expected profile over the city will add a visual blight to the skyline for 30 to 50 years.

Neighborhood Aesthetics. The surrounding neighborhood is large wooded lots. The proposed tower does not fit in a residential neighborhood. Once the cell tower is established on the ridge top, more will come. An example of the proliferation is within 500 feet, at Sherwood additions, with many cell towers placed in a neighborhood. When is enough, enough?

Height Requirements for 5g towers is 20-30 Feet. The trend for 5g placement is mini towers on top of street poles. Because 5g is a much shorter RF wavelength than 3g or 4g, it has trouble penetrating walls and trees, the trend will be to place mini cell towers every 1,000 feet on street poles, (see Exhibit B). If this is coming to Bellevue, then why allow the placement of massive tower which will soon be obsolete?

The applicant said that they reviewed the two towers on Little John Road and found them to be of insufficient height, at 100 Feet and 145 Feet. Given the nature of 5g and the trend for line of sight street level mini towers, **what is the real intended reach of the proposed tower?** If they are intending to connect to towers up and down the I-29 corridor, shouldn't the tower be place in a more rural setting where height is not as much of a visual problem and service the city with appropriate sized towers?

Who Benefits and who pays for the proposed tower? The First Presbyterian Church certainly benefits. They will be compensated for the use of their land. If this business model works, then the proposed tower will probably be the first of many towers. What is the public purpose of allowing a tax exempt organization operating a for-profit operation in a residential neighborhood? Homeowners within the line-of-sight may suffer a 10-20% reduction in home value. According to the county assessor's valuation, the surrounding residential valuation is \$3.3 million. The cumulative impaired value is in range of \$330,000 to \$660,000. Clearly the neighborhood households will pay for the enrichment of the Church. How is this a good public purpose?

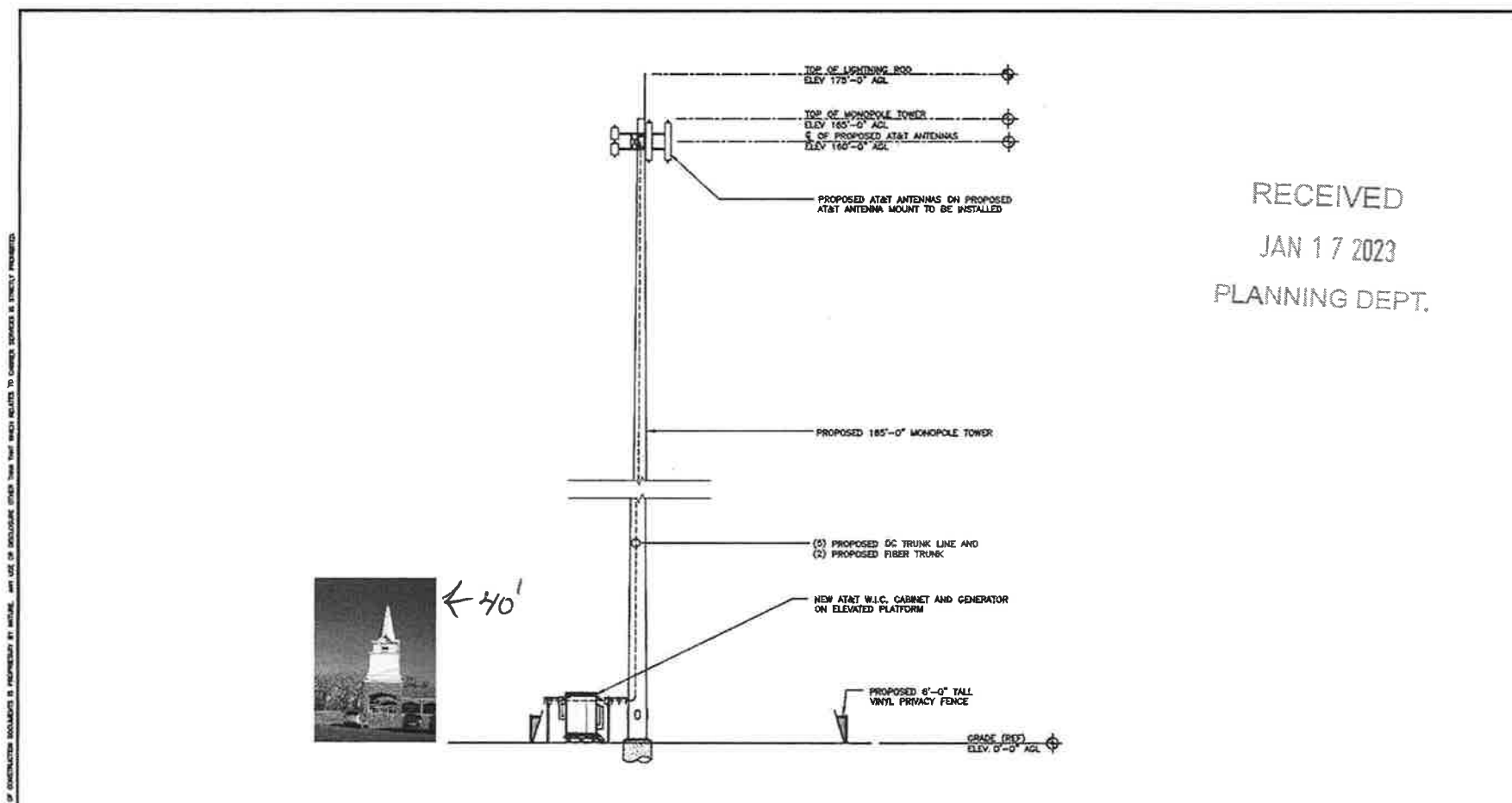
Is this site suitable for a 165 foot tower? The proposed site is over anywhere from 10 to 30 feet of broken pavement as a landfill. Did the planning department consider the fill suitable for a build and will they require the builder to take core samples before building?

The conditional use permit requests an 80' fall zone instead of 100% of the height of the tower. Even if the tower fails at 80 feet, according to OPPD the high power lines just south of the parking lot are within 70 feet of the tower. Does the 80 foot fall zone account for a 10 foot lighting rod on top of the tower?

Recommended Alternative Actions:

- Place the antennas in or on the existing church steeple. It has been done before.
- Do not build a 165 Foot tower but rather deploy mini towers on street lights which will be the industry standard within cities.
- If this location is essential for AT&T's 5g then it needs to be scaled down to a 20 Foot tower, much like the one they operate at 301 Avian Circle, (See Exhibit B). If it's appropriate there, it should work at the church. Anything else is AT&T capitalizing on a willing seller, to maximize lease revenue sold below their required height.
- If the provider needs a 165 foot monopole placed at 1,210 feet elevation, then it should be placed within an industrial or commercial tract not in a residential neighborhood.

Exhibit A-1



RECEIVED
 JAN 17 2023
 PLANNING DEPT.

TOWER ELEVATION

	<p>NEXIUS <small>CLERK MAIL 875 ALEXANDER BLVD SUITE 200 FORT WORTH, TX 76102 C-8688.8688@AT&T.COM</small></p>	<p>WESTCHESTER SERVICES LLC <small>604 PLYMOUTH BASKINGSTON, NJ 08818 TELEPHONE: 973.277.0676 FAX: 973.277.0688 info@westchesterservices.com</small></p>	<p>NSB 15796368/NEL01282 FIRST PRESBYTERIAN 1220 BELLEVUE BLVD S BELLEVUE, NE 68005</p>	<table border="1"> <thead> <tr> <th>NO.</th> <th>DATE</th> <th>REVISION</th> <th>BY</th> <th>CHKD</th> </tr> </thead> <tbody> <tr> <td>0</td> <td>01/17/23</td> <td>REVISED LENSE COVER</td> <td>BSM</td> <td></td> </tr> <tr> <td>B</td> <td>12/14/22</td> <td>REVISED LENSE COVER</td> <td>BSM</td> <td></td> </tr> <tr> <td>A</td> <td>01/18/23</td> <td>LENS COVER</td> <td>JS</td> <td></td> </tr> </tbody> </table> <p>NOT FOR CONSTRUCTION UNLESS LABELED AS CONSTRUCTION SET</p>	NO.	DATE	REVISION	BY	CHKD	0	01/17/23	REVISED LENSE COVER	BSM		B	12/14/22	REVISED LENSE COVER	BSM		A	01/18/23	LENS COVER	JS		<p>SHEET TITLE TOWER ELEVATION</p>	<p>SHEET NUMBER LE-3</p>
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B	12/14/22	REVISED LENSE COVER	BSM																							
A	01/18/23	LENS COVER	JS																							

SCALE: 1"=50'-0" (11x17)
 (10) 2"=50'-0" (24x36) 1

THE INFORMATION CONTAINED IN THIS SET OF CONSTRUCTION DOCUMENTS IS PREPARED BY INSCALE, INC. USE OF THIS DOCUMENT IS LIMITED TO THE PROJECT AND SITE SPECIFICALLY IDENTIFIED HEREIN. ANY USE OF THIS DOCUMENT FOR OTHER PROJECTS OR SITES WITHOUT THE WRITTEN PERMISSION OF INSCALE, INC. IS STRICTLY PROHIBITED.

Exhibit A-2 Height Comparison of the Proposed Tower to Church Steeple



Exhibit B 301 Avian Circle, Elevation 1,208 feet, AT&T Mobility



We oppose the proposed 165 Foot cell tower at the First Presbyterian Church at 1220 Bellevue Blvd. So., therefore we are asking the city council to vote against a conditional use permit which would allow a cell tower to be built 3.7 times the current height standard.

Date	Signature	Address
1 2/11/23	Ed Corson Beth Crocan	1209 Bellevue Blvd. So.
2 2/11/23	Stella Hayden Jms M. [unclear]	1213 Bellevue Blvd So.
3 2/11/23	Will Wood	1300 LORD BLVD.
4 2/11/23	[unclear]	1105 Bellevue Blvd S.
5 12-11-23	[unclear]	1108 Bellevue Blvd S
6 2/11/23	Patricia J. Carlson Constance L. Carlson	1309 LITTLE JOHN ROAD
7 2-11-23	[unclear]	1981 Little John Rd
8 2-11-23	Patrice Rieple	1204 Bellevue Blvd S.
9 2-12-23	[unclear]	1109 Bellevue Blvd So Bellevue Ne 68005
10 2-12-23	[unclear] Tyrone Fryer	1210 Bellevue Blvd S
11 2-12-23	[unclear]	1211 Bellevue Blvd S.
12 2/13/23	Karen Batchelor	1219 Bellevue Blvd. So.
13 2/19/23	Mercedes A. Leonard	1106 Bellevue Blvd. So.
14 2/19/23	Patricia J. Leonard	1106 Bellevue Blvd So.

We oppose the proposed 165 Foot cell tower at the First Presbyterian Church at 1220 Bellevue Blvd. So., therefore we are asking the city council to vote against a conditional use permit which would allow a cell tower to be built 3.7 times the current height standard.

- 15 2-20-23 David D. Anderson
Kathryn Ewing 1001 Bellevue Blvd So 68005
- 16 2-20-23 M. Lynn
Jeff N 1410 Franklin St. # 68005
- 17 _____
- 18 _____
- 19 _____
- 20 _____
- 21 _____

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

15a.
2/21/2023

COUNCIL MEETING DATE: February 21, 2023		SUBMITTED BY: Tammi Palm	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input checked="" type="checkbox"/>	CURRENT BUSINESS <input type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Request to approve the Redevelopment Plan for Lot 2, Heere and There Addition. Applicant: Heere, There & Everywhere, LLC. General location: 2306 Lincoln Rd. Case #: ECD-60.

SYNOPSIS/BACKGROUND:

Heere, There, & Everywhere, LLC is requesting approval of a redevelopment plan for Lot 2, Heere and There Addition. The site is approximately 1.18 acres in size and consists of one lot located on the south side of Mission Avenue, generally located near 2306 Lincoln Road. The plan proposes redevelopment of the existing property by constructing nine "over/under" duplex buildings consisting of eighteen two-bedroom/two-bath units, and three "carriage house" buildings consisting of five one-bedroom units, as well as fifteen garages. The proposed development is described as a "mix of missing middle housing" which will be market-rate affordable. The development will also have a central gathering area with a playground for its residents. The compound will be screened with a 6' tall vinyl privacy fence. A new street-scape and landscaping are also proposed as part of this plan.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

The Planning Department and Planning Commission recommended approval of this request.

ATTACHMENTS:

1. <input type="text" value="Planning Commission Recommendation Sheet"/>	2. <input type="text" value="Staff Report"/>	3. <input type="text" value="Resolution #2023-04"/>
4. <input type="text"/>	5. <input type="text"/>	6. <input type="text"/>

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

Cory Mathis
Tammi Palm
Jan 9 Ken

City of Bellevue

PLANNING COMMISSION RECOMMENDATION

APPLICANT: Heere, There & Everywhere, LLC

CASE #: ECD-60

CITY COUNCIL HEARING DATE: February 21, 2023

REQUEST: to approve the Redevelopment Plan for Lot 2, Heere and There Addition located in the Southwest ¼ of Section 36, T14N, R13E of the 6th P.M. Sarpy County, Nebraska.

On January 26, 2023, the City of Bellevue Planning Commission voted seven yes, zero no, two absent and zero abstained:

APPROVAL based upon conformance with the Comprehensive Plan, elimination of a blighted and substandard area, conformance with the requirements of the State Statutes, and the opportunity for redevelopment along Lincoln Road.

VOTE:

Yes:	Seven:	No:	Zero:	Abstain:	Zero:	Absent:	Two:
	Hankins						Aerni
	Ritz						Sims
	Cutsforth						
	Ackley						
	Bennett						
	Jacobson						
	Perrin						

Planning Commission Hearing (s) was held on: January 26, 2023



City of Bellevue
Planning Department
1510 Wall St. • Bellevue, Nebraska • 68005 • 402-293-3026

To: City Council
Mayor Rusty Hike
City Administrator Jim Ristow
From: Angela Curry, Assistant Planning Manager
Date: February 13, 2023
Subject: Lot 2, Heere and Theree Redevelopment Plan

Attached for your review and recommendation is the Redevelopment Plan for Heere, Theree & Everywhere, LLC. This plan proposes the redevelopment of the vacant property of Lot 2, Heere and Theree Addition. This area was previously designated as blighted and substandard by the City Council. Approval of the Redevelopment Plan is the next step in the redevelopment process.

The site is approximately 1.18 acres in size and consists of one lot located on the south side of Mission Avenue generally located near 2306 Lincoln Road. The property contains a small vacant building which will be demolished under this plan. The Lincoln Road corridor serves as an entrance to Offutt Airforce Base.

The applicant is proposing redevelopment of the property by constructing nine “over/under” duplex buildings consisting of eighteen two-bedroom/two-bath units, and three “carriage house” buildings consisting of five one-bedroom units, as well as fifteen garages. The proposed development is described as a “mix of missing middle housing” which will be market-rate affordable. The development will also have a central gathering area with a playground for its residents. A new streetscape and landscaping are also proposed as part of this plan.

The applicant is estimating the property’s assessed valuation to be \$5,600,000 upon full build-out of the site. The applicant is using \$100,000 as the base value.

The Redevelopment Plan states there is approximately \$1,100,000 of Tax Increment Financing (TIF) eligible redevelopment costs associated with the project. The applicant is proposing the use of TIF to fund \$1,100,000 of these expenses. The breakdown of costs and

data supporting the payback of TIF expenditures is attached to the Redevelopment Plan for your review.

The Planning Department believes this project will be a benefit to the city through the improvement of a blighted and substandard area with a parcel that has remained vacant and underutilized. The Comprehensive Plan designates this area as multi-family residential. The site is currently zoned BGM (Metropolitan General Business), which allows for multi-family residential and mixed uses. The proposed residential development is consistent with the existing uses adjacent to the property and conforms to the city's overall plan for development.

The Redevelopment Plan meets the requirements of Section 18-2111 of Nebraska State Statutes with respect to required plan contents. As required by Nebraska State Statutes, the Planning Department advertised the public hearing on this application twice in local publications and sent notification to the governing bodies of Sarpy County, the Papio-Missouri River NRD, Metropolitan Community College, ESU #3, and the Bellevue Public School District.

PLANNING DEPARTMENT RECOMMENDATION:

The Planning Department recommends approval of the Heere, There, & Everywhere Redevelopment Plan based on conformance with the Comprehensive Plan, elimination of a blighted and substandard area, conformance with the requirements of the State Statutes, and the opportunity for redevelopment along Lincoln Road.

PLANNING COMMISSION RECOMMENDATION:

The Planning Commission recommends approval of the Heere, There, & Everywhere Redevelopment Plan based on conformance with the Comprehensive Plan, elimination of a blighted and substandard area, conformance with the requirements of the State Statutes, and the opportunity for redevelopment along Lincoln Road.

2302 LINCOLN ROAD
REDEVELOPMENT PROJECT PLAN

BELLEVUE, NEBRASKA

December __, 2022

Submitted by:

Applicant:

HEERE, THEERE & EVERYWHEERE, LLC
5920 S 118th Circle
Omaha, Nebraska 68137

Attorneys for Applicant:

Brent W. Beller
Fullenkamp Jobeun Johnson & Beller LLP
11440 West Center Road, Suite C
Omaha, Nebraska 68144

RECEIVED
JAN 25 2023
PLANNING DEPT.

Introduction:

The attached redevelopment plan proposes to redevelop a 1.18-acre site on Lincoln Road which will serve as a gateway to Olde Towne Bellevue, generally located at 2302 Lincoln Road, Bellevue, Nebraska 68005, into a new residential area which will include a mix of Missing Middle housing including residential duplex-apartments and carriage houses (market-rate affordable). The plan encompasses all of Lot 2 of Heere and There Addition. The redevelopment project site includes all of the abutting and adjacent rights-of-way which will receive improvement as may be required by the City of Bellevue, Nebraska, which plan will include the installation of a more pedestrian oriented streetscape with accompanying landscaping, which will add vibrancy to Lincoln Road and the area which serves as an alternate entrance to Offutt Air Force Base.

Site History:

The proposed redevelopment site is land currently owned by 1st City Development, upon which a vacant retail structure is currently located. The site is bounded by Lincoln Road on the East. The site is bounded on the North by an existing development consisting of multifamily and retail uses, on the South by Offutt Air Force Base housing and Single Family Residential to the West, as further depicted on the Site Plan attached hereto. All buildings and improvements located within the redevelopment site will be demolished. Repurposing the existing building is cost prohibitive, and contrary to the Applicant's revitalization goals for Lincoln Road which serves as a gateway to both Old Towne Bellevue and Offutt's Strategic Air Command Base. Leaving the existing building vacant and unused will cause negative consequences for the site itself, and the many businesses and residential uses that neighbor the site. The costs associated with the demolition, softs costs, and site work for the project will cost approximately \$100,000. The Applicant is receiving the land via a land contribution agreement from an entity 100% owned and controlled by a principal of 1st City Development, LLC. 1st City Development originally acquired the ground in 2022, subdivided and rezoned the land to BGM Zoning for its Future Intended Use.

As depicted on the attached Site Plan attached as Exhibit B (the "Site Plan"), the Applicant proposes to construct nine (9) over/under Duplex buildings consisting of 18 two-bedroom/two bath units around a central courtyard, three Carriage House buildings consisting of five one-bedroom units and 15 garages, which buildings will collectively cost approximately \$3,500,000. Mixed in with the proposed buildings will be a central courtyard serving as a resident gathering area which will connect to the new streetscape that will be installed along the public rights-of-way that borders the redevelopment site. The approximate costs for the new streetscape are \$150,000. The total project costs will be approximately \$5,525,000. Accordingly, the tax increment financing ("TIF") eligible costs are in the amount of \$1,100,000. The itemized breakdown of TIF eligible costs is attached hereto as Exhibit A. The approval of the redevelopment plan will facilitate the rehabilitation and reuse of the proposed project site by creating the opportunity for TIF to be used as a financing mechanism to cover some of the TIF eligible costs. Applicant will use the value of \$100,000 as its base value for purposes of calculating TIF Incremental value. The proposed valuation upon full build-out of the site is expected to be approximately \$5,600,000, Exhibit B is the Site Plan for the proposed redevelopment site, which reflects the boundaries of the site and the current zoning and use of the site (Note: the lot located North of the existing property, as referenced on the Site Plan, is not a part of this Redevelopment Plan.

In its present condition, the site would remain as an economic liability to this area and a detriment to the redevelopment of this area within the City. With the utilization of TIF, new vibrancy will most likely

be brought to this important and historical part of the City of Bellevue. This area of the City has not experienced the level of growth as demonstrated in other areas of the City and will not experience growth unless the City takes an aggressive approach to assist in the redevelopment of the site and area by utilizing all the economic tools available, most notably TIF.

Substandard and Blighted:

The property is located within a community redevelopment area, which has been determined by the City of Bellevue, Nebraska, to be blighted and substandard in accordance with Neb. Rev. Stat. §18-2103.

Land Use/Zoning/Site Redevelopment:

The site is currently zoned Metropolitan General Business (BGM). The Applicant will work with the City Planning Department regarding any and all land use approvals that may be required for the proposed redevelopment. Notwithstanding that the project plans to enhance the streetscape of the public rights-of-ways, the proposed redevelopment will not result in any material modification to the street layout, street levels or grades, or building codes and ordinances of the site.

Utilities/Infrastructure:

Currently, utility services are located in public right-of-ways adjacent to the site and which may be required to be moved in connection with the redevelopment of the site and as required by the City. Additional utility services and public facilities will be added as may be necessary or required by the redevelopment of the site and as required by the City. The Applicant will work with the City regarding any site enhancements which may affect any public rights-of-ways, alleys or sidewalk areas.

The redevelopment provides the mechanism to fund the public improvement costs through the use of TIF. The costs of the redevelopment and public infrastructure improvements are estimated to be \$5,525,000 (See Exhibit A).

TIF Compliance:

The request meets the necessary requirements for consideration under the Nebraska Community Development Law. The project will provide new employment opportunities in the City. It is anticipated that 2 new jobs will be created in connection with the project, and upwards of 50 construction jobs will be created in connection with the project development. The TIF proceeds will be used to cover all public improvement costs with the remaining balance of the TIF to be used for site specific TIF eligible costs. The project will have a positive economic growth to the City of Bellevue. Further, as set forth on Exhibit C attached hereto, the up-front costs associated with the acquisition and rehabilitation of the proposed site would be prohibitively high without TIF. As such, the Applicant requests TIF to help offset these costs such that the proposed redevelopment is feasible.

Financing:

The estimated assessed value of the project upon full build-out is estimated to be \$5,600,000. Accordingly, the project will support the TIF request in the principal amount of \$1,100,000, plus interest at the rate of six (6.75%) percent per annum. The amortization schedule is attached hereto as Exhibit D. The remaining project costs will be paid through equity and debt financing.

TIF Cost Benefit Analysis:

The project provides redevelopment in an area of the City that was once used as a trailer park, but is now ripe for a medium density residential use and filling an ever increasing void of Missing Middle housing, which will add new vibrancy to the area. Accordingly, it is necessary to implement innovative financing approaches to be used to encourage redevelopment and to support the potential growth that will occur because of this and other improvements that are likely to follow within the surrounding area. The following benefits will result from the redevelopment of this area through the use of TIF:

(1) The use of TIF will not result in tax shifts. By using the base value of \$100,000, the various public authorities will gain some level of new property tax valuation, and only the increased value of revenues resulting from the improvements will be applied to the cost of the improvements through the use of TIF.

(2) No community public service needs will be generated as a result of this project. The proposed TIF will be used, in part, to offset public infrastructure costs that are eligible for TIF.

(3) The development of this site will allow for the continued growth of market rate affordable housing in the area and in particular housing which will serve the growing needs of employers in the area. Additionally, the revitalization of the site will have a positive impact on the employers and employees in the immediate area surrounding the site. Specifically, the redevelopment will continue to add viability to the surrounding area, and will make the site more aesthetically pleasing, which will result in a positive impact on the foot traffic of the surrounding businesses. As the Olde Town Bellevue area becomes a destination for the citizens of Bellevue, and the other areas of the Omaha Metropolitan area, to visit and enjoy the redevelopment along Lincoln Road will become an important link in this growth.

(4) The development of this site will be an impetus for further growth and a catalyst to providing the additional goods necessary to serve this part of the City.

(5) The long-term benefits resulting from the elimination of the substandard and blight conditions and the increase in the tax base resulting from the development are other valid justifications for the use of TIF for this project.

The project site meets the requirements of the City's Comprehensive Development Plan and City Ordinances as well as the Nebraska Community Redevelopment Law that establishes the process and requirements for the approval of this Redevelopment Plan.

Based upon the forgoing, the applicant respectfully requests the principal amount of TIF equal to \$1,100,000.

Respectfully Submitted



By: _____
Brent W. Beller on behalf of the Applicant
Fullenkamp, Jobeun, Johnson, & Beller LLP
11440 West Center Road
Omaha, Nebraska 68144
(402) 334-0700

Exhibit A

TIF ELIGIBLE COSTS

Demo	\$100,000.00
Purchase	\$100,000.00
Sidewalks/Streetscape	\$200,000.00
Engineering	\$35,000.00
Grading & Landscaping	\$100,000.00
Sewer & Water	\$250,000.00
Architect	\$315,000.00
Net Costs	\$1,100,000.00

SITE PLAN GENERAL NOTES

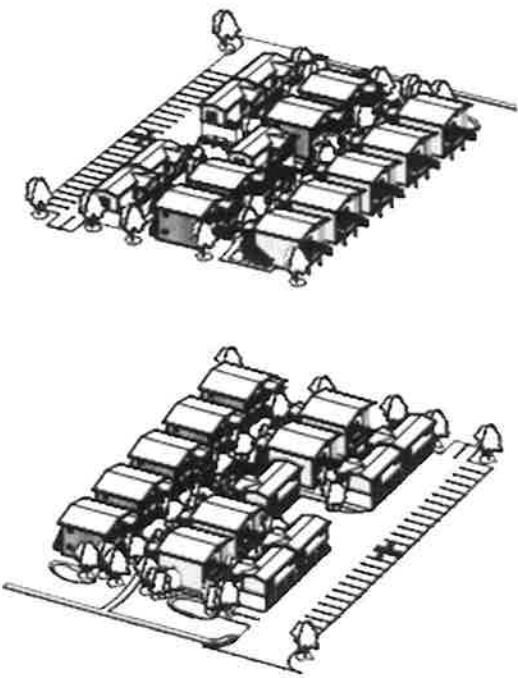
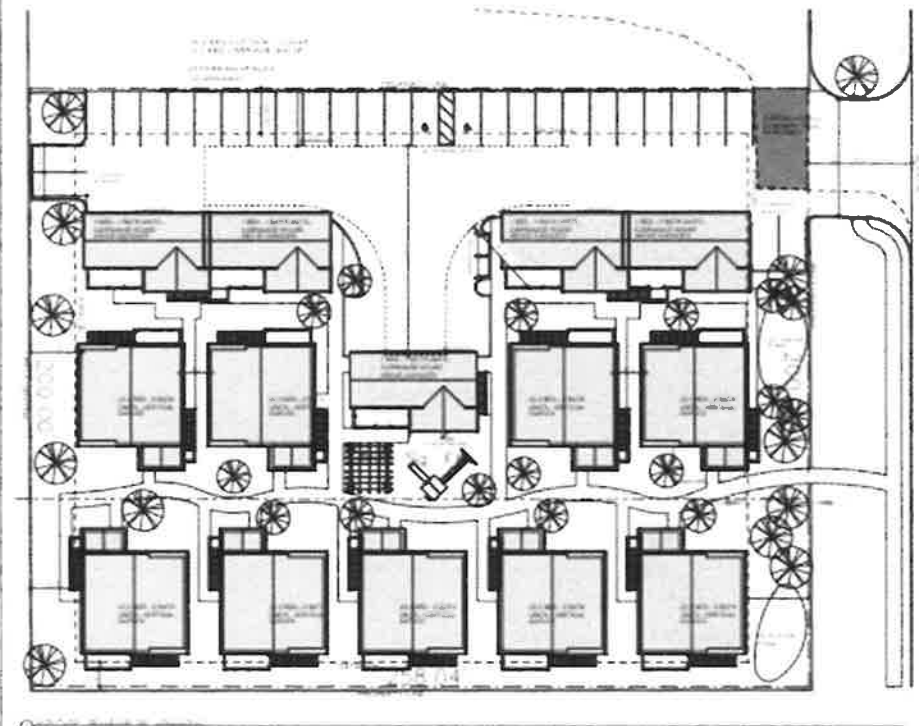


Exhibit B
The Site Plan

Exhibit C
PROFORMA

Demo	\$100,000.00
Purchase	\$100,000.00
Sidewalks ect.	\$200,000.00
Engineering	\$35,000.00
Grading & Landscaping	\$100,000.00
Sewer & Water	\$250,000.00
Architect	\$315,000.00
Net Costs	\$1,100,000.00

20 yr @ 6%

Construction	\$4,425,000.00	Without TIF	With TIF
		\$.00	\$.00 Monthly
Total	\$5,525,000.00	\$.00	\$.00 Annually

Exhibit D

AMORTIZATION SCHEDULE

First Installment Month	3	3/31/2025	TIF Loan Advance Rate	100%
Second Installment Month	7	7/31/2025	TIF Loan Amount	1,098,766
Current TAV <i>(Current)</i>	103,216		Interest Rate	6.75%
As-Complete TAV	5,592,479		Amortization	15.00
First Installment Date	7/15/2024		Term	13.50
Tax Levy	2.78274%		Payment Periods/Yr	2.00
Treasurer's Fee	1.0%		Payments/Period	556,809
Discount/Interest Rate	6.75%		Payments/Yr	1,117,619
Net Present Value	1,098,766			

Year	Date	Total TAV	Less Pre-Dev Base TAV	TIF TAV	Mill Rate	Gross TIF Tax Revenue	Less Treasurer's Fee	Tax Revenue Available for TIF DS	TIF Loan Beg. Bal.	Principal	Interest	TIF DS PMT	TIF Loan End Bal.	DSCR	
2025	1.0	3/31/2025	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	1,098,766	21,726	37,683	58,809	1,077,040	1.05x
2025	1.0	7/31/2025	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	1,077,040	22,459	36,350	58,809	1,054,581	1.05x
2026	2.0	3/31/2026	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	1,054,581	23,217	35,592	58,809	1,031,363	1.05x
2026	2.0	7/31/2026	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	1,031,363	24,001	34,809	58,809	1,007,362	1.05x
2027	3.0	3/31/2027	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	1,007,362	24,811	33,998	58,809	982,551	1.05x
2027	3.0	7/31/2027	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	982,551	25,648	33,161	58,809	956,903	1.05x
2028	4.0	3/31/2028	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	956,903	26,514	32,295	58,809	930,389	1.05x
2028	4.0	7/31/2028	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	930,389	27,409	31,401	58,809	902,980	1.05x
2029	5.0	3/31/2029	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	902,980	28,334	30,476	58,809	874,647	1.05x
2029	5.0	7/31/2029	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	874,647	29,290	29,519	58,809	845,356	1.05x
2030	6.0	3/31/2030	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	845,356	30,279	28,531	58,809	815,078	1.05x
2030	6.0	7/31/2030	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	815,078	31,301	27,509	58,809	783,777	1.05x
2031	7.0	3/31/2031	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	783,777	32,357	26,452	58,809	751,420	1.05x
2031	7.0	7/31/2031	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	751,420	33,449	25,360	58,809	717,971	1.05x
2032	8.0	3/31/2032	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	717,971	34,578	24,232	58,809	683,393	1.05x
2032	8.0	7/31/2032	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	683,393	35,745	23,065	58,809	647,646	1.05x
2033	9.0	3/31/2033	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	647,646	36,951	21,858	58,809	610,697	1.05x
2033	9.0	7/31/2033	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	610,697	38,198	20,611	58,809	572,499	1.05x
2034	10.0	3/31/2034	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	572,499	39,488	19,322	58,809	533,011	1.05x
2034	10.0	7/31/2034	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	533,011	40,820	17,989	58,809	492,191	1.05x
2035	11.0	3/31/2035	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	492,191	42,198	16,611	58,809	449,993	1.05x
2035	11.0	7/31/2035	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	449,993	43,622	15,167	58,809	406,371	1.05x
2036	12.0	3/31/2036	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	406,371	45,094	13,715	58,809	361,276	1.05x
2036	12.0	7/31/2036	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	361,276	46,615	12,193	58,809	314,660	1.05x
2037	13.0	3/31/2037	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	314,660	48,190	10,620	58,809	266,470	1.05x
2037	13.0	7/31/2037	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	266,470	49,815	8,993	58,809	216,654	1.05x
2038	14.0	3/31/2038	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	216,654	51,497	7,212	58,809	165,157	1.05x
2038	14.0	7/31/2038	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	165,157	53,235	5,574	58,809	111,921	1.05x
2039	15.0	3/31/2039	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	111,921	55,032	3,777	58,809	56,889	1.05x
2039	15.0	7/31/2039	5,592,479	103,216	5,489,263	2.28%	62,653	(627)	62,026	56,889	56,889	1,920	58,809	(0)	1.05x

EXHIBIT
EXISTING SITE PLAN



04/20/2020

RESOLUTION 2023-04

WHEREAS, Heere, Theree & Everywhere, LLC, is the developer of certain real property currently situated within the corporate limits of the City of Bellevue ("City"), legally described as Lot 2, Heere and Theree Addition, Sarpy County, Nebraska ("Redevelopment Project Area"); and

WHEREAS, the Redevelopment Project Area is situated within an area previously designated by the Bellevue City Council as blighted and substandard and in need of redevelopment as such terms are defined and contemplated by the Nebraska Community Development Law (Sections 18-2103(3) and 18-2103(31) et seq., R.R.S. Neb.) (the "Act"); and

WHEREAS, Heere, Theree & Everywhere, LLC has submitted the Redevelopment Project Plan for the Redevelopment Project Area ("Redevelopment Plan") to the Council for its approval as the authority and the governing body of the City (as such terms are contemplated by the Act) for the redevelopment of the Redevelopment Project Area; and

WHEREAS, the Redevelopment Plan is attached to this Resolution as Exhibit "A"; and

WHEREAS, the Redevelopment Plan anticipates the redevelopment of land with new residential units to be used for multi-family residential use, and other property improvements as shown in Exhibit "A" (the "Redevelopment Project Plan"); and

WHEREAS, the Redevelopment Plan contemplates that the Redevelopment Project shall be the sole responsibility of, and shall be undertaken and completed at the sole cost and expense of Heere, Theree & Everywhere, LLC; and

WHEREAS, it is further anticipated that, when completed, the Redevelopment Project will result in an approximately \$5,500,000 increase in the current assessed valuation of the Redevelopment Project Area, and will also enhance the potential for increases in commercial and other desired development within the surrounding vicinity of the Redevelopment Project Area; and

WHEREAS, the Redevelopment Plan contemplates that pursuant to the covenants, terms and conditions of a redevelopment agreement among the City, Heere, Theree & Everywhere, LLC, and such other parties as shall be appropriate, the City will issue such appropriate tax increment financing instruments as City shall deem to be appropriate, at the cost of Heere, Theree & Everywhere, LLC, in an amount not to exceed the principal sum of \$1,100,000 which, if fully paid, will reimburse Heere, Theree & Everywhere, LLC for costs incurred in furtherance of those eligible Project improvements that are identified in the Plan and the Redevelopment Agreement from the increase in ad valorem real estate taxes levied upon the Redevelopment Project Area over a period of not more than fifteen (15) years from the effective date of the Redevelopment Plan as contemplated by the Act; and

WHEREAS, the Redevelopment Plan contemplates that the tax increment financing instruments to be issued in furtherance of the Redevelopment Project will be fully retired within fifteen (15) years from the effective date of the Redevelopment Plan as a result of the anticipated increase in the assessed value of the Redevelopment Project Area alone (by the payment of the corresponding increase in ad valorem real estate taxes to be levied upon Redevelopment Project Area); and

WHEREAS, following a public hearing convened by the Bellevue Planning Commission pursuant to and in accordance with Section 18-2115 of the Act, the Bellevue Planning Commission concluded that the Redevelopment Plan was in conformity with the general plan for the development of the City and otherwise in conformity with the Act and recommended that this Council approve the Redevelopment Plan, such recommendation being attached to this Resolution in the form of Exhibit "B"; and

WHEREAS, following a public hearing convened in accordance with the requirements of Section 18-2115 of the Act, and in consideration of all information therein presented together with such other information as this Council has determined to be appropriate, this Council finds:

(a) The Redevelopment Plan is in conformity with the general plan for the development of the City and otherwise in conformity with the legislative declarations and determinations of the Act;

(b) The Redevelopment Project would not be economically feasible without the use of tax-increment financing;

(c) The Redevelopment Project would not occur in the Redevelopment Project Area without the use of tax-increment financing;

(d) The costs and benefits of the Redevelopment Project, including costs and benefits to other affected political subdivisions, the economy of the City, and the demand for public and private services are in the long-term interest of the City, its residents and taxpayers and the Redevelopment Project Area; and

(e) The cost-benefit analysis for the Redevelopment Project, including that analysis identified and discussed in the Redevelopment Plan, i.e.

- (i) Tax shifts resulting from the approval of the use of funds pursuant to Section 18-2147 of the Act;
- (ii) Public infrastructure and community public service needs impacts and local tax impacts arising from the approval of the Redevelopment Project;
- (iii) Impacts on employers and employees of firms locating or expanding within the boundaries of the Redevelopment Project Area;
- (iv) Impacts on other employers and employees within the City and the immediate areas that are located outside the Redevelopment Project Area; and
- (v) Such other impacts determined by this Council, as the Redevelopment Authority and governing body of the City to be relevant to the consideration of costs and benefits arising from the Redevelopment Project,

sufficiently demonstrates to this Council that approval of the Redevelopment Project as outlined in the Redevelopment Plan is in the best interest of the City, its residents and taxpayers, subject to the execution and delivery of a Redevelopment Agreement (and other related agreements) among the Heere, Theree & Everywhere, LLC and such other appropriate parties, containing covenants, terms and conditions as shall be necessary or appropriate.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL of the City of Bellevue as follows:

1. That the Redevelopment Plan should be and hereby is approved subject to the due execution and delivery of a Redevelopment Agreement and other appropriate agreements by and among the City, Heere, Theree & Everywhere, LLC, and such other parties as shall be appropriate, to be first approved by this City Council, which agreement(s) shall implement the Redevelopment Plan and set forth the covenants, terms, conditions and other appropriate provisions by which any tax increment financing instruments shall be issued and by which the Redevelopment Project shall be effected.

2. That, subject to the due execution and delivery of a Redevelopment Agreement and other appropriate agreements by and among the City, Heere, Theere & Everywhere, LLC, and such other parties as shall be appropriate, to be first approved by this City Council, the appropriate City officers, employees and agents shall undertake all such acts as shall be necessary or appropriate to implement the Redevelopment Plan or to otherwise allow for the Redevelopment Project.

PASSED AND ADOPTED THIS 21ST DAY OF February 2023.

Rusty Hike, Mayor

ATTEST:

Susan Kluthe, City Clerk



2302 LINCOLN ROAD
REDEVELOPMENT PROJECT PLAN

BELLEVUE, NEBRASKA

December __, 2022

Submitted by:

Applicant:
HEERE, THEERE & EVERYWHEERE, LLC
5920 S 118th Circle
Omaha, Nebraska 68137

Attorneys for Applicant:
Brent W. Beller
Fullenkamp Jobeun Johnson & Beller LLP
11440 West Center Road, Suite C
Omaha, Nebraska 68144

RECEIVED
JAN 2 5 2023
PLANNING DEPT.

Introduction:

The attached redevelopment plan proposes to redevelop a 1.18-acre site on Lincoln Road which will serve as a gateway to Olde Towne Bellevue, generally located at 2302 Lincoln Road, Bellevue, Nebraska 68005, into a new residential area which will include a mix of Missing Middle housing including residential duplex-apartments and carriage houses (market-rate affordable). The plan encompasses all of Lot 2 of Heere and Theere Addition. The redevelopment project site includes all of the abutting and adjacent rights-of-way which will receive improvement as may be required by the City of Bellevue, Nebraska, which plan will include the installation of a more pedestrian oriented streetscape with accompanying landscaping, which will add vibrancy to Lincoln Road and the area which serves as an alternate entrance to Offutt Air Force Base.

Site History:

The proposed redevelopment site is land currently owned by 1st City Development, upon which a vacant retail structure is currently located. The site is bounded by Lincoln Road on the East. The site is bounded on the North by an existing development consisting of multifamily and retail uses, on the South by Offutt Air Force Base housing and Single Family Residential to the West, as further depicted on the Site Plan attached hereto. All buildings and improvements located within the redevelopment site will be demolished. Repurposing the existing building is cost prohibitive, and contrary to the Applicant's revitalization goals for Lincoln Road which serves as a gateway to both Old Towne Bellevue and Offutt's Strategic Air Command Base. Leaving the existing building vacant and unused will cause negative consequences for the site itself, and the many businesses and residential uses that neighbor the site. The costs associated with the demolition, softs costs, and site work for the project will cost approximately \$100,000. The Applicant is receiving the land via a land contribution agreement from an entity 100% owned and controlled by a principal of 1st City Development, LLC. 1st City Development originally acquired the ground in 2022, subdivided and rezoned the land to BGM Zoning for its Future Intended Use.

As depicted on the attached Site Plan attached as Exhibit B (the "Site Plan"), the Applicant proposes to construct nine (9) over/under Duplex buildings consisting of 18 two-bedroom/two bath units around a central courtyard, three Carriage House buildings consisting of five one-bedroom units and 15 garages, which buildings will collectively cost approximately \$3,500,000. Mixed in with the proposed buildings will be a central courtyard serving as a resident gathering area which will connect to the new streetscape that will be installed along the public rights-of-way that borders the redevelopment site. The approximate costs for the new streetscape are \$150,000. The total project costs will be approximately \$5,525,000. Accordingly, the tax increment financing ("TIF") eligible costs are in the amount of \$1,100,000. The itemized breakdown of TIF eligible costs is attached hereto as Exhibit A. The approval of the redevelopment plan will facilitate the rehabilitation and reuse of the proposed project site by creating the opportunity for TIF to be used as a financing mechanism to cover some of the TIF eligible costs. Applicant will use the value of \$100,000 as its base value for purposes of calculating TIF Incremental value. The proposed valuation upon full build-out of the site is expected to be approximately \$5,600,000, Exhibit B is the Site Plan for the proposed redevelopment site, which reflects the boundaries of the site and the current zoning and use of the site (Note: the lot located North of the existing property, as referenced on the Site Plan, is not a part of this Redevelopment Plan.

In its present condition, the site would remain as an economic liability to this area and a detriment to the redevelopment of this area within the City. With the utilization of TIF, new vibrancy will most likely

be brought to this important and historical part of the City of Bellevue. This area of the City has not experienced the level of growth as demonstrated in other areas of the City and will not experience growth unless the City takes an aggressive approach to assist in the redevelopment of the site and area by utilizing all the economic tools available, most notably TIF.

Substandard and Blighted:

The property is located within a community redevelopment area, which has been determined by the City of Bellevue, Nebraska, to be blighted and substandard in accordance with Neb. Rev. Stat. §18-2103.

Land Use/Zoning/Site Redevelopment:

The site is currently zoned Metropolitan General Business (BGM). The Applicant will work with the City Planning Department regarding any and all land use approvals that may be required for the proposed redevelopment. Notwithstanding that the project plans to enhance the streetscape of the public rights-of-ways, the proposed redevelopment will not result in any material modification to the street layout, street levels or grades, or building codes and ordinances of the site.

Utilities/Infrastructure:

Currently, utility services are located in public right-of-ways adjacent to the site and which may be required to be moved in connection with the redevelopment of the site and as required by the City. Additional utility services and public facilities will be added as may be necessary or required by the redevelopment of the site and as required by the City. The Applicant will work with the City regarding any site enhancements which may affect any public rights-of-ways, alleys or sidewalk areas.

The redevelopment provides the mechanism to fund the public improvement costs through the use of TIF. The costs of the redevelopment and public infrastructure improvements are estimated to be \$5,525,000 (See Exhibit A).

TIF Compliance:

The request meets the necessary requirements for consideration under the Nebraska Community Development Law. The project will provide new employment opportunities in the City. It is anticipated that 2 new jobs will be created in connection with the project, and upwards of 50 construction jobs will be created in connection with the project development. The TIF proceeds will be used to cover all public improvement costs with the remaining balance of the TIF to be used for site specific TIF eligible costs. The project will have a positive economic growth to the City of Bellevue. Further, as set forth on Exhibit C attached hereto, the up-front costs associated with the acquisition and rehabilitation of the proposed site would be prohibitively high without TIF. As such, the Applicant requests TIF to help offset these costs such that the proposed redevelopment is feasible.

Financing:

The estimated assessed value of the project upon full build-out is estimated to be \$5,600,000. Accordingly, the project will support the TIF request in the principal amount of \$1,100,000, plus interest at the rate of six (6.75%) percent per annum. The amortization schedule is attached hereto as Exhibit D. The remaining project costs will be paid through equity and debt financing.

TIF Cost Benefit Analysis:

The project provides redevelopment in an area of the City that was once used as a trailer park, but is now ripe for a medium density residential use and filling an ever increasing void of Missing Middle housing, which will add new vibrancy to the area. Accordingly, it is necessary to implement innovative financing approaches to be used to encourage redevelopment and to support the potential growth that will occur because of this and other improvements that are likely to follow within the surrounding area. The following benefits will result from the redevelopment of this area through the use of TIF:

(1) The use of TIF will not result in tax shifts. By using the base value of \$100,000, the various public authorities will gain some level of new property tax valuation, and only the increased value of revenues resulting from the improvements will be applied to the cost of the improvements through the use of TIF.

(2) No community public service needs will be generated as a result of this project. The proposed TIF will be used, in part, to offset public infrastructure costs that are eligible for TIF.

(3) The development of this site will allow for the continued growth of market rate affordable housing in the area and in particular housing which will serve the growing needs of employers in the area. Additionally, the revitalization of the site will have a positive impact on the employers and employees in the immediate area surrounding the site. Specifically, the redevelopment will continue to add viability to the surrounding area, and will make the site more aesthetically pleasing, which will result in a positive impact on the foot traffic of the surrounding businesses. As the Olde Town Bellevue area becomes a destination for the citizens of Bellevue, and the other areas of the Omaha Metropolitan area, to visit and enjoy the redevelopment along Lincoln Road will become an important link in this growth.

(4) The development of this site will be an impetus for further growth and a catalyst to providing the additional goods necessary to serve this part of the City.

(5) The long-term benefits resulting from the elimination of the substandard and blight conditions and the increase in the tax base resulting from the development are other valid justifications for the use of TIF for this project.

The project site meets the requirements of the City's Comprehensive Development Plan and City Ordinances as well as the Nebraska Community Redevelopment Law that establishes the process and requirements for the approval of this Redevelopment Plan.

Based upon the forgoing, the applicant respectfully requests the principal amount of TIF equal to \$1,100,000.

Respectfully Submitted



By: _____
Brent W. Beller on behalf of the Applicant
Fullenkamp, Jobeun, Johnson, & Beller LLP
11440 West Center Road
Omaha, Nebraska 68144
(402) 334-0700

Exhibit A

TIF ELIGIBLE COSTS

Demo	\$100,000.00
Purchase	\$100,000.00
Sidewalks/Streetscape	\$200,000.00
Engineering	\$35,000.00
Grading & Landscaping	\$100,000.00
Sewer & Water	\$250,000.00
Architect	\$315,000.00
Net Costs	\$1,100,000.00

SITE PLAN GENERAL NOTES

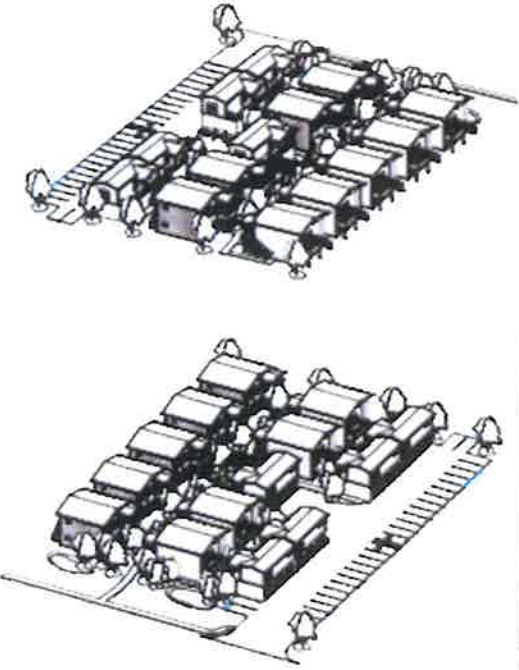
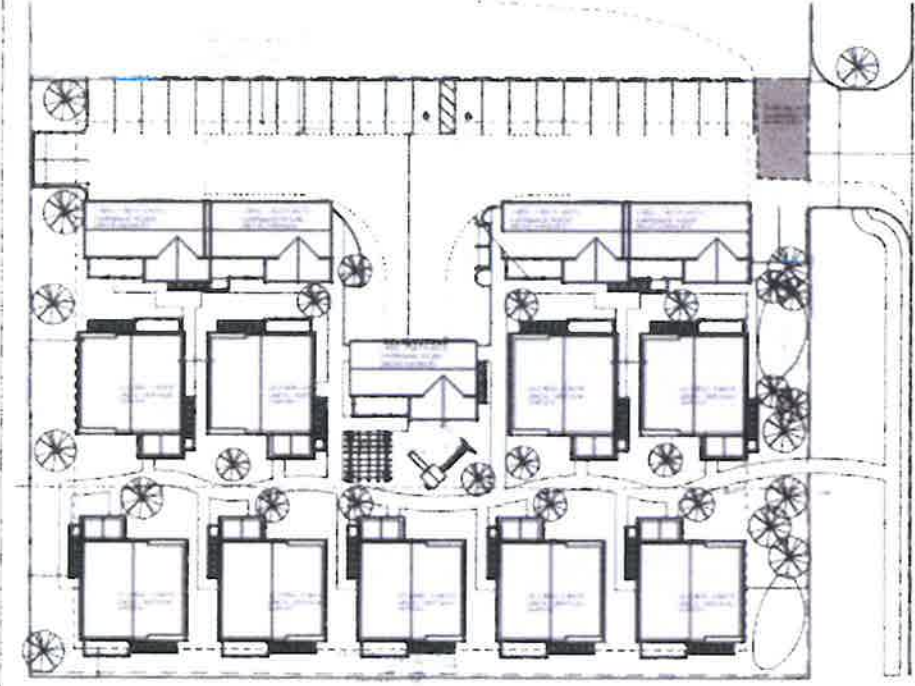


Exhibit B
The Site Plan

Exhibit C
PROFORMA

Demo	\$100,000.00
Purchase	\$100,000.00
Sidewalks ect.	\$200,000.00
Engineering	\$35,000.00
Grading & Landscaping	\$100,000.00
Sewer & Water	\$250,000.00
Architect	\$315,000.00
Net Costs	\$1,100,000.00

20 yr @ 6%

Construction	\$4,425,000.00	Without TIF	With TIF
		\$.00	\$.00 Monthly
Total	\$5,525,000.00	\$.00	\$.00 Annually

Exhibit D

AMORTIZATION SCHEDULE

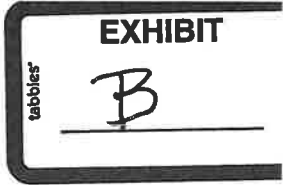
First Installment Month	3	3/31/2025	TIF Loan Advance Rate	100%
Second Installment Month	7	7/31/2025	TIF Loan Amount	1,098,766
Current TAV	103,216		Interest Rate	6.75%
As-Complete TAV	5,592,479		Amortization	15.00
First Installment Date	7/15/2024		Term	15.50
Tax Levy	2.28274%		Payment Periods/Yr	2.00
Treasurer's Fee	1.0%		Payments/Period	556,809
Discount/Interest Rate	6.75%		Payments/Yr	1,117,619
Net Present Value	1,088,766			

Year	Date	Total TAV	Less Pre-Dev Base TAV	TIF TAV	Mill Rate	Gross TIF Tax Revenue	Less Treasurer's Fee	Tax Revenue Available for TIF DS	TIF Loan Beg. Bal.	Principal	Interest	TIF DS PMT	TIF Loan End Bal.	DSCR	
2025	1 0	3/31/2025	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	1,098,766	21,726	37,083	58,809	1,077,040	1.05x
2025	1 0	7/31/2025	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	1,077,040	22,459	36,350	58,809	1,054,561	1.05x
2026	2 0	3/31/2026	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	1,054,581	23,217	35,592	58,809	1,031,363	1.05x
2026	2 0	7/31/2026	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	1,031,362	24,001	34,809	58,809	1,007,362	1.05x
2027	3 0	3/31/2027	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	1,007,362	24,811	33,998	58,809	982,551	1.05x
2027	3 0	7/31/2027	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	982,551	25,648	33,161	58,809	956,903	1.05x
2028	4 0	3/31/2028	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	958,903	26,514	32,295	58,809	930,389	1.05x
2028	4 0	7/31/2028	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	930,389	27,409	31,401	58,809	902,980	1.05x
2029	5 0	3/31/2029	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	902,980	28,334	30,476	58,809	874,647	1.05x
2029	5 0	7/31/2029	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	874,647	29,290	29,519	58,809	845,356	1.05x
2030	6 0	3/31/2030	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	845,356	30,279	28,531	58,809	815,078	1.05x
2030	6 0	7/31/2030	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	815,078	31,301	27,509	58,809	783,777	1.05x
2031	7 0	3/31/2031	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	783,777	32,357	26,452	58,809	751,420	1.05x
2031	7 0	7/31/2031	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	751,420	33,449	25,360	58,809	717,971	1.05x
2032	8 0	3/31/2032	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	717,971	34,578	24,232	58,809	683,393	1.05x
2032	8 0	7/31/2032	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	683,393	35,745	23,065	58,809	647,646	1.05x
2033	9 0	3/31/2033	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	647,646	36,951	21,858	58,809	610,697	1.05x
2033	9 0	7/31/2033	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	610,697	38,198	20,611	58,809	572,499	1.05x
2034	10 0	3/31/2034	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	572,499	39,488	19,322	58,809	533,011	1.05x
2034	10 0	7/31/2034	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	533,011	40,820	17,989	58,809	492,191	1.05x
2035	11 0	3/31/2035	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	492,191	42,198	16,611	58,809	449,993	1.05x
2035	11 0	7/31/2035	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	449,993	43,622	15,187	58,809	406,371	1.05x
2036	12 0	3/31/2036	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	406,371	45,094	13,715	58,809	361,276	1.05x
2036	12 0	7/31/2036	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	361,276	46,616	12,193	58,809	314,660	1.05x
2037	13 0	3/31/2037	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	314,660	48,190	10,620	58,809	266,470	1.05x
2037	13 0	7/31/2037	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	266,470	49,815	8,993	58,809	216,654	1.05x
2038	14 0	3/31/2038	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	216,654	51,497	7,312	58,809	165,157	1.05x
2038	14 0	7/31/2038	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	165,157	53,235	5,574	58,809	111,921	1.05x
2039	15 0	3/31/2039	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	111,921	55,032	3,777	58,809	56,889	1.05x
2039	15 0	7/31/2039	5,592,479	103,216	5,489,263	2.28%	62,653	(62,7)	62,026	56,889	56,889	1,920	58,809	(0)	1.05x

EXHIBIT
EXISTING SITE PLAN



04/20/2020



City of Bellevue

PLANNING COMMISSION RECOMMENDATION

APPLICANT: Heere, There & Everywhere, LLC

CASE #: ECD-60

CITY COUNCIL HEARING DATE: February 21, 2023

REQUEST: to approve the Redevelopment Plan for Lot 2, Heere and There Addition located in the Southwest ¼ of Section 36, T14N, R13E of the 6th P.M. Sarpy County, Nebraska.

On January 26, 2023, the City of Bellevue Planning Commission voted seven yes, zero no, two absent and zero abstained:

APPROVAL based upon conformance with the Comprehensive Plan, elimination of a blighted and substandard area, conformance with the requirements of the State Statutes, and the opportunity for redevelopment along Lincoln Road.

VOTE:

Yes:	Seven:	No:	Zero:	Abstain:	Zero:	Absent:	Two:
	Hankins						Aerni
	Ritz						Sims
	Cutsforth						
	Ackley						
	Bennett						
	Jacobson						
	Perrin						

Planning Commission Hearing (s) was held on: January 26, 2023

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

16a.
2/21/2023

COUNCIL MEETING DATE: 2/21/23		SUBMITTED BY: CDBG	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve the 2022 CDBG Environmental Review Record and Request for Release of Funds.

SYNOPSIS/BACKGROUND:

The City of Bellevue is required to perform an Environmental Review Record (ERR) for all projects receiving CDBG assistance to identify any potential environmental issues and verify there will not be a negative impact on the environment. Any cost incurred to develop the ERR are reimbursable by the grant. The ERR for the approved 2022 projects has been completed and a Notice of Finding of No Significant Impact and Request for Release of Funds has been distributed and published for citizen review. All 2022 projects were previously approved by the City Council as part of the CDBG Action Plan on July 19, 2022.

FISCAL IMPACT: \$0.00 BUDGETED FUNDS?: Yes GRANT/MATCHING FUNDS?: None required

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: No COUNTER-PARTY: INTERLOCAL AGREEMENT: No

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME: CDBG-192200 HUD Projects

START DATE: 4/18/2023 END DATE: 4/17/2024 PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: CDBG-192200 ACCOUNT NUMBER:

RECOMMENDATION:

Approve and authorize the Mayor to sign the HUD Form 7015.15 - Request for Release of Funds and Certifications and submit to HUD.

ATTACHMENTS:

1. Combined Public Notice	2. HUD Form 7015.15	3.
4.	5.	6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

[Handwritten signatures]

CITY OF BELLEVUE
NOTICE OF FINDING OF NO SIGNIFICANT IMPACT AND
NOTICE OF INTENT TO REQUEST RELEASE OF FUNDS

February 1, 2023

City of Bellevue, NE, 1500 Wall Street, Bellevue, NE 68005, (402) 293-3000

These notices shall satisfy two separate but related procedural requirements for activities to be undertaken by the City of Bellevue.

REQUEST FOR RELEASE OF FUNDS

On or after February 22, 2023, the City of Bellevue will submit a request to the U.S. Department of Housing & Urban Development (HUD) for the release of CDBG program funds under Title I of the Housing and Community Development Act of 1974, as amended, in the amount of \$353,161.00 and reallocation of funding in the amount of \$60,560.00 to implement the following projects: Administration, Commercial Rehab/Economic Development, Public Facilities/Improvements, Capacity Building and Public Service. The following projects identified in the City of Bellevue FY 2022 Action Plan are exempt from 24 CFR 58.34 Subpart D: HFSC Housing Development Coordinator, \$40,000; BISA Participation Program, \$6,000; Program Administration, \$50,000; and Lift Up Sarpy Bellevue Assistance Program, \$72,500, is Categorically Excluded, Not Subject to 58.5. The following projects are not exempt from 24 CFR Part 58.34 Subpart D – Environmental Review Process, therefore, a public notice is required.

Categorically Excluded, Subject to 58.5

- City of Bellevue North Central Bellevue Sidewalks – project includes rehabilitation/construction of sidewalks and curb ramps in LMI areas, \$178,152.00
- Bellevue Volunteer Fire Hall Facility Upgrade Project II – project includes electrical/security lighting, parking lot refurbishment, and HVAC system improvements, \$40,069.00
- Olde Towne Tavern Roof Replacement – project includes the rehabilitation of the roof on buildings located at 105/107 Mission Ave, \$27,000.00

FINDING OF NO SIGNIFICANT IMPACT

The City of Bellevue has determined that the projects will have no significant impact on the human environment. Therefore, an Environmental Impact Statement under the National Environmental Policy Act of 1969 (NEPA) is not required. Additional project information is contained in the Environmental Review Record (ERR) on file at the City of Bellevue, CDBG Office, located at 1500 Wall Street, Bellevue, NE 68005 and may be examined or copied weekdays 8:00 a.m. to 4:30 p.m. The ERR is also available on the website, <https://www.onecpd.info/environmental-review/environmental-review-records>

PUBLIC COMMENTS

Any individual, group, or agency may submit written comments on the ERR to the City of Bellevue, Office of the Mayor, 1500 Wall Street, Bellevue, NE 68005. All comments received by February 19, 2023, will be considered by the City of Bellevue prior to authorizing submission of a request for release of funds. Comments should specify which Notice they are addressing.

RELEASE OF FUNDS

The City of Bellevue certifies to HUD that, Rusty Hike in his capacity as City of Bellevue City Mayor, consents to accept the jurisdiction of the Federal Courts if an action is brought to enforce responsibilities in relation to the environmental review process and that these responsibilities have been satisfied. HUD's approval of the certification satisfies its responsibilities under NEPA and related laws and authorities and allows the City of Bellevue to use HUD program funds.

OBJECTIONS TO RELEASE OF FUNDS

HUD will accept objections to its release of fund and the City of Bellevue's certification for a period of fifteen days following the anticipated submission date or its actual receipt of the request (whichever is later) only if they are on one of the following bases: (a) the certification was not executed by the Certifying Officer of the City of Bellevue; (b) the City of Bellevue has omitted a step or failed to make a decision or finding required by HUD regulations at 24 CFR part 58; (c) the grant recipient or other participants in the development process have committed funds, incurred costs or undertaken activities not authorized by 24 CFR Part 58 before approval of a release of funds by HUD; or (d) another Federal agency acting pursuant to 40 CFR Part 1504 has submitted a written finding that the project is unsatisfactory from the standpoint of environmental quality. Objections must be prepared and submitted in accordance with the required procedures (24 CFR Part 58, Sec. 58.76) and shall be addressed to HUD at: U.S. Department of Housing and Urban Development, Omaha Field Office, Edward Zorinsky Federal Building, 1616 Capitol Avenue, Suite 329, Omaha, Nebraska 68102-4908. Potential objectors should contact HUD to verify the actual last day of the objection period.

Abby Highland

CDBG Program Administrator

Rusty Hike

Mayor, City of Bellevue

Request for Release of Funds and Certification

U.S. Department of Housing and Urban Development
Office of Community Planning and Development

OMB No. 2506-0087
(exp. 08/31/2023)

This form is to be used by Responsible Entities and Recipients (as defined in 24 CFR 58.2) when requesting the release of funds, and requesting the authority to use such funds, for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of general local government and States. Public reporting burden for this collection of information is estimated to average 36 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless that collection displays a valid OMB control number.

Part 1. Program Description and Request for Release of Funds (to be completed by Responsible Entity)

1. Program Title(s) Community Development Block Grant Entitlement	2. HUD/State Identification Number B-22-MC-31003	3. Recipient Identification Number (optional)
4. OMB Catalog Number(s) 14.218	5. Name and address of responsible entity City of Bellevue, 1500 Wall Street, Bellevue, NE 68005	
6. For information about this request, contact (name & phone number) Abby Highland, CDBG Program Specialist (402)293-3000		
8. HUD or State Agency and office unit to receive request U.S. Department of Housing and Urban Development, Omaha Field Office	7. Name and address of recipient (if different than responsible entity)	

The recipient(s) of assistance under the program(s) listed above requests the release of funds and removal of environmental grant conditions governing the use of the assistance for the following

9. Program Activity(ies)/Project Name(s) 2022 Action Plan Activities	10. Location (Street address, city, county, State) City-wide; Bellevue, NE
---	---

11. Program Activity/Project Description

Public Facilities & Improvements - North Central Bellevue Sidewalks, rehabilitation and installation of sidewalks in LMI neighborhood, \$178,152
 Rehabilitation - BVF Facility Upgrade Phase II, improvements to electrical, \$40,069
 Public Service - BJSA Sports Participation Assistance Program, provide assistance to LMI households for sports program participation, \$6,000; Bellevue Community Response Program, assist LMI households with emergency assistance and affects of COVID-19 pandemic, \$72,500
 Economic Development- Olde Town Tavern Roof Replacement, facade improvement, \$27,000
 Capacity Building - HFSC Housing Development Coordinator, financial assistance for personnel, \$40,000
 Program Administration - CDBG program admin activities, \$50,000

Part 2. Environmental Certification (to be completed by responsible entity)

With reference to the above Program Activity(ies)/Project(s), I, the undersigned officer of the responsible entity, certify that:

1. The responsible entity has fully carried out its responsibilities for environmental review, decision-making and action pertaining to the project(s) named above.
2. The responsible entity has assumed responsibility for and complied with and will continue to comply with, the National Environmental Policy Act of 1969, as amended, and the environmental procedures, permit requirements and statutory obligations of the laws cited in 24 CFR 58.5; and also agrees to comply with the authorities in 24 CFR 58.6 and applicable State and local laws.
3. The responsible entity has assumed responsibility for and complied with and will continue to comply with Section 106 of the National Historic Preservation Act, and its implementing regulations 36 CFR 800, including consultation with the State Historic Preservation Officer, Indian tribes and Native Hawaiian organizations, and the public.
4. After considering the type and degree of environmental effects identified by the environmental review completed for the proposed project described in Part 1 of this request, I have found that the proposal did did not require the preparation and dissemination of an environmental impact statement.
5. The responsible entity has disseminated and/or published in the manner prescribed by 24 CFR 58.43 and 58.55 a notice to the public in accordance with 24 CFR 58.70 and as evidenced by the attached copy (copies) or evidence of posting and mailing procedure.
6. The dates for all statutory and regulatory time periods for review, comment or other action are in compliance with procedures and requirements of 24 CFR Part 58.
7. In accordance with 24 CFR 58.71(b), the responsible entity will advise the recipient (if different from the responsible entity) of any special environmental conditions that must be adhered to in carrying out the project.

As the duly designated certifying official of the responsible entity, I also certify that:

8. I am authorized to and do consent to assume the status of Federal official under the National Environmental Policy Act of 1969 and each provision of law designated in the 24 CFR 58.5 list of NEPA-related authorities insofar as the provisions of these laws apply to the HUD responsibilities for environmental review, decision-making and action that have been assumed by the responsible entity.
9. I am authorized to and do accept, on behalf of the recipient personally, the jurisdiction of the Federal courts for the enforcement of all these responsibilities, in my capacity as certifying officer of the responsible entity.

Signature of Certifying Officer of the Responsible Entity

X

Title of Certifying Officer

Mayor, City of Bellevue

Date signed

Address of Certifying Officer

1500 Wall Street, Bellevue, NE 68005

Part 3. To be completed when the Recipient is not the Responsible Entity

The recipient requests the release of funds for the programs and activities identified in Part 1 and agrees to abide by the special conditions, procedures and requirements of the environmental review and to advise the responsible entity of any proposed change in the scope of the project or any change in environmental conditions in accordance with 24 CFR 58.71(b).

Signature of Authorized Officer of the Recipient

X

Title of Authorized Officer

Date signed

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

**CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET**

**16b.
2/21/2023**

COUNCIL MEETING DATE: 02/21/2022		SUBMITTED BY: Rich Severson		Finance Director	
AGENDA ITEM:		CONSENT AGENDA	<input type="checkbox"/>	SPECIAL PRESENTATION	<input type="checkbox"/>
LIQUOR LICENSE	<input type="checkbox"/>	ORDINANCE	<input type="checkbox"/>	PUBLIC HEARING	<input type="checkbox"/>
RESOLUTION	<input type="checkbox"/>	CURRENT BUSINESS	<input checked="" type="checkbox"/>	OTHER	<input type="checkbox"/>

SUBJECT:

Extension of Custom Farming Contracts for 2023

SYNOPSIS/BACKGROUND:

The city owns land that is held for future economic development and amenities for residents such as parks and recreation. An income stream can be achieved during the incubation period by custom farming the land. The contractor that has been performing the custom work has been an excellent steward of the land and generated income for the city. This agenda item extends his contracts: (1) Thirteenth Extension to the Contract with Justin Thoms for Custom Farming to plant and harvest corn on the approximately 36 acres at 36th and Capehart Road in an amount not to exceed \$17,519.84. The number of tillable acres has declined and is expected to decline further as the city puts the land to its intended use. (2) Thirteenth Extension to the Contract with Justin Thoms for Custom Farming to plant and harvest soybeans on the approximately 62 acres near the Bellevue Sports Complex at Cunningham Road, west of Harlan Lewis Road, in an amount not to exceed \$13,181.20.

FISCAL IMPACT: BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?:	<input type="text" value="YES"/>	COUNTER-PARTY:	<input type="text" value="Justin Thoms"/>	INTERLOCAL AGREEMENT:	<input type="text" value="NO"/>
CONTRACT DESCRIPTION:	<input type="text" value="Group Insurance Plan"/>				
CONTRACT EFFECTIVE DATE:	<input type="text" value="01/01/2023"/>	CONTRACT TERM:	<input type="text" value="1 Year"/>	CONTRACT END DATE:	<input type="text" value="12/31/2023"/>
PROJECT NAME:	<input type="text"/>				
START DATE:	<input type="text"/>	END DATE:	<input type="text"/>	PAYMENT DATE:	<input type="text"/>
				INSURANCE REQUIRED:	<input type="text" value="NO"/>
CIP PROJECT NAME:	<input type="text"/>				
STREET DISTRICT NAME (S):	<input type="text"/>				
ACCOUNTING DISTRIBUTION CODE:	<input type="text"/>	ACCOUNT NUMBER:	<input type="text"/>		

RECOMMENDATION:

Approve the Thirteenth Extension to the Contract with Justin Thoms for Custom Farming approximately 36 acres at 36th and Capehart Road in an amount not to exceed \$17,519.84 and the Thirteenth Extension to the Contract with Justin Thoms for Custom Farming approximately 62 acres near the Bellevue Sports Complex in an amount not to exceed \$13,181.20 and waive Council Policy 4 requiring solicitation of bids and goods and services costing more than \$30,000.

ATTACHMENTS:

- | | | |
|--|--|---|
| 1. <input type="text" value="Thirteenth Extension-36 Acres"/> | 2. <input type="text" value="Bid for Capehart Farm-36 Acres"/> | 3. <input type="text" value="Thirteenth Extension-62 Acres"/> |
| 4. <input type="text" value="Bid for Cunningham Farm-62 Acres"/> | 5. <input type="text"/> | 6. <input type="text"/> |

SIGNATURES:

LEGAL APPROVAL AS TO FORM: _____

FINANCE APPROVAL AS TO FORM: _____

ADMINISTRATOR APPROVAL AS TO FORM: _____

Thirteenth Extension to the Contract

This Custom Farming Contract for the Capehart Farm property located at 36th and Capehart Road, Bellevue, Nebraska, originally dated April 8, 2009, and extended on February 12, 2010, and further extended on February 14, 2011, January 23, 2012, on November 26, 2012, on February 10, 2014, on March 9, 2015, on March 14, 2016, on March 13, 2017, on March 26, 2018, on March 11, 2019, on January 21, 2020, on December 1, 2020 and on February 15, 2022 shall be further extended from January 1, 2023 to December 31, 2023, at the rates and charges specified on the attached Attachment "A", which is hereby made a part of this contract.

Dated this ____ day of February, 2023.

CITY OF BELLEVUE, Nebraska

ATTEST:

By: _____
Mayor, Rusty Hike

By: _____
City Clerk

APPROVED AS TO FORM:

CUSTOM OPERATOR

By: _____
City Attorney

By: _____
Title: _____
(if corporation, partnership or LLC)

The bids below are given with the rough estimate of 36 acres of Corn for the Caphart farm. 02/01/2023

36 acres

Operation	Unit	Rate	Total Billed	Notes
Spring/Fall field prep/maintenance; Push back and trim fallen trees Repairing water erosion Field cultivating rough areas	Hr	\$100.00	\$200	This is the amount not to exceed
Fertilizer & application. (\$188 +\$25 app)	Acre	\$213.00	\$7,668.00	150lbs Nitrogen, 135lbs 11-52, 10lbs sulfur, 5lbs zinc all injected into the ground to prevent any runoff or water contamination.
Corn Seed – (\$80 seed+\$17.5 app)	Acre	\$97.50	\$3,510.00	Roundup Ready Corn, Renk 782VT2P
Pre-emerge Corn herbicide application (\$30.69 + \$9.50 app)	Acre	\$40.19	\$1,446.84	
Post spraying of Corn (\$32.75 + \$9.50 app)	Acre	\$42.25	\$1,521.00	
Combine crops	Acre	\$34	\$1,224.00	
Hauling to local elevators (estimated 150bu/acre for corn, 50bu/acre for soybeans)	Bu	\$0.25	\$1,350.00	
Mowing of waterways and the 9 acres along 40 th street once in the summer.	Hr	\$100	\$600	
		Estimated TOTAL:	\$17,519.84	

Any additional spraying for Aphids, Rust, etc will be the cost of the chemical plus \$9.50 application

Contact Justin Thoms at 402-658-1929 with any questions.

Thirteenth Extension to the Contract

This Custom Farming Contract for the 62 acre parcel located at the Bellevue Sports Complex, Bellevue, Nebraska, originally dated February 12, 2010, and extended on February 14, 2011, and further extended on January 23, 2012, November 26, 2012, on February 10, 2014, on March 9, 2015, on March 14, 2016, on February 13, 2017, on March 26, 2018, on March 11, 2019, on January 21, 2020, on December 1, 2020 and on February 15, 2022 shall be further extended from January 1, 2023 to December 31, 2023, at the rates and charges specified on the attached Attachment "B", which is hereby made a part of this contract.

Dated this ____ day of February, 2023.

ATTEST:

By: _____
City Clerk

APPROVED AS TO FORM:

By: _____
City Attorney

CITY OF BELLEVUE, Nebraska

By: _____
Mayor, Rusty Hike

CUSTOM OPERATOR

By: _____

Title: _____
(if corporation, partnership or LLC)

The bids below are given with the rough estimate of 62 acres of Soybeans located at the Bellevue Sports Complex. 02/01/2023
62 acres

Operation	Unit	Rate	Total Billed	Notes
Spring/Fall field prep/maintenance; Push back and trim fallen trees Repairing water erosion Field cultivating rough areas	Hr	\$100.00	\$0	None needed at this farm for 2023
Fertilizer & application. (\$230 +\$23 app)	Acre	\$0.00	\$0.00	None needed for Soybeans, put on with Corn
Soybean Seed – (\$52 seed+\$17.5 app)	Acre	\$69.50	\$4,309.00	Enlist Soybeans
Pre-emerge herbicide (\$39.95 + \$9.50 app)	Acre	\$49.45	\$3,065.90	
Post herbicide (\$37.65 + \$9.50 app)	Acre	\$47.15	\$2,923.30	
Combine crops	Acre	\$34	\$2,108.00	
Hauling to local elevators (estimated 150bu/acre for corn, 50bu/acre for soybeans)	Bu	\$0.25	\$775.00	
Mowing of waterways	Hr	\$100	\$0	None at this farm
		Estimated TOTAL:	\$13,181.20	

Any additional spraying for Aphids, Rust, etc will be the cost of the chemical plus \$9.50 application

Contact Justin Thoms at 402-658-1929 with any questions.

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

16d.
2/21/2023

COUNCIL MEETING DATE: 2/14/2023		SUBMITTED BY: Police	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve the purchase of vehicle for the Police Department.

SYNOPSIS/BACKGROUND:

The Police Department has an immediate need to replace a marked cruiser that was recently totaled in a crash. The total cost of the new vehicle is \$39,514.00. The vehicle is a left-over 2022 Ford Police Interceptor Explorer and is currently in stock and available. The purchase would be executed by using the insurance settlement of \$23,660.53 from the crashed cruiser, supplemented with funds from our own budget line 6349 of \$15,843.47.

FISCAL IMPACT: \$15,843.47 BUDGETED FUNDS: Yes GRANT/MATCHING FUNDS: No

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: Yes COUNTER-PARTY: Anderson Ford INTERLOCAL AGREEMENT: No

CONTRACT DESCRIPTION: Vehicle Purchase Contract

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRUBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve the purchase of vehicle for the Police Department in an amount not to exceed \$39,514.00.

ATTACHMENTS:

- Quote from Anderson Ford
- Copy of window sticker
-
-
-
-

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

Corey Mathis
[Signature]
[Signature]

ANDERSON

www.AndersonAutoGroup.com

January 30th, 2023

Capt. Kurt Stroehler

Bellevue Police Dept

1510 Wall St./Bellevue Ne 68005

Office 402-682-6604

- 2022 Ford Police Interceptor Utility Gas-- All Wheel Drive \$38,889
 - 3.3L V6 Gas engine: included
 - No LEDS on License plates
 - No LEDS on Push Bumper
 - No 100 watt siren speaker
 - No aux battery
 - Push bumper-\$625
- Red/white cargo dome lamp
Driver side LED spotlight
Courtesy lamp disable
Black exterior,4 keys with fobs, wheel caps

Total Price: \$39,514

Bobby Colclasure

Anderson Auto Group

Commercial & Fleet Director

2500 Wildcat Dr., Lincoln, NE 68521

Cell-402-617-4521

Because People Matter...

We will serve your needs by always doing what is right.



LINCOLN



MAZDA

LINCOLN NORTH

2500 Wildcat Drive
Lincoln, NE 68521
402 458 9800

LINCOLN SOUTH

3201 Yankee Hill Road
Lincoln, NE 68512
402 464 0661
(Opening Fall 2011)

GRAND ISLAND

120 Diers Avenue
Grand Island, NE 68803
308 384 1700

ST. JOSEPH

2207 North Belt Highway
St. Joseph, MO 64506
816 383 8000

CHI-004403

NE

9-NORMAL, NB, 004403, NH151

12887

120220824

1801

CERT CERT CERT TRD R RAMP BUMP CAMP BOOK EXFL ROTA

007685
343/532

1FM5K8ABX

NGB80807 NB

FU13



Go Further

ford.com

VEHICLE DESCRIPTION

POLICE INTERCEPTOR NG B80807

2022 UTILITY AWD
119" WHEELBASE
3.3L TI-VCT V6 FFV ENGINE
10-SPEED AUTO TRANSMISSION

EXTERIOR
AGATE BLACK METALLIC
INTERIOR
EBONY BLACK CLOTH SEATS

STANDARD EQUIPMENT INCLUDED AT NO EXTRA CHARGE

- EXTERIOR**
- 18" H.D. STEEL WHEELS
 - 255/60R18 A/S BSW POLICE TIRES
 - CLASS III HITCH RECEIVER
 - DUAL EXHAUST SYSTEM
 - DUAL POWER MIRRORS
 - FULL SIZE 18" SPARE W/T PMS
 - HEADLAMPS - AUTO, LED
 - LOW/HIGH INCLUDES FRONT HOUSING (W/ LED WIG-WAG)
 - KEY LOCKS (DR/PASS/LTGT)
 - PRIVACY GLASS 2ND/3RD ROW

- INTERIOR**
- 35/30/35 SPLIT VINYL REAR
 - A/C W/AUTOMATIC CLIMATE CONTROL, DUAL ZONE
 - BLACK VINYL FLOOR COVERING
 - CERTIFIED SPEEDOMETER
 - CLOTH BUCKET FRONT SEATS
 - CONSOLE MOUNTING PLATE
 - ENGINE HOUR / IDLE METER
 - HTD SANITIZATION SOLUTION
 - PWR DR SEAT/6-WAY/M LUMBAR
 - RED/WHITE TASK LIGHTING
 - SEATBACK INTRUSION PLATES
 - TILT/TELESCOPING STEERING WHL W/ 4 CONFIGURABLE LATCHING SWITCHES

- UNIVERSAL TOP TRAY
- FUNCTIONAL**
- AM/FM/MP3/BLUETOOTH & USB
- COLUMN MOUNTED SHIFTER
- ENGINE OIL COOLER
- FORD TELEMATICS™
- FULL-TIME ALL WHEEL DRIVE SYSTEM
- HEAVY DUTY SUSPENSION
- HEAVY-DUTY 80-AMP BATTERY
- INTERIOR TRUNK/LIFTGATE RELEASE
- POLICE BRAKES: 4 WHL DISC W/ ABS & TRACTION CONTROL
- POWER STEERING W/EPAS
- REAR VIEW CAMERA

- TRANSMISSION OIL COOLER
- TRANSMISSION-10-SPEED AUTO
- SAFETY/SECURITY**
- 75 MPH REAR-CRASH TESTED
- ADVANCETRAC™ WITH RSC®
- AIRBAGS - FRONT AND SIDE
- AIRBAGS - SAFETY CANOPY
- SOS POST CRASH ALERT SYS
- TIRE PRESSURE MONITOR SYS
- WARRANTY**
- 3 YR/36K MILE BUMPER-TO-BUMPER WARRANTY
- 5 YR/100K MILE POWERTRAIN CARE EXTENDED SERVICE PLAN (ZERO DEDUCTIBLE)

INCLUDED ON THIS VEHICLE

(MSRP)

EQUIPMENT GROUP 500A

OPTIONAL EQUIPMENT/OTHER

- 1022-728N07/26/21NE
- .AM/FM STEREO
 - 3.3L TI-VCT V6 FFV ENGINE
 - 10-SPEED AUTO TRANSMISSION
 - CARGO DOME LAMP - RED/WHITE
 - 50 STATE EMISSIONS
 - COURTESY LAMP DISABLE
 - DRIVER SIDE LED SPOT LAMP
 - KEYLESS ENTRY - 4 FOBS
 - 18" FULL FACE WHEEL COVERS
 - CLOTH BUCKETS/CLOTH REAR SEATS
 - FLEX-FUEL CAPABILITY
 - FRONT LICENSE PLATE BRACKET

- NO CHARGE
- 50.00
- NO CHARGE
- 25.00
- 395.00
- 340.00
- 60.00
- 60.00
- NO CHARGE

PRICE INFORMATION

BASE PRICE	\$40,980.00
TOTAL OPTIONS/OTHER	- 2,520.00
TOTAL VEHICLE & OPTIONS/OTHER	38,460.00
DESTINATION & DELIVERY	1,245.00

EPA DOT Fuel Economy and Environment

Fuel Economy

19 MPG
combined city/hwy

17 23 5.3
city highway gallons per 100 miles

You spend \$2,750 more in fuel costs over 5 years compared to the average new vehicle.

Standard SUVs range from 14 to 102 MPG. The best vehicle rates 142 MPG. Values are based on gasoline and do not reflect performance and ratings based on E85.

Driving Range
Gasoline: 414 miles
Ethanol (E85): 305 miles

Annual fuel cost \$1,850

Fuel Economy & Greenhouse Gas Rating (tailpipe only) **4**

Smog Rating (tailpipe only) **6**

This vehicle emits 463 grams CO₂ per mile. The best emits 0 grams per mile (tailpipe only). Producing and distributing fuel also create emissions. Learn more at fueleconomy.gov

Actual results will vary for many reasons, including driving conditions and how you drive and maintain your vehicle. The average new vehicle gets 22 MPG and costs \$6,500 to fuel over 5 years. Cost estimates are based on 15,000 miles per year at \$2.35 per gallon. This is a dual fueled automobile. MPGe is miles per gasoline gallon equivalent. Vehicle emissions are a significant cause of climate change and smog.

fueleconomy.gov

Calculate personalized estimates and compare vehicles

Smartphone QR Code

GOVERNMENT 5-STAR SAFETY RATINGS

Overall Vehicle Score Not Rated

Based on the combined ratings of frontal, side and rollover. Should ONLY be compared to other vehicles of similar size and weight.

Frontal Crash	Driver Passenger	Not Rated Not Rated
Side Crash	Front seat Rear seat	★★★★★ ★★★★★
Rollover		★★★★

Star ratings range from 1 to 5 stars (★★★★★), with 5 being the highest. Source: National Highway Traffic Safety Administration (NHTSA). www.safercar.gov or 1-888-327-4236



Go Further

The modem is active and sending vehicle data (e.g. diagnostics) to Ford. See in-vehicle settings for connectivity options.

FordPass Connect™ service and FordPass™ App required for certain remote features (see App Terms for more information). Connected service and related feature functionality is subject to compatible AT&T network availability. Existing technology / cellular networks may affect functionality and availability, or continued provision of some features, prohibiting them from functioning. Message and data rates may apply. See your local Ford website for our privacy policy.

FORD PROTECT

Insist on Ford Protect! The only extended service plan fully backed by Ford and honored at every Ford dealership in the U.S., Canada and Mexico. See your Ford dealer or visit www.FordOwner.com.

WARNING: Operating, servicing and maintaining a passenger vehicle, pickup truck, van, or off-road vehicle can expose you to chemicals including engine exhaust, carbon monoxide, phthalates, and lead, which are known to the State of California to cause cancer and birth defects or other reproductive harm. To minimize exposure, avoid breathing exhaust, do not idle the engine except as necessary, service your vehicle in a well-ventilated area and wear gloves or wash your hands frequently when servicing your vehicle. For more information go to www.P65Warnings.ca.gov/passenger-vehicle.

SCAN OR TEXT 1FM5K8ABX TO 48028

Msg & Data rates may apply. Text HELP for help.

www.ford.com/help/privacy-terms

RAMP ONE	CA37	CONVOY	Whether you decide to lease or finance your vehicle, you'll find the choices that are right for you. See your dealer for details or visit www.ford.com/finance.	TOTAL MSRP \$39,705.00
RAMP TWO	ITEM #: 53-F662 O/T 5B			
This label is affixed pursuant to the Federal Automobile Information Disclosure Act. Gasoline, License, and Title Fees, State and Local taxes are not included. Dealer installed options or accessories are not included unless listed above.			SPECIAL ORDER NH151 N RB 2X 215 004403 08 15 22	

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

16e.
2/21/2023

COUNCIL MEETING DATE: 02/21/2023		SUBMITTED BY: Doug Clark - Public Works Director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Storm Drainage Improvements

SYNOPSIS/BACKGROUND:

On April 20, 2021, the City Council approve and authorized the Mayor to sign an agreement in an amount not to exceed \$241,757.00 with Jacobs Engineering Group Inc. to perform professional engineering services to provide conceptual planning for seven sites included in the City of Bellevue's storm drainage improvement project. Amendment No.1 was for additional services for emergency storm sewer system repair near 217 Bellevue Boulevard South and to improve storm drainage issues in the area of 26th and Margo Street, resulting in the increase amount of \$80,066.00 to original agreement bringing the total cost to \$321,823.00. Amendment No. 2 was issued in the amount of \$50,458.00 for additional services for emergency storm sewer repair in the area of Harvell Drive, west of Galvin Road bringing the agreement to \$372,281.00. Amendment No.3 was for additional services to include conduction a wetland delineation and preparing a report and supporting materials for Whitted Creek between Lynnwood Drive and 25th Street, resulting in an increase in the amount of \$10,484.00 to the original agreement, bringing the total project cost not exceed \$382,765.00. Amendment No. 4 is for additional services to include conducting topographic survey of Whitted Creek between Lynnwood Drive and 25th Street, which will result in an increase in the amount of \$22,137.00 to the original agreement, bringing the total project cost not to exceed \$404,902.00.

FISCAL IMPACT: \$22,137.00 BUDGETED FUNDS: YES GRANT/MATCHING FUNDS: NO

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: YES COUNTER-PARTY: Jacobs Engineering Group Inc. INTERLOCAL AGREEMENT: NO

CONTRACT DESCRIPTION: Professional Engineering Services Agreement - Project

CONTRACT EFFECTIVE DATE: 02/21/2023 CONTRACT TERM: To project completion CONTRACT END DATE:

PROJECT NAME: Storm Drainage Improvement Conceptual Plan -Whitted Creek

START DATE: 04/20/2021 END DATE: 12/31/2023 PAYMENT DATE: INSURANCE REQUIRED: YES

CIP PROJECT NAME: Drainage Improvement Continuing with Whitted Creek CIP PROJECT NAME: ST23(7)

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRUBUTION CODE: CIPST23(7) ACCOUNT NUMBER: 7010

RECOMMENDATION:

City Council approve and authorize the Mayor to sign the Amendment No. 04 between the City of Bellevue and Jacobs Engineering Group Inc. in an amount not to exceed \$22,137.00 for Storm Drainage Projects.

ATTACHMENTS:

1. Amended Agreement No. 4 2. 3. 4. 5. 6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:



AMENDMENT NO. 04

THIS CHANGE ORDER IS ISSUED PURSUANT TO THE PROFESSIONAL SERVICES AGREEMENT DATED:

04/21/2021	, which is incorporated herein by this reference, with respect to
Storm Drainage Improvement Conceptual Plan (BPW-210206)	("PROJECT").

Specific Services:

This amendment describes the additional services to be rendered by Jacobs Engineering Group Inc. (JACOBS) to City of Bellevue, Nebraska (CLIENT) for the Storm Drainage Improvement Conceptual Plan project (PROJECT).

Scope of Services:

Refer to Attachment A-4 for the additional scope of services for this PROJECT.


Compensation:

Refer to Attachment B-4 for additional compensation to execute additional scope of services associated with this amendment.

Schedule:

The existing Agreement shall be amended to change the contract end date to December 31, 2023.

Services covered by this Amendment 04 will be performed in accordance with the Provisions of the original Professional Services Agreement, dated 04/21/2021 and any attachments or schedules. The Authorized Representatives designated below are authorized to act with respect to this Amendment.	
For CLIENT: City of Bellevue, NE	For Jacobs Engineering Group Inc.
Name:	Name: Douglas E. Simon
Address:	Address: 222 South 15 th Street, Ste. 1408-S
Telephone:	Telephone: 402.609.7511

Accepted for CLIENT by:	Accepted for Jacobs Engineering Group Inc. by:
Name:	Name: 
Title:	Title: Vice President
Date:	Date: 2/13/2023

Attachment A-4

SCOPE OF SERVICES

Amendment No. 4 – Storm Drainage Improvement Conceptual Plan

Jacobs Engineering Group Inc. (JACOBS) agrees to provide the City of Bellevue Public Works Department (CLIENT) services as outlined herein for a project generally described as Storm Drainage Improvement Conceptual Plan Project (PROJECT). The following services shall be provided as Amendment No. 4 to the Professional Services Agreement (AGREEMENT) dated April 20, 2021.

Project Understanding

This amendment includes additional tasks identified to be included in the PROJECT. The services include conducting topographic survey of Whitted Creek between Lynnwood Drive and 25th Street.

ARTICLE 1 - Scope of Services

JACOBS shall provide professional services to the CLIENT as described in the following tasks.

Task 1: Project Management and Field Assessments

1.1 Project Administration

JACOBS will provide progress reports and invoices in a format acceptable to the CLIENT. JACOBS will provide Quality Control (QC) efforts and provide review of topographic survey files for conformance with deliverable requirements.

Task 1 Deliverables

Invoices and status reports.

QC comments in an excel spreadsheet

Task 9: Whitted Creek Topographic Survey

9.1 Topographic Survey

JACOBS shall contract with R.W. Engineering and Surveying (SUBCONSULTANT) to perform topographic survey to provide information necessary for design of the Whitted Creek Rehabilitation at Nottingham Drive. Topographic survey limits are shown in Figure 1. SUBCONSULTANT will survey the ground levels that are representative of the incipient point of flooding in the backyards of the 26 properties east of Whitted Creek for comparison to modeled water surface elevations.

Task 9 Deliverables

Topographic survey files

SURVEY ASSUMPTIONS

- Topography shall be tied to Nebraska State Plane (NAD83) horizontal coordinates (modified to ground values) and NAVD88 vertical datum.
- Topography shall be affixed to at least two (2) stable control points and shall be shown on the survey.
- Topography shall have a one-foot contour interval.
- Spot elevations shall be shown where abrupt changes in grade occur, where grades are extremely flat, at corners of pavement and structures, at the top and bottom of sets of steps, retaining walls, building entries, etc., at reasonable intervals along the top and bottom of curbs and curved pavement.
- Survey will denote site features such as, but not limited to, buildings, walks, curbs, manholes, drainage structures, water valves, gas valves, trees, shrubs, stairs, signs, utility poles, building doors, etc.
- Survey will include trees over 18 inches in diameter (identify diameter 2 feet above grade). Show locations of individual tree(s) less than 18 inches in diameter if tree(s) are not part of a grouping of trees.
- Survey will show sizes, materials, rim, and inverts of below ground utilities with utility identification by method of observed field evidence, client supplied as-built plans, utility company as-builts, and field markings by utility companies (Nebraska 811).
- Manhole information will be observed from the surface. Measurements will be taken via a twenty-five-foot (25') leveling rod or laser distance meter. No confined space entry will be performed.
- Survey of the lowest opening and or finished floor elevations of the homes (limited to 26 properties) along S 24th Street adjacent to the survey limits. Obtaining right of entry on private property will be the responsibility of the CLIENT.
- Research Sarpy County Land Surveyors Office for recorded survey data.
- Survey will recover a sufficient number of property corner monuments to establish the west lot lines of the houses along S 24th Street adjacent to the survey limits.
- Topographic survey shall be provided in AutoCAD Civil3D 2022 format.



Figure 1 - Limits of Topographic Survey

ARTICLE 2 - Schedule

The existing Agreement shall be amended to change the contract end date to December 31, 2023.

ARTICLE 3 - Compensation

Compensation by CLIENT to JACOBS for the proposed services for Amendment No. 4 described above will be as described in Attachment B-4.

Attachment B-4

COMPENSATION

Amendment No. 4 - Storm Drainage Improvement Conceptual Plan

Compensation by City of Bellevue (CLIENT) to Jacobs Engineering Group Inc. (JACOBS) for the proposed services described in Attachment A-4, Scope of Services for Amendment No. 4 – Storm Drainage Improvement Conceptual Plan will be as follows:

A. COST REIMBURSABLE-MULTIPLIER (TIME AND EXPENSE)

For services enumerated in the Scope of Services above, JACOBS Raw Labor Costs multiplied by a factor of 3.0, plus Direct Expenses, plus a service charge of 5 percent of subcontracts and outside services, plus applicable sales, use, value added, business transfer, gross receipts, or other similar taxes.

B. BUDGET

The maximum cost for this Amendment No. 4, as defined by services described in the Scope of Services outlined in Attachment A-4 is Twenty-two Thousand, One Hundred Thirty-seven dollars (\$22,137), which will be billed on a time and materials basis. Bringing the total contract not to exceed value from Three Hundred Eighty-Two Thousand, Seven Hundred Sixty-five dollars (\$382,765) to Four Hundred Four Thousand, Nine Hundred Two dollars (\$404,902). JACOBS may utilize the compensation between individual tasks requested by the CLIENT but shall not exceed the maximum amount of \$404,902 unless approved in writing by the CLIENT through a contract amendment to this agreement.

JACOBS is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is CLIENT obligated to pay JACOBS beyond these limits. When budget has been increased, JACOBS excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

C. DIRECT EXPENSES

Direct Expenses are those necessary costs and charges incurred for the PROJECT including, but not limited to: (1) the direct costs of transportation and equipment and supplies; (2) JACOBS current standard rate charges for direct use of JACOBS vehicles, laboratory test and analysis, and certain field equipment; and (3) JACOBS standard project charges for computing systems, and special health and safety requirements of OSHA.

Compensation by CLIENT to JACOBS will be for professional services provided on a “time and materials” basis on hourly rates for all labor and direct costs. A summary of labor hours per task related to the Amendment 3 Services and JACOBS’s standard hourly billing rates is included in Table 1 below.

Table 1

Schedule of Hourly Rates, 2023*

Amendment No. 4 - Whitted Creek Topographic Survey

Role	Hourly Rate	Task Hours
Project Manager	\$229.02	2
Design Manager	\$167.79	8
CAD Technician	\$154.50	4
	Total Labor Costs	\$ 2,418
	Subconsultant Fees	\$ 18,780
	Service Charge	\$ 939
	Expenses	\$ -
	Total Costs	\$ 22,137

Mileage Rate	Current IRS audit rate at time of service
Other related consumable supplies (field equipment and supplies, etc.)	Actual
Postage, freight	Actual
Travel costs (airfare, hotel, care rental, meals, etc.)	Actual
Subcontractors and Outside Services	Actual + 5 percent

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

16f.
2/21/2023

COUNCIL MEETING DATE: 02/21/2023		SUBMITTED BY: Doug Clark - Public works director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Olsson amendment #1 agreement to the 36th Street & Bline Avenue Traffic signal modifications project.

SYNOPSIS/BACKGROUND:

The city council authorized the professional engineering services agreement with Olsson for the 36th Street & Bline Avenue Traffic signal modifications on August 2, 2022. for \$14,500.00. This is amendment #1 to this agreement

FISCAL IMPACT: \$18,650.00 BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: YES COUNTER-PARTY: Olsson INTERLOCAL AGREEMENT: NO

CONTRACT DESCRIPTION: 36th Street and Bline Avenue Traffic Signal Modifications

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME: 36th Street and Bline Avenue Traffic Signal Modifications

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME: ST23(11)

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

For the City council to approve and authorize the Mayor to sign the professional engineering service amendment #1 agreement for the 36th Street & Bline Avenue Traffic Signal Modifications in an amount not to exceed \$18,650.00

ATTACHMENTS:

1. Amendment #1 agreement
- 2.
- 3.
- 4.
- 5.
- 6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:





LETTER AGREEMENT AMENDMENT #1

Date: February 9, 2023

This AMENDMENT (“Amendment”) shall amend and become a part of the Letter Agreement for Professional Services dated July 25, 2022 between City of Bellevue (“Client”) and Olsson, Inc. (“Olsson”) providing for professional services for the following Project (the “Agreement”):

PROJECT DESCRIPTION AND LOCATION

Project Description: 36th Street & Blaine Avenue Traffic Signal Modifications

SCOPE OF SERVICES

Client and Olsson hereby agree that Olsson’s Scope of Services under the Agreement is amended by adding the services specifically described below for the additional compensation set forth below:

Phase 100 – Bidding Support

- **Document Interpretation and Clarification**
Provide interpretation and clarification of contract documents for the bidders.
- **Evaluation of Bid**
Olsson will assist the City in evaluating the bids.

Phase 200 – Construction Administration

- **Attend Pre-Construction Meeting**
Attend one pre-construction meeting with the Client and Contractor. Prepare and circulate copies of minutes thereof.
- **Document Interpretation and Clarification**
Provide interpretation and clarification of contract documents for the Client and Contractor. It is assumed no plan addendum will be necessary during the bidding process.
- **Site Visit**
Olsson will conduct one site visit with the Client and Contractor near substantial completion of the project.
- **Review Shop Drawings**
Olsson will review Contractor submittals, for equipment, materials, and construction. All shop drawing submittals will be submitted to the City of Bellevue

for review and approval before issuing an approval to the Contractor. Such reviews shall not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions and programs incident thereto.

Phase 300 – Signal Timing Plan

- **Data Collection:** Olsson will collect data / files relevant to the signal timing efforts. This will include clearance / phasing templates typically utilized in the Omaha Metro area, traffic volumes taken from previous reports (no new counts), and intersection geometric measurements taken from design plans. This includes geometry, speed limits, pedestrian crossing distances, grades, push button locations, and left-turn path distances. Traffic volumes will be interpolated between the most recent count and projections from previous studies. Off-peak volumes will be calculated based on coordination with the City of Bellevue.
- **Synchro Base File:** A Synchro file will be created to contain the three timing plan scenarios while incorporating the data collection effort.
- **Phasing and Clearance Calcs:** Left-turn phasing recommendations will be based on Omaha's left-turn methodology for each movement and time period. Vehicle and pedestrian clearance intervals will be determine based on industry standard methodology.
- **Timing Plan Development:** Three timing plans will be developed (AM / PM / OFFPEAK). Plans will be specific to cycle length, movement splits, and phasing by time of day. Plans will seek to maximize green time allotted to heavy volume movements while minimizing delay and queueing throughout the intersection.
- **Implementation:** Olsson will deliver electronic files to the City of Bellevue for implementation. It is assumed that City of Bellevue staff will perform all implementation and observation activities. Olsson will provide limited support to answer questions or modify synchro deliverables based on observations and adjustments made by City staff. Eight hours are assumed.

Exclusions

Excluded from this scope of services are the following:

- Preparation of public bid package
- Managing Contractor Pay Apps
- Construction Observation/Inspection

COMPENSATION

For the additional Scope of Services specifically set forth in this Amendment, Client shall pay Olsson the following fee in addition to the fee(s) set forth in the Agreement:

Olsson's Scope of Services will be provided on a time-and-expense basis not to exceed \$18,650.

TERMS AND CONDITIONS OF SERVICE

All provisions of the original Agreement not specifically amended herein shall remain unchanged.

If this Contract Amendment satisfactorily sets forth your understanding of our agreement, please sign in the space provided below. Retain a copy for your files and return an executed original to Olsson. This proposal will be open for acceptance for a period of maximum 30 days from the date set forth above, unless changed by us in writing.,

OLSSON, INC.

By Kara A. Kosiski
Kara Kosiski, PE, PTOE

By Tony Egelhoff
Tony Egelhoff, PE

By signing below, you acknowledge that you have full authority to bind Client to the terms of this Amendment. If you accept this Amendment, please sign:

CITY OF BELLEVUE

By _____
Signature

Printed Name _____

Title _____

Dated: _____

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 2/21/2023		SUBMITTED BY: Doug Clark- Public works director	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Midwest right of way services agreement

SYNOPSIS/BACKGROUND:

Contract for Professional Services for the property acquisition for the future public works site. Services will include Project understanding, project management, Title Research, Appraisal Report, Acquisition. for Parcel #011170654, #011162155, #010480153, #011592218, #01159219.

FISCAL IMPACT?: \$10,625.00 BUDGETED FUNDS?: GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: YES COUNTER-PARTY: Midwest right of way services, Inc. INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION: Purchase of Professional Service

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME: Public Works Facility Property Evaluation

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: 6033 ACCOUNT NUMBER: 10-10-6033

RECOMMENDATION:

The Public Works Department recommends the approval of the contract with Midwest Right of Way Services Inc. to evaluate potential properties for purchase to allow for the construction of a Public Works Facility within the City of Bellevue, Nebraska

ATTACHMENTS:

1. Contract Scope of Service
- 2.
- 3.
- 4.
- 5.
- 6.

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

[Handwritten signatures]

MIDWEST

Right of Way Services, Inc.

www.midwestrow.com

February 2, 2023

Doug Clark.
Public Works Director
City of Bellevue, Nebraska
1510 Wall Street
Bellevue, NE 68005

RE: Proposal for Right of Way Services
City of Bellevue, Nebraska
Future Public Works Site – Property Acquisition

Dear Mr. Clark:

Midwest Right of Way Services, Inc. is pleased to provide this proposal for right of way services for the above-referenced project in Sarpy County, Nebraska.

CONSULTANT AND KEY PERSONNEL

Consultant- Midwest Right of Way Services
13425 “A” Street
Omaha, Nebraska 68144
(402) 955-2900

Key Personnel- John E. Borgmeyer, Vice President
Maria Rodriguez, Project Manager

PROJECT UNDERSTANDING

This project involves the acquisition of four properties to develop a new City of Bellevue Public Works Site in Bellevue, Nebraska. The project will require the purchase of five parcels of land from one property owner. The site will require roughly 65 acres of land to build the new facilities.

PROJECT MANAGEMENT

This task will involve coordination of all project elements so that work is initiated as it should be, appropriate progress is made, and schedules are met. Coordination and scheduling of the acquisition process will be the responsibility of the project manager.

TITLE RESEARCH

A title search will be performed on the properties to determine fee ownership and liens and encumbrances which affect the title. Nebraska Title Company will provide the title reports for use in preparing the necessary right of way documents. The cost of the title reports will be passed through to the City of Bellevue without any markup by the consultant.

APPRAISAL REPORT

This task involves preparation of one (1) appraisal report which will provide a value for the properties to be acquired. Giff Property Services will prepare the appraisal for this project. Several of Giff Property Services staff members are approved by the State of Nebraska Department of Transportation to provide appraisal reports for right of way projects.

ACQUISITION

Midwest Right of Way Services' acquisition agents will make every effort to understand the project's objective before meeting with the property owner. During our initial meeting with the owner our agent will prepare all documents, present and explain the offer, answer all acquisition-related questions. We will secure signatures from all interested parties through negotiations. Our acquisition agents will obtain tenant information from property owners and proceed to obtain signed a leasehold contract, if applicable. We will negotiate in good faith and keep records of all contacts made.

If necessary, a recommendation for a negotiated settlement will be made to the City of Bellevue. When an agreement is reached, we will obtain the necessary signatures of all interested parties. Our goal will be to acquire the necessary property through amicable negotiations. If condemnation is required, we will work with the City of Bellevue and its attorney to file the necessary documents and be available to assist with condemnation preparation or court testimony.

ECONOMIC EQUITY AND INCLUSION PROGRAM

Midwest Right of Way Services, Inc. is a participant in the City of Omaha Economic Equity and Inclusion Program.

SMALL EMERGING BUSINESS TIER II

Midwest Right of Way Services, Inc. is certified by the City of Omaha as a Small Emerging Business Tier II.

VETERAN-OWNED BUSINESS

Midwest Right of Way Services is a veteran-owned business.

TEAM MEMBERS

Jack Borgmeyer, SR/WA, R/W-RAC, is President of Midwest Right of Way Services, Inc. He is qualified to complete all aspects of the right of way process. He has over 35 years of experience relating to real estate and right of way. His experience includes right of way title searches, land and easement acquisition, relocation, condemnation testimony, and project management.

John Borgmeyer, RWA-GN, Right of Way Agent, is the Chief Operations Officer for Midwest Right of Way Services, Inc. He has performed acquisition negotiations for state, local and federally funded projects in Nebraska, Iowa and Kansas, and relocation assistance for local and federally funded projects in Nebraska. His experience includes roadway, airport, drainage, and sewer projects.

Stacey A. Kroeger, SR/WA, R/W-RAC, Right of Way Agent, has worked for Midwest Right of Way Services since February 2001. She has performed acquisition negotiations and relocation assistance since May 2005. Her experience includes right of way title searches, acquisition negotiations, and relocation assistance for state, local, and federally funded projects.

Maria Rodriguez, Right of Way Agent, has worked for Midwest Right of Way Services since October 2013. She performed several years of acquisition negotiations and relocation assistance in Phoenix, Arizona. Her experience includes right of way title searches, acquisition negotiations, and relocation assistance for state, local, and federally funded projects. Maria speaks and writes the Spanish language fluently.

Denny Bliss, Right of Way Agent, has worked for Midwest Right of Way Services since July 2011. He has performed acquisition negotiations for state, local and federally funded projects. His experience includes preparation and review of legal descriptions, review of land title reports, as well as the ability to read, interpret, and draw engineering plans. He has experience with airport, roadway, drainage, sewer, and utility projects. He is also an experienced CADD technician.

Jim Abbott, Right of Way Agent, has worked for Midwest Right of Way Services since January of 2017. He has performed acquisition negotiations for sewer, roadway, water main, transmission line, and construction liaison projects in Omaha, Lincoln, Sarpy County and Douglas County in Nebraska and roadway projects in Iowa. His experience includes twenty years of real estate management of commercial and investment properties in the Midwest working for a management company throughout Nebraska, Iowa, and South Dakota.

Chris Wayne, SR/WA, Right of Way Agent, is the newest member of the Midwest Right of Way Services team starting in May of 2020. His experience includes over 30 years of urban planning and redevelopment experience working for the City of Omaha. Chris has extensive knowledge in the real estate, right of way acquisition, and relocation assistance service field.

Molly Frederickson, Administrative Assistant, is the newest member of our team beginning in January 2019. She provides administrative support and document preparation for Midwest Right of Way's acquisition and relocation agents. She has experience as a document specialist for a local law firm and has experience as an escrow assistant for a real estate title company.

Doug Clark
 City of Bellevue, Nebraska
 February 2, 2023
 Page 4

PAYMENT FOR SERVICES

Midwest Right of Way Services proposes the right of way services detailed above for the following hourly fees:

	<u>Hourly Service Rates</u>
Project Manager	\$ 150.00
Right of Way Agent/Relocation Agent	\$ 125.00
Document Preparation and Administrative Services	\$ 75.00
Mileage at Standard IRS Rate	\$ 0.655 per mile

The maximum fees for each task will be as follows:

Task		Maximum Fee
Project Management	1 owner @ \$1,200.00 each	\$ 1,200.00
Title Reports – NE Title Co.	5 reports @ \$200.00	\$ 1,000.00
Appraisal Report	\$2,500.00 @ 1 report	\$ 2,500.00
Acquisition Negotiations	1 owner @ \$5,625.00 each	\$ 5,625.00
Document Prep. & Admin. Fees	4 hours @ \$75.00 each	\$ 300.00
Total Maximum Fee		\$ 10,625.00

* Appraisal pricing is based on limited current information. If it is determined that a different type of appraisal is required there may be additional costs. Any such additional cost will be sent to the City for approval before any those costs are incurred.

Condemnation court testimony and consultation will be billed at our standard hourly rate plus expenses, if needed. Invoices will be sent on an approximate monthly basis for services rendered.

If the above-described items are satisfactory to you, please sign and date the original and duplicate original of this letter in the space provided. Keep one executed copy of this letter for your files and return the duplicate copy to us for our files. Receipt of this letter contract will be considered our formal notice to proceed with the work.

Sincerely,

MIDWEST RIGHT OF WAY SERVICES, INC.



John E. Borgmeyer
 Vice President

ACCEPTANCE OF PROPOSAL AND AUTHORIZATION TO PROCEED

_____ Date: _____
 Authorized Representative: City of Bellevue, Nebraska

CITY OF BELLEVUE, NEBRASKA
AGENDA ITEM COVER SHEET

COUNCIL MEETING DATE: 2/21/2023		SUBMITTED BY: Administration/HR	
AGENDA ITEM:	CONSENT AGENDA <input type="checkbox"/>	SPECIAL PRESENTATION <input type="checkbox"/>	
LIQUOR LICENSE <input type="checkbox"/>	ORDINANCE <input type="checkbox"/>	PUBLIC HEARING <input type="checkbox"/>	
RESOLUTION <input type="checkbox"/>	CURRENT BUSINESS <input checked="" type="checkbox"/>	OTHER <input type="checkbox"/>	

SUBJECT:

Approve and authorize Mayor to sign City of Bellevue, Nebraska Police Officer's Retirement Plan and Trust Restatement for Certain Police Officers

SYNOPSIS/BACKGROUND:

The Police Officer's Retirement Plan and Trust Restatement for certain, eligible police officers was drafted in order to incorporate certain language and changes that resulted from recent litigation, wherein the Sarpy County District Court ordered the City to insert specific language and provisions into the plan. Said language and provisions were inserted accordingly. Additionally, various language throughout the document needed to be updated in order to comport with changes in state and federal law. Various other changes were made to the plan to include an updated mortality table to be used in calculating payout benefits of retirees, formatting changes, and restructuring of certain sections.

The fiscal impact stated on this cover sheet is not to be paid in one lump sum. As part of this amendment and restatement, a new mortality table will be used when calculating the retirement payouts of eligible police officers upon retirement, as agreed upon by the Parties. The stated -\$2,000,000 fiscal impact is an estimated cost of the increase in payouts that will occur from utilizing the new mortality used in this plan and is the impact the City will expect see over the course of the years in which eligible officers under this plan retire and receive retirement benefits. This is in addition to the current \$3,000,000 net pension liability.

FISCAL IMPACT: ~\$2,000,000 BUDGETED FUNDS?: No GRANT/MATCHING FUNDS?:

TRACKING INFORMATION FOR CONTRACTS AND PROJECTS:

IS THIS A CONTRACT?: COUNTER-PARTY: INTERLOCAL AGREEMENT:

CONTRACT DESCRIPTION:

CONTRACT EFFECTIVE DATE: CONTRACT TERM: CONTRACT END DATE:

PROJECT NAME:

START DATE: END DATE: PAYMENT DATE: INSURANCE REQUIRED:

CIP PROJECT NAME: CIP PROJECT NAME:

STREET DISTRICT NAME (S): STREET DISTRICT NUMBER (S):

ACCOUNTING DISTRIBUTION CODE: ACCOUNT NUMBER:

RECOMMENDATION:

Approve and Authorize Mayor to sign City of Bellevue, Nebraska Police Officer's Retirement Plan and Trust Restatement for Certain Police Officers

ATTACHMENTS:

- Retirement Plan and Trust
-
-
-
-
-

SIGNATURES:

LEGAL APPROVAL AS TO FORM:

FINANCE APPROVAL AS TO FORM:

ADMINISTRATOR APPROVAL AS TO FORM:

[Handwritten signatures]

CITY OF BELLEVUE, NEBRASKA
POLICE OFFICERS RETIREMENT PLAN AND TRUST

Restated February ____, 2023

TABLE OF CONTENTS

Page

ARTICLE 1 Creation and Purpose	6
1.1 Purpose.	6
1.2 Prior Plan.	7
1.3 Exclusive Benefit.....	7
1.4 Custodian.	7
ARTICLE 2 Definitions and Construction	7
2.1 "Account" or "Accounts"	7
2.2 "Actuarial Equivalent".....	8
2.3 "Administrator"	9
2.4 "Agreement"	9
2.5 "Annuity Contract"	9
2.6 "Applicable Form".....	9
2.7 "Beneficiary"	9
2.8 "B.P.O.A."	9
2.9 "City"	9
2.10 "Defined Contribution Plan"	9
2.11 "Employee"	9
2.12 "Employer"	9
2.13 "Participant"	9
2.14 "Plan"	9
2.15 "Plan Year"	10
2.16 "Police Officer"	10
2.17 "Regular Interest"	10
2.18 "Regular Pay"	10
2.19 "Retirement Benefit".....	10
2.20 "Retirement Committee"	10
2.21 "Retirement Date"	10
2.22 "Retirement System"	10
2.23 "Retirement Value"	10
2.24 "Salary"	10
2.25 "Termination of Service".....	10
2.26 "Trust Fund"	11
2.27 "Trustee"	11
2.28 "Year of Service".....	11
ARTICLE 3 Participation in Plan.....	11
3.1 Eligibility.	11

3.2	Classes of Benefits Provided.....	11
3.3	Contributions Required.....	12
ARTICLE 4 Contributions		12
4.1	Establishment of Accounts.....	12
4.2	Employee Contributions.....	13
4.3	Matching Employer Contributions.....	13
4.4	Additional City Contributions.....	13
4.5	Pick-Up Provisions.....	13
4.6	Voluntary After-Tax Contributions.....	13
4.7	Calculation of Excess Contributions.....	14
4.8	Limitations on Contributions.....	14
4.9	Compliance with Code § 401(a)(17) for the Limitation on Compensation.....	20
ARTICLE 5 Disability.....		21
5.1	Disability Benefit.....	21
5.2	Definition of and Establishing Disability.....	21
5.3	Temporary Disability.....	21
5.4	Workers' Compensation Benefit.....	22
5.5	Minimum Disability Retirement Benefits.....	22
5.6	Disability Not in the Line of Duty.....	22
ARTICLE 6 Distribution of Benefits upon Termination of Service		22
6.1	Termination Benefit.....	22
6.2	Termination Benefit Payment Option.....	22
6.3	Vesting Percentage.....	22
6.4	Eligible Rollover Distributions.....	23
6.5	Involuntary Cash-Outs of Small Accounts.....	24
6.6	Forfeitures.....	24
6.7	Required Minimum Distribution Rules.....	25
ARTICLE 7 Retirement Benefits under the Agreement.....		25
7.1	Election to Retire.....	25
7.2	Normal Retirement.....	25
7.3	Deferred Retirement Option Plan (DROP).....	25
7.4	Normal Retirement Benefit.....	25
ARTICLE 8 Death Benefits.....		26
8.1	Death Prior to Annuity Commencement Other Than in the Line of Duty.....	26
8.2	Death Benefit After Annuity Commencement.....	27
8.3	Death in the Line of Duty.....	28
8.4	Death Benefit After Deferred Retirement Benefit.....	28

8.5	Designation of Beneficiary	28
ARTICLE 9 Administration		28
9.1	Authority of the Retirement Committee	28
9.2	Retirement Committee Members.....	29
9.3	Specific Duties of the Retirement Committee.....	29
9.4	Powers of the Retirement Committee.....	30
9.5	Power to Make Adjustment and Corrections.....	30
9.6	Use of Alternative Media.....	31
9.7	Liability Limited.....	31
ARTICLE 10 Trust Fund.....		31
10.1	General Provisions.....	31
10.2	Plan Investments.....	31
10.3	Retirement Committee Direction of Investment.....	32
10.4	Trustee Powers and Duties.....	32
10.5	Accountings by Trustee.....	35
10.6	Insurance Contracts.....	36
10.7	Expenses.....	36
10.8	Taxes.....	36
10.9	Resignation and Removal of Trustee.....	36
10.10	Trustee Liability.....	37
ARTICLE 11 Miscellaneous Provisions		37
11.1	Non-Alienation of Benefits.....	37
11.2	Qualified Domestic Relations Orders (“QDRO”).....	37
11.3	Plan Not a Contract of Employment.....	38
11.4	Compliance with Code Sections 401(a)(7) for Vesting:.....	38
11.5	Workers’ Compensation Benefits.....	38
11.6	Merger or Consolidation.....	39
11.7	Amendment or Termination.....	39
11.8	Tax Withholding.....	39
11.9	Invalidity of Certain Provisions.....	39
11.10	Additional Limitations.....	39
11.11	Compliance with Code.....	39
11.12	Compliance with Settlement Agreement.....	40
11.13	Counterparts.....	40
11.14	Plan Construed as a Whole.....	40

APPENDIX A.....	41
APPENDIX B.....	42
APPENDIX C.....	43

**CITY OF BELLEVUE, NEBRASKA
POLICE OFFICERS RETIREMENT PLAN AND TRUST**

Introduction and Parties

This City of Bellevue, Nebraska Police Officers Retirement Plan and Trust (the “Plan”), originally established on February 1, 1981, as amended and restated effective January 1, 2002, and as subsequently amended, and most recently amended and restated effective January 1, 2011, is hereby further amended and restated effective this ____ day of February 2023 (except as otherwise provided herein) by the City of Bellevue, Nebraska (“City”);

WHEREAS, the Plan is established and maintained by the City for the purpose of establishing and keeping the Police Officers Retirement System Fund required by Nebraska Revised Statutes (“Neb. Rev. Stat.”) §§ 16-1001 through 16-1019, known as the Police Officers Retirement Act, to provide retirement, death and disability benefits for its Police Officers and to establish a trust funding medium for the Plan as required by Neb. Rev. Stat. § 16-1004 and in accordance with the tax-qualification requirements of Section 401(a) of the Internal Revenue Code (“Code”), as applicable to government retirement plans;

WHEREAS, retirement benefits to be provided by the Plan have been adopted by the City Council for certain Police Officers pursuant to labor contracts with representatives of the City’s Police Officers; and

WHEREAS, to maintain its qualification as a governmental tax-exempt retirement plan under Code § 401(a), as amended, it is necessary that the Plan be amended to incorporate the applicable changes in the tax laws and regulations that have been enacted or promulgated since the Plan was last restated, to incorporate amendments adopted under Neb. Rev. Stat. §§ 16-1001 through 16-1019, and to adopt such additional amendments as required by law or as otherwise determined to be necessary or appropriate by the City.

NOW, THEREFORE, pursuant to its power and authority to amend the Plan, the Plan is hereby amended and restated by the City as follows:

**ARTICLE 1
Creation and Purpose**

1.1 **Purpose.** The primary purpose of the Plan is to provide retirement income, disability income, and other benefits for Police Officers in addition to, or in conjunction with, the benefits provided under the Federal Social Security Act and the Nebraska Workers’ Compensation Act, in consideration of their service to the City. The Plan is designed to comply with Nebraska Statutes relating to police officer retirement systems of cities of the first class, and is a money purchase plan intended to meet the requirements of Code §§ 401(a) and 414(d), as said sections apply to government plans or such other provisions of the Code as applicable, and applicable Treasury Regulations and other guidance in order that the Plan may qualify as a governmental tax-qualified plan.

The Plan is further designed to provide for the retirement benefits to be made available to certain Police Officers as required by the Settlement Agreement Between Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 and the City of Bellevue, Nebraska, dated May 9, 2011 (hereafter referred to as the “Agreement” and attached hereto as “Appendix A”), and the Sarpy County, District Court’s Amended Order of Judgment (entered on September 3, 2020) and Amended Order of Judgment on Mandate (entered on April 21, 2022) in *Abbott et al. v. City of Bellevue*, CI 17-1674 (hereafter referred to as the “CI 17-1674 Orders” and attached hereto as “Appendix B”).

1.2 Prior Plan. The City maintained a pension system before 1984 as required by Nebraska Statutes to provide retirement benefits for its salaried Police Officers. This Plan has been established by the City, to provide for the retirement system required by Nebraska statutes. The pension system for the City’s Police Officers established under this Plan is effective as of January 1, 1984. The rights and benefits of former Police Officers who retired or became eligible for other benefits under the prior pension system before January 1, 1984, shall be determined in accordance with the provisions of the prior pension system at the time such benefits were granted.

1.3 Exclusive Benefit. This Plan has been established and shall be maintained for the exclusive benefit of those Police Officers who shall be eligible to participate under the Plan and their Beneficiaries. The Plan assets shall be held for the exclusive benefit of the Participants and their Beneficiaries. In no event shall any part of the Plan assets revert to the City, or be used for, or diverted to, purposes other than for the exclusive benefit of Participants and their Beneficiaries and defraying reasonable expenses of administering the Plan, except as allowed by law except due to a mistake of fact as permitted by Internal Revenue Service (“IRS”) Revenue Ruling 91-4.

1.4 Custodian. The Retirement Committee has entered into a trust agreement with a corporate Trustee, which may be changed from time to time, in the discretion of the Retirement Committee. To the extent permitted by applicable law and directed by the Retirement Committee, the administrative expenses of the Plan shall be paid from the assets maintained by such corporate Trustee.

ARTICLE 2

Definitions and Construction

The following words and phrases when used in this Plan, unless the context clearly indicates otherwise, shall have the following meanings:

2.1 “Account” or “Accounts” means the separate bookkeeping accounts established and maintained by the Administrator for each Participant and Beneficiary, pursuant to Neb. Rev. Stat. §16-1004(3), reflecting his or her interest under the Plan as follows:

(a) “Employee Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to his or her pre-tax contributions made pursuant to Section 4.2. The Employee Contribution Account shall be further subdivided into separate bookkeeping accounts as follows:

- (1) EE012 – a subaccount to reflect the Employee’s 6% mandatory contributions; and
- (2) EE912 – a subaccount to reflect the Employee’s mandatory contributions in excess of 6%.

Per the CI 17-1674 Orders, Employee’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for each Employee is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The EE912 subaccount shall account for the “excess contributions” beginning with 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning on October 1, 2015 and all “excess contributions” above 6% going forward.

(b) “Employer Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to Employer contributions made on the Employee’s behalf, pursuant to Section 4.2. The Employer Contribution Account shall be further subdivided into separate bookkeeping accounts as follows:

- (1) ER012 – a subaccount to reflect the City’s 6% matching contributions; and
- (2) ER912 – a subaccount to reflect the City’s matching contributions in excess of 6%.

Per the CI 17-1674 Orders, the City’s mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The “excess contribution” amount required for the City is 1% but may be amended pursuant to Neb. Rev. Stat. §16-1005. The ER912 subaccount shall account for the “excess contributions” beginning with the 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning October 1, 2015 and all “excess contributions” above 6% going forward.

(c) “After-Tax Contribution Account” means the subaccount maintained to reflect the Employee’s interest under the Plan attributable to his or her voluntary after-tax contributions pursuant to Section 0.

2.2 “Actuarial Equivalent” means equality in value of the aggregate amount of benefit expected to be received under different forms of benefit or at different times (including lump sum distributions) based on a 50/50 blend of male and female mortality under the applicable IRS mortality table as defined under Code Section 417(e)(3) for the calendar year containing the Retirement Benefit commencement date, and 7% interest per annum. If benefits under the Plan are obtained through the purchase of an Annuity Contract, the Actuarial Equivalent of any such form of benefit shall be the amount of pension benefit which can be purchased or otherwise provided by the Police Officer’s Retirement Value. All actuarial and mortality assumptions adopted by the Retirement Committee shall be on a sex-neutral basis.

Unless otherwise specifically provided, any form of pension or annuity benefit under this Plan shall be the Actuarial Equivalent of the normal form of benefit specified in Section 7.4.

2.3 “Administrator” means the City; provided, however, to the extent that the City has delegated duties pursuant to Neb. Rev. Stat. § 16-1014 and Section 0, the term “Administrator” shall be deemed to include the person or persons, including a designated committee such as the Retirement Committee, to whom such duties have been delegated.

2.4 “Agreement” means the Settlement Agreement Between Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 and the City of Bellevue, Nebraska, dated May 9, 2011.

2.5 “Annuity Contract” means a contract or contracts, as defined in Code § 401(f), established for each Participant by the Plan, or by each Participant individually, that is issued by an insurance company for the purpose of providing all or a portion of the benefits under this Plan. Such term shall include group Annuity Contracts which are an investment of the Trust Fund. Annuity conversion rates contained in any such contract shall be specified on a sex neutral basis.

2.6 “Applicable Form” means the appropriate form, as designated and furnished by the Retirement Committee or its delegate to make an election or provide a notice required by the Plan.

2.7 “Beneficiary” means the person or persons designated by a Participant, pursuant to the Applicable Form filed with the Retirement Committee or its delegate before the Participant’s death, to receive death benefits which may be payable under the Plan.

2.8 “B.P.O.A.” means the Bellevue Police Officers Association.

2.9 “City” means the City of Bellevue, Nebraska.

2.10 “Defined Contribution Plan” means the defined contribution plan established pursuant to Neb. Rev. Stat. § 16-1004 that is not this Plan.

2.11 “Employee” means any Police Officer whose most recent hire date is before May 1, 2011.

2.12 “Employer” means the City.

2.13 “Participant” means an Employee, retired Employee, or former Employee as defined herein who has met all the requirements of this Plan, and has entered this Plan as provided in ARTICLE 3, and who continues to have rights or contingent rights to benefits payable under this Plan.

2.14 “Plan” means the City of Bellevue, Nebraska Police Officers Retirement Plan and Trust, the terms of which are herein set forth, and as may be amended by the City from time to time.

2.15 “Plan Year” means a 12-month period beginning on January 1 and ending on December 31.

2.16 “Police Officer” means a person who is employed by the City as a full-time police officer as determined by the City under its normal practices.

2.17 “Regular Interest” means the rate of interest earned each calendar year equal to the rate of net earnings realized for the calendar year from investments of the Trust Fund. Net earnings means the amount by which income or gain realized from investments of the Trust Fund exceeds the amount of any realized losses from such investments during the calendar year.

2.18 “Regular Pay” means the Salary of the Employee for the period of five (5) consecutive years preceding the Employee’s retirement, death, or date of disability which produces the highest average, divided by 60.

2.19 “Retirement Benefit” means the retirement income benefit payable to a Participant at his or her Retirement Date. The normal form of the Retirement Benefit shall be a lump sum payment in an amount equivalent to a straight life annuity paying monthly benefits. The amount of retirement benefit for any Participant shall be an amount equal to the amount of pension benefit that can be purchased or otherwise provided by the Participant’s Retirement Value.

2.20 “Retirement Committee” means the Retirement Committee as provided under Article X of this Plan, created pursuant to Neb. Rev. Stat. §16-1014.

2.21 “Retirement Date” means the first day of the month immediately following the last day of employment with the City with respect to normal or early retirements, or the date benefit payments are to commence with respect to a deferred Retirement Date.

2.22 “Retirement System” means a Retirement System established pursuant to the Police Officers Retirement Act, Neb. Rev. Stat. §§ 16-1001 through 16-1019.

2.23 “Retirement Value” means the accumulated value, at any particular point in time, of the Participant’s separate investment account, established pursuant to Neb. Rev. Stat. §16-1002(9), which consists of the Participant’s Employee Contribution Account and Employer Contribution Account, as provided in ARTICLE 4.

2.24 “Salary” means all amounts paid to an Employee by the City for personal services as reported on the Employee’s federal income tax withholding statement, including the Employee’s contributions picked-up by the City as provided in Neb. Rev. Stat. § 16-1005(2) and any salary reduction contributions which are excludable from income for federal income tax purposes pursuant to Code §§ 125 or 457.

2.25 “Termination of Service” means a complete termination of the employment relationship between an Employee and the City for any reason, including disability and retirement; provided, however, such term shall not include (i) temporary absence due to vacation, sickness, or layoff; (ii) military service, to the extent required under the Uniformed Services Employment and Reemployment Rights Act (“USERRA”) and Code § 414(u)(8)(A); (iii) a leave that qualifies as a

family or medical leave under the Family and Medical Leave Act (“FMLA”); or (iv) any other leave of absence approved by the Employer in accordance with its leave policies and procedures. An Employee shall be deemed to have had a Termination of Service for purposes of the Plan when, in accordance with the established personnel practices of the Employer, the employment relationship is considered actually terminated and the Employee has been paid all compensation due upon Termination of Service, including, but not limited to, payment of accrued vacation leave credits, and payment of accrued sick leave credits, as provided in the Agreement between the City of Bellevue, Nebraska and the Bellevue Police Officers Association Fraternal Order of Police Lodge 59, October 1, 2014-September 30, 2017 or any subsequent collective bargaining agreements.

2.26 “Trust Fund” means the trust fund established hereunder to provide for the payment of the benefits specified in the Plan, as described in Section 0.

2.27 “Trustee” means the trustee, or any successor trustee or trustees designated and appointed by the Administrator under the Plan.

2.28 “Year of Service” means the period of time beginning with an Employee’s most recent date of hire or the anniversary of such date of hire and ending twelve months thereafter. Service performed as an Employee of any other city or governmental entity shall be disregarded for all purposes under the Plan.

ARTICLE 3 Participation in Plan

3.1 Eligibility. The City has agreed to provide the benefits set forth in this Plan to those Employees who meet all of the following conditions:

- (a) Have a hire or re-hire date before May 1, 2011;
- (b) Are eligible to retire and receive a normal Retirement Benefit under Section 7.4 as of January 1, 2020; and
- (c) Are employed as Police Officers on January 1, 2020.

The names of the Employees covered by this Plan are hereby incorporated and attached hereto in Appendix C. Employees who are not eligible to participate in this Plan are entitled to the benefits provided under the Defined Contribution Plan.

3.2 Classes of Benefits Provided. This Plan provides for:

- (a) Payment of a Retirement Benefit to each Participant who retires in accordance with the provisions of ARTICLE 7;
- (b) Death benefits to Beneficiaries, as provided in ARTICLE 8;
- (c) Disability pension benefits as provided in ARTICLE 5; and

(d) Payment of benefits to Participants on Termination of Service for reasons other than death, disability, or retirement, as provided in ARTICLE 6.

3.3 Contributions Required. All Participants are, as a condition of employment, required to make mandatory individual Employee contributions in accordance with ARTICLE 4. The City will make Employer contributions in accordance with ARTICLE 4. In addition, the cost of all benefits provided by this Plan in excess of benefits provided by the Participant's Retirement Value shall be provided by contributions by the City.

ARTICLE 4 Contributions

4.1 Establishment of Accounts. The Trustee shall create and maintain the following separate bookkeeping Accounts in the name of each Participant:

(a) Employee Contribution Account, which shall include two subaccounts:

(1) One subaccount ("EE012") to reflect the portion of the Employee's mandatory contributions that are equal to 6% of the Employee's Salary; and

(2) One subaccount ("EE912") to reflect the portion of the Employee's mandatory contributions that are in excess of 6% of the Employee's Salary;

Per the CI 17-1674 Orders, Employee's mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The "excess contribution" amount required for each Employee is 1%, but may be amended pursuant to Neb. Rev. Stat. §16-1005. The EE912 subaccount shall account for the "excess contributions" beginning with 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning on October 1, 2015 and all "excess contributions" above 6% going forward.

(b) Employer Contribution Account, which shall include two subaccounts:

(1) One subaccount ("ER012") to reflect the portion of the City's matching contributions that are equal to 6% of the Employee's Salary; and

(2) One subaccount ("ER912") to reflect the portion of the City's matching contributions that are in excess of 6% of the Employee's Salary;

Per the CI 17-1674 Orders, the City's mandatory excess contributions are outlined in Nebraska Revised Statute §16-1005, as may be amended. The "excess contribution" amount required for the City is 1% but may be amended pursuant to Neb. Rev. Stat. §16-1005. The ER912 subaccount shall account for the "excess contributions" beginning with the 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning October 1, 2015 and all "excess contributions" above 6% going forward.

(c) After-Tax Contribution Account.

As of the last day of each Plan Year, all Accounts shall be credited with a proportionate share of the Trust Fund's Regular Interest for such Plan Year and currently valued. At the direction of the Retirement Committee, more frequent valuations and interim adjustments of the Accounts may be made by the Trustee. Except as may otherwise be provided in ARTICLE 10, the Trustee shall not be required to maintain separate investments for any Account.

4.2 Employee Contributions. Each Participant shall have Employee contributions deducted from his or her Salary in an amount equal to: (i) 6% until October 1, 2013, (ii) 6.5% beginning October 1, 2013, until October 1, 2015, and (iii) 7% beginning October 1, 2015, of the Participant's Salary for such period. Such Employee contributions shall be credited to the Participant's Employee Contribution Account on a monthly basis, as set forth in Section 4.1(a).

4.3 Matching Employer Contributions. The City shall make Employer contributions for each Participant in an amount equal to 100% of the Employee contributions deducted from the Employee's Salary, in accordance with Neb. Rev. Stat. § 16-1005(1) and Section 4.2 of the Plan. Such contributions shall be paid into the Trust Fund and credited to the Participant's Employer Contribution Account on a monthly basis, as set forth in Section 4.1(b).

4.4 Additional City Contributions. The City shall contribute any amounts necessary to fund retirement or other Plan benefits not provided by Employee contributions or matching Employer contributions. Specifically, when a Participant retires under Section 7.4 and elects to receive a Retirement Benefit equal to 55% of the Participant's Regular Pay, the City shall be liable for the difference between the amount due based on the Participant's election under Section 7.4 and the combined value of the EE012 and ER012 subaccounts.

4.5 Pick-Up Provisions. The City shall pick-up Employee contributions required under Section 4.2 and deducted from the Salary of the Participants, and the contributions so picked-up shall be treated as Employer contributions in determining federal tax treatment under the Code, including Code § 414(h). The City shall pick-up these contributions by a salary deduction either through a reduction in the cash salary of the Participant or a combination of a reduction in salary and offset against a future salary increase. In no event shall an Employee be given an option to choose to receive the amount of the required pre-tax Employee contribution in lieu of having such amount paid directly to the Trust Fund.

4.6 Voluntary After-Tax Contributions. A Participant may elect, from time to time, to make voluntary after-tax cash contributions to the Plan, subject to the limitations of Section 4.8. Voluntary after-tax contributions will be paid into the Trust Fund and credited to the Participant's After-Tax Contribution Account when made. Such voluntary contributions shall thereafter be held, administered, invested, and distributed in the same manner as any other amounts credited to the Participant's Employee Contribution Account; provided, however, that any voluntary after-tax contributions made pursuant to this Section shall not be included in the benefit calculation under Section 7.4(b).

4.7 Calculation of Excess Contributions. The Employee's "excess contributions" and the City's "excess contributions" due beginning October 1, 2013 through the date of entry of the CI 17-1674 Orders and subsequent separation of the Participants' Accounts into subaccounts, as outlined in Sections 2.1(a) and 2.1(b), shall be accounted for and calculated as outlined in the CI 17-1674 Orders. The example calculations provided in the CI 17-1674 Orders are hereby incorporated into the Plan and are found in Appendix B. With regard to all individuals referenced as "Remaining Plaintiffs" in the CI 17-1674 Orders, the Plan shall be construed and administered in accordance with the provisions and example calculations of the CI 17-1674 Orders.

4.8 Limitations on Contributions. Notwithstanding any provisions of the Plan to the contrary, the Employee contributions paid to and retirement benefits paid from the Plan shall be limited to such extent as may be necessary to conform to the requirements of Code § 415 for a qualified pension plan.

(a) Participation in Other Qualified Plans: Aggregation of Limits.

(1) The 415(b) limit with respect to any Participant who at any time has been a member in any defined benefit plan as defined in Code § 414(j) maintained by the Participant's Employer in this plan shall apply as if the total benefits payable under all such defined benefit plans in which the Participant has been a Participant were payable from one plan.

(2) The 415(c) limit with respect to any Participant who at any time has been a Participant in any other defined contribution plan as defined in Code § 414(i) maintained by the Participant's Employer in this plan shall apply as if the total annual additions under all such defined contribution plans in which the Participant has been a Participant were payable from one plan.

(b) Basic 415(b) Limitation.

(1) Before January 1, 1995, a Participant may not receive an annual benefit that exceeds the limits specified in Code § 415(b), subject to the applicable adjustments in that section. On and after January 1, 1995, a Participant may not receive an annual benefit that exceeds the dollar amount specified in Code § 415(b)(1)(A), subject to the applicable adjustments in Code § 415(b) and subject to any additional limits that may be specified in the Retirement System. In no event shall a Participant's annual benefit payable under the plan in any limitation year be greater than the limit applicable at the annuity starting date, as increased in subsequent years pursuant to Code § 415(d) and the regulations thereunder.

(2) For purposes of Code § 415(b), the "annual benefit" means a benefit payable annually in the form of a straight life annuity (with no ancillary benefits) without regard to the benefit attributable to after-tax Employee contributions (except pursuant to Code § 415(n)) and to rollover contributions (as defined in Code § 415(b)(2)(A)). The "benefit attributable" shall be determined in accordance with Treasury Regulations.

(c) Adjustments to Basic 415(b) Limitation for Form of Benefit.

If the benefit under the plan is other than the form specified in subsection 4.8(c)(2), then the benefit shall be adjusted so that it is the equivalent of the annual benefit, using factors prescribed in Treasury Regulations.

(1) If the form of benefit without regard to the automatic benefit increase feature is not a straight life annuity or a qualified joint and survivor annuity, then the preceding sentence is applied by either reducing the Code § 415(b) limit applicable at the annuity starting date or adjusting the form of benefit to an actuarially equivalent amount (determined using the assumptions specified in Treasury Regulation § 1.415(b)-1(c)(2)(ii)) that takes into account the additional benefits under the form of benefit in subsections (d)(2) and (d)(3).

(2) For a benefit paid in a form to which Code § 417(e)(3) does not apply (generally, a monthly benefit), the actuarially equivalent straight life annuity benefit that is the greater of:

- (i) The annual amount of the straight life annuity (if any) payable to the Participant under the plan commencing at the same annuity starting date as the form of benefit to the Participant, or
- (ii) The annual amount of the straight life annuity commencing at the same annuity starting date that has the same actuarial present value as the form of benefit payable to the Participant, computed using a 5% interest assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables described in Treasury Regulation § 1.417(e)-1(d)(2) (Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent IRS guidance implementing Code § 417(e)(3)(B)); or

(3) For a benefit paid in a form to which Code § 417(e)(3) applies (generally, a lump sum benefit), the actuarially equivalent straight life annuity benefit that is the greatest of:

- (i) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using the interest rate and mortality table, or tabular factor, specified in the plan for actuarial experience;
- (ii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable, computed using a 5.5% interest

assumption (or the applicable statutory interest assumption) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation § 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent IRS guidance implementing Code § 417(e)(3)(B)); or

- (iii) The annual amount of the straight life annuity commencing at the annuity starting date that has the same actuarial present value as the particular form of benefit payable (computed using the applicable interest rate for the distribution under Treasury Regulation § 1.417(e)-1(d)(3)) (using the rate in effect for the first day of the Plan Year with a one-year stabilization period) and (i) for years prior to January 1, 2009, the applicable mortality tables for the distribution under Treasury Regulation § 1.417(e)-1(d)(2) (the mortality table specified in Revenue Ruling 2001-62 or any subsequent Revenue Ruling modifying the applicable provisions of Revenue Ruling 2001-62), and (ii) for years after December 31, 2008, the applicable mortality tables described in Code § 417(e)(3)(B) (Notice 2008-85 or any subsequent IRS guidance implementing Code § 417(e)(3)(B)), divided by 1.05.

- (4) The actuary may adjust the 415(b) limit at the annuity starting date in accordance with the above subsections (2) and (3).

(d) Benefits for Which No Adjustment of the 415(b) Limit is Required.

For purposes of this section, the following benefits shall not be taken into account in adjusting these limits:

- (1) Any ancillary benefit which is not directly related to retirement income benefits;
- (2) That portion of any joint and survivor annuity that constitutes a qualified joint and survivor annuity;
- (3) Any other benefit not required under Code § 415(b)(2) and Treasury Regulations thereunder to be taken into account for purposes of the limitation of Code § 415(b)(1).

(e) Other Adjustments in 415(b) Limitation.

- (1) In the event the Participant's retirement benefits become payable before age 62, the limit prescribed by this section for the Participant's annuity starting date

shall be equal to the lesser of (i) the annual amount of a benefit payable in the form of a straight life annuity commencing at the Participant's annuity starting date that is the Actuarial Equivalent of the \$160,000 annual limit (as adjusted under Code § 415(d) and, if required, under subsection (g) for years of participation less than 10), with actuarial equivalence computed using a 5% interest rate assumption and the applicable mortality table for the annuity starting date as defined in the plan (expressing the Participant's age based on completed calendar months as of the annuity starting date), and (ii) the \$160,000 annual limit (as adjusted under Code § 415(d) and, if required, under subsection (g) for years of participation less than 10) multiplied by the ratio of the annual amount of the immediately commencing straight life annuity under the plan at the Participant's annuity starting date to the annual amount of the immediately commencing straight life annuity under the plan at age 62, both determined without applying the limitations of this section.

(2) In the event the Participant's benefit is based on at least 15 years of service as a full-time Employee of any police or fire department or on 15 years of military service, the adjustments provided for in (1) above shall not apply.

(3) The reductions provided for in (1) above shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(f) Less than 10 Years of Participation or Service Adjustment for 415(b) Limitations.

The maximum retirement benefits payable to any Participant who has completed less than 10 years of participation shall be the amount determined under subsection (c), as adjusted under subsection (d) and/or (f), multiplied by a fraction, the numerator of which is the number of the Participant's years of participation and the denominator of which is 10. The limit under subsection (h) (concerning the \$10,000 limit) shall be similarly reduced for any Participant who has accrued less than 10 years of service, except the fraction shall be determined with respect to years of service instead of years of participation. The reduction provided by this subsection cannot reduce the maximum benefit below 10% of the limit determined without regard to this subsection. The reduction provided for in this subsection shall not be applicable to pre-retirement disability benefits or pre-retirement death benefits.

(g) \$10,000 Limit.

Notwithstanding the foregoing, the retirement benefit payable with respect to a Participant shall be deemed not to exceed the 415 limit if the benefits payable, with respect to such Participant under this Plan and under all other qualified defined benefit pension plans to which the Participant's Employer contributes, do not exceed \$10,000 for the applicable limitation year and for any prior limitation year and the Employer has not at any time maintained a qualified defined contribution plan in which the Participant participated.

(h) Effect of a Lump Sum Component on 415(b) Testing.

With respect to a Participant who receives a portion of the Participant's annual benefit in a lump sum, a Participant's applicable limit shall be applied taking into consideration both the

portion of the Participant's benefit subject to Code § 417(e)(3) and the portion not subject to Code § 417(e)(3), as required by Code § 415(b) and applicable Treasury Regulations.

(i) Section 415(c) Limitations on Contributions and Other Additions.

After-tax Participant contributions or other annual additions with respect to a Participant may not exceed the lesser of \$40,000 (as adjusted pursuant to Code § 415(d)) or 100% of the Participant's Salary.

(1) Annual additions are defined to mean the sum (for any year) of Employer and Participant contributions to a defined contribution plan, post-tax Participant contributions to a defined benefit plan (except for purposes of service purchases, if tested under the modified limit of Code § 415(b)), and forfeitures credited to a Participant's Account. Participant contributions are determined without regard to rollover contributions and to picked-up Employee contributions that are paid to a defined benefit plan.

(2) For purposes of applying Code § 415(c) and for no other purpose, the definition of compensation where applicable shall be compensation actually paid or made available during a limitation year, except as noted below and as permitted by Treasury Regulation § 1.415(c)-2, or successor regulation; provided, however, that Participant contributions picked-up under Code § 414(h) shall not be treated as compensation.

(3) Salary shall be defined as wages within the meaning of Code § 3401(a) and all other payments of compensation to an Employee by an Employer for which the Employer is required to furnish the Employee a written statement under Code §§ 6041(d), 6051(a)(3) and 6052 and shall be determined without regard to any rules under Code § 3401(a) that limit the remuneration included in wages based on the nature or location of the employment or the services performed (such as the exception for agricultural labor in Code § 3401(a)(2)).

(A) However, for limitation years beginning after December 31, 1997, compensation shall also include amounts that would otherwise be included in compensation but for an election under Code §§ 125(a), 402(e)(3), 402(h)(1)(B), 402(k), or 457(b). For limitation years beginning after December 31, 2000, compensation shall also include any elective amounts that are not includible in the gross income of the Participant by reason of Code § 132(f)(4).

(B) For limitation years beginning on and after January 1, 2009, compensation for the limitation year shall also include compensation paid by the later of 2½ months after a Participant's severance from employment or the end of the limitation year that includes the date of the Participant's severance from employment if:

(i) the payment is regular compensation for services during the

Participant's regular working hours, or compensation for services outside the Participant's regular working hours (such as overtime or shift differential), commissions, bonuses or other similar payments, and, absent a severance from employment, the payments would have been paid to the Participant while the Participant continued in employment with the Employer; or

- (ii) the payment is for unused accrued bona fide sick, vacation or other leave that the Participant would have been able to use if employment had continued; or
- (iii) the payment is pursuant to a nonqualified unfunded deferred compensation plan, but only if the payment would have been paid to the Participant at the same time if the Participant had continued employment with the Employer and only to the extent that the payment is includible in the Participant's gross income.

(C) Any payments not described in paragraph (B) above are not considered compensation if paid after severance from employment, even if they are paid within 2½ months following severance from employment, except for payments to the individual who does not currently perform services for the Employer by reason of qualified military service (within the meaning of Code § 414(u)(1)) to the extent these payments do not exceed the amounts the individual would have received if the individual had continued to perform services for the Employer rather than entering qualified military service.

(D) An Employee who is in qualified military service (within the meaning of Code § 414(u)(1)) shall be treated as receiving compensation from the Employer during such period of qualified military service equal to (i) the compensation the Employee would have received during such period if the Employee were not in qualified military service, determined based on the rate of pay the Employee would have received from the Employer but for the absence during the period of qualified military service, or (ii) if the compensation the Employee would have received during such period was not reasonably certain, the Employee's average compensation from the Employer during the 12 month period immediately preceding the qualified military service (or, if shorter, the period of employment immediately preceding the qualified military service).

(E) Back pay, within the meaning of Treasury Regulation § 1.415(c)-2(g)(8), shall be treated as compensation for the limitation year to which the back pay relates to the extent the back pay represents wages and compensation that would otherwise be included under this definition.

(j) If the annual additions for any Participant for a Plan Year exceed the limitation under Code § 415(c), the excess annual addition shall be corrected as permitted under the Employee Plans Compliance Resolution System (or similar IRS correction program).

(k) A Participant's compensation for purposes of subsection (i) shall not exceed the annual limit under Code § 401(a)(17) which applies for that year.

4.9 Compliance with Code § 401(a)(17) for the Limitation on Compensation.

(a) Effective with respect to Plan Years beginning on and after January 1, 1996, and before January 1, 2002, the annual compensation of a Participant which exceeds \$150,000 (as adjusted for cost-of-living increases under Code § 401(a)(17)(B)) shall be disregarded for purposes of computing employee and employer contributions to or benefits due from the Retirement System.

(b) Effective with respect to Plan Years beginning on and after January 1, 2002, the annual compensation of a Participant which exceeds \$200,000 (as adjusted for cost-of-living increases in accordance with Code § 401(a)(17)(B)) may not be taken into account in determining benefits or contributions due for any Plan Year. Annual compensation means compensation during the Plan Year or such other consecutive 12-month period over which compensation is otherwise determined under the plan ("the determination period"). The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. If the determination period consists of fewer than 12 months, the annual compensation limit is an amount equal to the otherwise applicable annual compensation limit multiplied by a fraction, the numerator of which is the number of months in the short determination period, and the denominator of which is 12. If the compensation for any prior determination period is taken into account in determining a Participant's contributions or benefits for the current Plan Year, the compensation for such prior determination period is subject to the applicable annual compensation limit in effect for that prior period.

(c) As used in this paragraph (c), the term "eligible member" means a person who first became a member of the Retirement System prior to the Plan Year beginning after December 31, 1995. Pursuant to § 13212(d)(3)(A) of OBRA '93, and the regulations issued under that section, eligible members are not subject to the limits of Code § 401(a)(17) and this Section 0, and the annual compensation limit shall not apply to the extent that the application of the limit would reduce the amount of compensation that is allowed to be taken into account under the Retirement System below the amount that was allowed to be taken into account under the Retirement System as in effect on July 1, 1993. The limits referenced in subsections (a) and (b) above apply only to years beginning after December 31, 1995, and only to individuals who first become plan members in Plan Years beginning on and after January 1, 1996.

ARTICLE 5

Disability

5.1 Disability Benefit. Upon establishing the incurrence of a disability, as defined in Section 0, while in the line of duty, the disabled Participant shall be eligible to receive an immediate disability pension in the form of an annuity paying monthly benefits equal to 50% of Regular Pay for the period of disability. Such disability pension will commence as of the first day of the month following the establishment of the permanent disability; provided, however, the pension commencement date will be further delayed until all credit for unused annual or sick leave and other similar credits have been fully paid to the disabled Employee, provided there is no impairment to the Employee's regular compensation during such period of time. A Participant who receives disability benefits will not be entitled to any other benefits provided by this Plan, and his or her Beneficiaries will not be eligible for death benefits under this Plan unless such disability should end prior to death and the Participant's Retirement Value had not been fully paid out as a disability pension before such death.

5.2 Definition of and Establishing Disability. A Participant shall be considered as having incurred a disability only if it is established upon written proof and certification provided to the City by a disinterested and duly licensed physician, that the Participant is completely unable, for reasons of accident or other cause while in the line of duty, to perform the duties of a Police Officer for the City. The physician conducting any required medical examination shall be selected or otherwise approved of by the City, and a Participant's failure to submit to any medical examination ordered by the City for this purpose shall cause the Participant to become ineligible for a disability pension.

The City may at any time within three years from the commencement of the disability pension require the disabled Participant to be examined by a physician, at the City's expense, to determine the continuance of such permanent disability. More than one such examination may be required by the City. After the expiration of the initial three-year period, a medical examination can be required only upon order of a Nebraska District Court upon submission by the City of reasonable grounds to believe that the Employee is fraudulently receiving a disability pension under this Plan.

In the event an Employee who received a disability pension hereunder is determined under the foregoing procedures to be no longer disabled, the disability pension shall terminate and the Participant's Retirement Value, as reduced by the disability pension benefits theretofore paid from the Plan, shall thereafter be held and administered in the same manner as any nondisabled Participant or former Participant.

5.3 Temporary Disability. In the event of temporary disability incurred while in the line of duty, the Participant will receive his or her Salary during the continuance of such disability for a period not to exceed 12 months; provided, however, if it shall be determined by the City Council or other appropriate municipal authorities of the City within the said 12 month period that such disability has become a full disability as defined in Section 0, then the Participant's Salary will cease and the Participant will be entitled to the disability pension benefit provided by this ARTICLE 5.

5.4 Workers' Compensation Benefit. All payments of disability pension benefits under this ARTICLE 5 shall be subject to deduction of Workers' Compensation Benefits paid under Nebraska Workers' Compensation Act, as provided in Section 0. If a Participant accepts a lump sum settlement in lieu of all or part of the periodic benefit payable as Workers' Compensation Benefits, such periodic payments will, for purposes of determining the monthly disability pension hereunder, be considered to continue for the applicable number of months by dividing the lump sum received by the monthly equivalent of such periodic payments, and such equivalent payment will reduce the monthly disability pension otherwise payable under this ARTICLE 5.

5.5 Minimum Disability Retirement Benefits. The Actuarial Equivalent value of the disability pension benefit paid hereunder to a disabled Participant, in excess of amounts paid as Workers' Compensation Benefits, shall not be less than the Participant's Retirement Value at the date of disability.

5.6 Disability Not in the Line of Duty. Disability benefits shall not be paid or provided by this Plan in the event of any disability of a Participant which is not incurred while in the line of duty.

ARTICLE 6

Distribution of Benefits upon Termination of Service

6.1 Termination Benefit. A Participant who has a Termination of Service prior to becoming eligible for benefits under this Plan will be entitled to a termination benefit in accordance with this ARTICLE 6 and will not be entitled to any other benefits provided by this Plan.

6.2 Termination Benefit Payment Option.

(a) Options. By providing the Applicable Form to the Retirement Committee, the Participant may elect to:

(1) receive the value of the Participant's Employee Contribution Account in the form of an immediate lump sum distribution with the vested portion of such Participant's Employer Contribution Account, if any, to remain in the Trust Fund to provide a deferred retirement annuity; or

(2) receive the Participant's Employee Contribution Account and the vested portion of his or her Employer Contribution Account (the Participant's Retirement Value) in a single lump sum distribution.

(b) Deferred Retirement Benefit. In lieu of the termination benefit provided hereunder, any Participant who has completed 25 Years of Service as of his or her Termination of Service shall receive the deferred Retirement Benefit described in Section 7.3 on the Participant's deferred Retirement Date.

6.3 Vesting Percentage. The vesting percentage applicable to the Participant's Employer Contribution Account upon Termination of Service shall be, as follows:

- (a) Until July 1, 2012, 40% after the completion of 4 complete Years of Service, increasing by 10% for each additional completed Year of Service, up to 100% after the completion of 10 complete Years of Service; and
- (b) Beginning July 1, 2012,
 - (1) 40% after the completion of 2 complete Years of Service;
 - (2) 60% after the completion of 4 complete Years of Service;
 - (3) 80% after the completion of 5 complete Years of Service; and
 - (4) 100% after the completion of 7 complete Years of Service.

Notwithstanding the foregoing, an Employee who attains age 60 while employed by the City shall be 100% vested in the amounts credited to his or her Employer Contribution Account. In addition, an Employee who meets the normal retirement requirements of Section 0 shall be 100% vested in the amounts credited to his or her Employer Contribution Account. Any nonvested portion of a Participant's Employer Contribution Account shall be forfeited upon Termination of Service and accordingly reduce the Participant's Retirement Value under the Plan by the amount so forfeited.

6.4 Eligible Rollover Distributions. Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section 0, a Distributee may elect, at the time and in the manner prescribed by the Administrator, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover. The following definitions shall apply to this Section 0:

- (a) An "Eligible Rollover Distribution" is any distribution of all or any portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include: (i) any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's designated Beneficiary, or for a specified period of 10 years or more, or (ii) any distribution to the extent such distribution is required under Code § 401(a)(9). A portion of the distribution shall not fail to be an Eligible Rollover Distribution merely because the portion consists of after-tax employee contributions which are not includible in gross income. However, such after-tax portion may be transferred only to an individual retirement account or annuity described in Code § 408(a) or (b), or in a direct trustee-to-trustee rollover to a qualified trust under Code § 401(a) or 403(a) that is part of a defined contribution or defined benefit plan, or to an Annuity Contract described in Code § 403(b), and such trust or Annuity Contract separately accounts for amounts so transferred, including separate accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not includible. Effective January 1, 2008, an Eligible Rollover Distribution shall also mean a qualified rollover contribution to a Roth IRA within the meaning of Code § 408A. Effective January 1, 2015, an Eligible

Rollover Distribution shall also mean a qualified rollover contribution to a SIMPLE IRA that has been established for at least two years.

(b) An “Eligible Retirement Plan” is an individual retirement account described in Code § 408(a), an individual retirement annuity described in Code § 408(b), an annuity plan described in Code § 403(a), a tax sheltered annuity or account under Code § 403(b), a qualified trust described in Code § 401(a), or an eligible deferred compensation plan described in Code § 457(b) which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state which agrees to separately account for amounts transferred into such plan from this Plan that accepts the Distributee’s Eligible Rollover Distribution. Effective January 1, 2008, an Eligible Retirement Plan shall also mean a Roth IRA described in Code § 408A. Effective January 1, 2015, an Eligible Rollover Plan shall also mean a SIMPLE IRA that has been established for at least two years.

(c) A “Distributee” includes a Participant or former Participant. In addition, the Participant’s surviving spouse and the Participant’s former spouse who is the alternate payee under a qualified domestic relations order (“QDRO”), as defined in Code § 414(p), are Distributees with regard to the interest of the spouse or former spouse. Effective January 1, 2007, a Distributee further includes a nonspouse Beneficiary who is a designated Beneficiary as defined by Code § 401(a)(9)(E). However, a nonspouse Beneficiary may only make a direct rollover to an individual retirement account or individual retirement annuity established for the purpose of receiving the distribution, and the account or annuity shall be treated as an “inherited” individual retirement account or annuity.

(d) A “Direct Rollover” is a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

6.5 Involuntary Cash-Outs of Small Accounts.

(a) If a Participant’s vested Retirement Value at the time of his or her Termination of Service is less than \$1,000, the Administrator shall distribute such vested Retirement Value to the terminated Participant, without his or her consent, unless the Participant elects to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover.

(b) If a Participant’s vested Retirement Value at the time of his or her Termination of Service is \$1,000 or more, and if the Participant does not elect to have such distribution paid directly to an eligible retirement plan specified by the Participant in a direct rollover or to receive the distribution from the Plan within 60 days of the Participant’s Termination of Service, the Administrator shall pay the distribution in a direct rollover to an individual retirement plan designated by the Administrator.

6.6 Forfeitures. In conformity with Code § 401(a)(8), forfeitures of the non-vested portion of a terminating Participant’s Employer Contribution Account shall be used to reduce

future Employer contributions or to pay reasonable Plan expenses. Forfeitures shall not be used to increase benefits.

6.7 Required Minimum Distribution Rules.

(a) Notwithstanding any provision of this Plan to the contrary, the requirements of this Section **Error! Reference source not found.** and Section 8.1(c) shall apply to any distribution of a Participant's interest. All distributions under the Plan shall be made in accordance with a reasonable and good faith interpretation of Code § 401(a)(9) and the regulations thereunder, including the incidental benefit rules under Code § 401(a)(9)(G), as applicable to a governmental plan within the meaning of Code § 414(d).

(b) A Participant's benefit shall be distributed, or begin to be distributed, to the Participant beginning no later than April 1 of the calendar year following the later of (i) the calendar year in which the Participant reaches the applicable age, or (ii) the calendar year in which the Participant has a Termination of Service.

(c) No payment option may be selected by a Participant unless the amounts payable to the Participant are expected to be at least equal to the minimum distribution required under Code § 401(a)(9).

ARTICLE 7

Retirement Benefits under the Agreement

7.1 Election to Retire. Each Participant who elects to retire, in accordance with Sections 1 or 2 of the Agreement, under the terms of the Agreement shall thereupon become entitled to receive a Retirement Benefit payable under this ARTICLE 7.

7.2 Normal Retirement. A Participant is entitled to elect a Retirement Date upon his or her Termination of Service on or after attainment of age 55 if such Participant has completed 25 Years of Service, in which event such Retirement Date shall be the first day of the month coinciding with or next following the date the Participant has a Termination of Service.

7.3 Deferred Retirement Option Plan (DROP). A Participant who completes 25 Years of Service, but has not attained age 55, shall, at the time of such Participant's Termination of Service, receive a distribution of his or her vested Retirement Value. Once the Participant has a Termination of Service, neither the City nor the Participant has further responsibility for adding funds to the Participant's Account. The Participant will not be entitled to the health insurance benefit provided for bargaining unit members by virtue of any collective bargaining agreement providing for such in existence at the time of the Participant's Termination of Service and until such time as the Participant reaches age 55 and elects to retire.

Despite any term of Section 8 of the Agreement to the contrary, upon reaching age 55, the Participant is entitled to a Retirement Benefit payable under Section 7.4, minus the amount of the distribution received at the time of the Participant's Termination of Service.

7.4 Normal Retirement Benefit.

(a) A Participant is entitled to receive a normal Retirement Benefit equal to 55% of the Participant's Regular Pay ("Defined Benefit Amount") or the total sum of his or her Retirement Value, whichever is greater, based on the actuarial formula of 7% and a 50/50 blended of male and female mortality under the applicable IRS mortality table as defined under Code Section 417(e)(3) for the calendar year containing the Retirement Benefit commencement date. The City and the B.P.O.A. shall contract for the services of an actuary or other accounting professional who shall be responsible for calculating the normal Retirement Benefit amounts.

(b) **Defined Benefit Calculation.** [Defined Benefit Amount] – [the value of EE012 + the value of ER012] = City Liability. In addition, the Participant shall also receive the balance of the "EE012" and "EE912" subaccounts in the Participant's Employee Contribution Account and the balance of the "ER012" subaccount in the Participant's Employer Contribution Account. The balance of the "ER912" subaccount in the Participant's Employer Contribution Account shall revert to the City. The Participant's voluntary after-tax contributions, if any, shall not be included in this calculation.

(c) The normal Retirement Benefit payable to a Participant shall be in the form of a single lump sum payment. Any Participant entitled to a benefit may elect to receive such benefit in the form of a single life or joint lives annuity through an Annuity Contract.

ARTICLE 8

Death Benefits

8.1 Death Prior to Annuity Commencement Other Than in the Line of Duty.

(a) In the event an Employee dies prior to his or her Retirement Date and other than in the line of duty and except as provided in Neb. Rev. Stat. § 16-1009(2), the Participant's vested Retirement Value is payable to the Beneficiary or, if there is no valid Beneficiary designation, to the deceased Employee's estate. The death benefit payable under this Section **Error! Reference source not found.** is subject to the death benefit provided pursuant to Section 0.

(b) **Form of Benefit.** The Retirement Value or portion thereof to be received by the Beneficiary shall be distributed in a single lump sum that qualifies as an Eligible Rollover Distribution under Section 0.

(c) **Required Minimum Distributions Rules.** Notwithstanding any provision of this Plan to the contrary, the requirements of Section 6.7 and this Section 8.1(c) shall apply to any distribution of a Participant's interest.

(d) **Death of Participant.**

(1) For purposes of this Section **Error! Reference source not found.**, "designated Beneficiary" shall mean any individual designated as a Beneficiary by the Participant within the meaning of Code § 401(a)(9)(E)(i) and Treas. Reg. §1.401(a)(9)-4.

(2) Participant Death Before Distributions Begin. If a Participant dies before distributions begin, the Participant's Account will be distributed, or begin to be distributed, no later than as follows:

(A) If the designated Beneficiary is not the Participant's surviving spouse, distributions after the Participant's death must either (1) begin to be distributed no later than December 31 of the calendar year immediately following the year of the Participant's death, payable over a period not to exceed the Beneficiary's life expectancy; or (2) be distributed no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(B) If the designated Beneficiary is the Participant's surviving spouse, distributions after the Participant's death must begin to be distributed no later than December 31 of the calendar year following the later of (i) the calendar year of the Participant's death or (ii) unless the surviving spouse elects to be treated as the Participant, the calendar year in which the deceased Participant would have attained the applicable age. Payments to a surviving spouse must be made over a period not to exceed the surviving spouse's life expectancy. Alternatively, the surviving spouse may elect to receive a total distribution of the Participant's Account by no later than December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(C) If there is no designated Beneficiary, the Participant's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Participant's death.

(3) Participant Death After Distributions Begin. If required minimum distributions under Code § 401(a)(9) have begun prior to the death of the Participant, the remaining portion of the Participant's Account shall be distributed to the Beneficiary at least as rapidly as under the method of distribution in effect prior to the Participant's death.

(e) Effective with respect to deaths occurring on or after January 1, 2007, while a Participant is performing qualified military service (as defined in chapter 43 of title 38, United States Code), to the extent required by Code § 401(a)(37), survivors of a Participant are entitled to any additional benefits that the Plan would provide if the Participant had resumed employment and then died, such as accelerated vesting or survivor benefits that are contingent on the Participant's death while employed. In any event, a deceased Participant's period of qualified military service shall be counted for vesting purposes.

8.2 Death Benefit After Annuity Commencement. In the event the Participant who elected to receive a benefit under an Annuity Contract dies after his or her Retirement Date, the death benefit, if any, will depend on the terms of the Annuity Contract.

8.3 Death in the Line of Duty. In the event of the death of any Participant prior to his or her Retirement Date, while in the line of duty, or in case death is caused by or is the result of injuries received while in the line of duty, the Participant's vested Retirement Value is payable to the Beneficiary or, if there is no valid Beneficiary designation, to the deceased Employee's estate. If the deceased Participant is survived by a spouse or minor children, a monthly pension equal to 50% of the Participant's Regular Pay at the time of death shall be paid to the surviving spouse, or upon his or her remarriage or death, to the minor child or children during such child's or children's minority, subject to deduction of the amounts paid as Workers' Compensation Benefits on account of death in the same manner as provided in Section 0. If there is more than one minor child eligible to receive benefits hereunder, each such child shall share equally in the total pension benefit to the age of his or her majority, and the portion of the pension benefit paid to any such child will cease upon his or her attainment of the age of majority. The Retirement Value or portion thereof to be received by the Beneficiary shall be distributed in a single lump sum that qualifies as an eligible rollover distribution under Section 0 and shall be made in accordance with Code § 401(a)(9) and Section 8.1(c).

8.4 Death Benefit After Deferred Retirement Benefit. In the event of the death of a Participant who deferred his or her Retirement Benefit described at Section 7.3, prior to the payment of such deferred Retirement Benefit, the amount of the deferred Retirement Benefit shall be paid in a single lump sum cash payment payable to the Participant's Beneficiary or, if there is no valid Beneficiary designation, to the deceased Participant's estate. Such death benefit shall satisfy all obligations of the Plan to pay a deferred Retirement Benefit to or on behalf of the Participant.

8.5 Designation of Beneficiary.

(a) By completing and delivering the Applicable Form to the Retirement Committee, a Participant may designate a Beneficiary or Beneficiaries and contingent Beneficiary or Beneficiaries to receive any death benefits payable under the Plan which are not otherwise required to be paid to a surviving spouse, minor child, or the estate of the Participant. The designation of a Beneficiary or contingent Beneficiary may be changed at any time. A designation or change will be effective only if duly executed by the Participant and received by the Retirement Committee prior to the Participant's death.

(b) If no Beneficiary has been validly designated, or, if no designated Beneficiary survives the Participant, any death benefit (other than mandatory survivor benefits) shall be paid to the deceased Participant's estate in the form determined by the Retirement Committee.

ARTICLE 9
Administration

9.1 Authority of the Retirement Committee. The Retirement Committee, defined under Neb. Rev. Stat. §16-1014, shall supervise the general operation of the Plan. The City shall continue to be responsible for the general administration of the Plan unless specific functions or all functions with regard to the administration of the Plan are delegated, by ordinance to the

Retirement Committee. The City and the Retirement Committee shall have all powers which are necessary for or appropriate to establishing, maintaining, managing, and administering the Plan. The Retirement Committee shall be a named fiduciary of the Plan.

9.2 Retirement Committee Members. The Retirement Committee shall include members from the police force and designees of the City. The Retirement Committee shall consist of six members of which four members shall be elected by the officers of the police force of the City, and two members shall be designated by the City Council. The members who are not Plan Participants shall have a general knowledge of retirement plans as a condition to appointment as a member. Members of the City Council may serve on the Retirement Committee. Retirement Committee members shall be appointed to four-year terms. Vacancies shall be filled for the remainder of the term by a person with the same representation as his or her predecessor. Members of the Retirement Committee shall receive no salary and shall not be compensated for expenses. The Retirement Committee shall appoint a chairman from among its members who shall be authorized to execute any document on behalf of the Retirement Committee.

9.3 Specific Duties of the Retirement Committee. It shall be the duty of the Retirement Committee to:

- (a) Provide each Participant a summary of Plan eligibility requirements and benefit provisions.
- (b) Provide, within 30 days after a request is made by a Participant, a statement describing the amount of benefits such Participant is eligible to receive;
- (c) Make available for review an annual report of the Plan's operations describing both:
 - (1) the amount of contributions to the Plan from both Employee and Employer sources and
 - (2) an identification of the total assets of the Plan and pension system; and
- (d) As of each December 31, prepare and electronically file an annual report with the Auditor of Public Accounts and the Nebraska Retirement Systems Committee of the Legislature. The report shall be on a form prescribed by the Auditor of Public Accounts and shall include, not to be limited to, the following information:
 - (1) The levels of benefits of Participants in the Plan, the number of Participants who are eligible for a benefit, the total present value of such Participants' benefits, and the funding sources which will pay for such benefits; and
 - (2) A copy of a full actuarial analysis of each such defined benefit plan. The analysis shall be prepared by an independent private organization or public entity employing actuaries who are Participants in good standing of the American Academy of Actuaries, and which organization or entity has demonstrated expertise to perform this type of analysis and is unrelated to any organization which offers

investment advice or provides investment management services to the retirement plan.

9.4 Powers of the Retirement Committee. In addition to the specific duties set forth in Section **Error! Reference source not found.**, the Retirement Committee is responsible for performing the duties required to operate the Plan in accordance with federal and state law and the terms of the Plan. In connection therewith, the Retirement Committee shall have the power and discretion:

- (a) To determine eligibility;
- (b) To determine, consistently with the Plan, applicable law, rules and regulations, all questions of law or fact that may arise as to the eligibility for participation in the Plan and eligibility for distribution of benefits from the Plan, and the status of any person claiming benefits under the Plan, including without limitation, Participants, former Participants, and Beneficiaries, Employees and former Employees;
- (c) To adopt rules, regulations, and procedures necessary for the proper and efficient administration of the Plan, not inconsistent with the Plan, state law, and the Code, and to amend or rescind such rules, regulations, or procedures;
- (d) To make payments from the Trust Fund to Participants, their Beneficiaries and other persons as the Retirement Committee may determine;
- (e) To contract with one or more service managers to perform education, recordkeeping, investment services, and administrative services under this Plan; provided however that the City and the B.P.O.A. shall contract for the services of an actuary or other accounting professional who shall be responsible for calculating the normal Retirement Benefit amounts;
- (f) To correct any underpaid or overpaid benefit from the Plan, including the power to order an offset or adjustment of future benefit payments to recover any such overpayment;
- (g) To accept service of legal process; and
- (h) To do all things necessary or proper pursuant to the duty of supervising the Plan's operations.

All administrative powers necessary to operate the Plan shall be vested exclusively with the City unless otherwise specifically provided by this Plan or delegated by ordinance to the Retirement Committee.

9.5 Power to Make Adjustment and Corrections. The Retirement Committee shall have the power and authority to make such equitable adjustments to the accounts and benefits of any Participant to correct any mathematical or accounting errors or any mistakes that may arise by reason of factual errors in information supplied to the City, Retirement Committee or Trustee. The Retirement Committee may also take appropriate action to correct errors in the administration or

operation of the Plan as deemed necessary or appropriate to preserve the tax qualification of the Plan under Code § 401(a), including the power and authority to correct operational errors and defects pursuant to any correction action as may be authorized under the IRS Employee Plans Compliance Resolution System (“EPCRS”), or any successor program to EPCRS. Such corrective actions may include causing appropriate distributions to be made to a Participant from the Plan, to the extent such distribution is made to correct a qualification defect or as may otherwise be required or authorized under the EPCRS. A Participant whose account or benefit has been adjusted by the Retirement Committee may request a review by the City of such adjustment.

9.6 Use of Alternative Media. The City, Retirement Committee, and Trustee may use telephonic or electronic media to satisfy any administrative duty or notice requirements required by this Plan, to the extent permissible under the Code or Treasury Regulations (or other generally applicable guidance). The City, Retirement Committee, and Trustee may also use telephonic or electronic media to conduct Plan transactions, such as enrolling Participants, electing and changing investment allocations, and other Plan transactions to the extent permissible under the Code or the Treasury Regulations.

9.7 Liability Limited. In administering the Plan neither the Retirement Committee, nor the City Council, nor any Participant thereof, nor the City and its officers and employees, or any Police Officer thereof, or any financial institution with which the Retirement Committee contracts, shall be liable for any acts of omission or commission, except for his or her or its own individual, willful, and intentional malfeasance or misfeasance. In its administration of the Plan, the City, and its officers and directors, and the Retirement Committee, shall be entitled to rely conclusively on all tables, valuations, certificates, opinions, and reports which shall be furnished by any actuary, accountant, Trustee, insurance company, counsel, or other expert who shall be employed or engaged by the City or the Retirement Committee.

ARTICLE 10

Trust Fund

10.1 General Provisions. All contributions under the Plan shall be transferred to the Trust to be held, managed, invested, and distributed as part of the Trust Fund by the Retirement Committee in accordance with the provisions of the Plan. All benefits under the Plan shall be distributed solely from the Trust Fund. The Retirement Committee shall distribute the corpus and income of the Trust Fund to the Participants and their Beneficiaries in accordance with applicable state and federal law and the Plan. At no time prior to the satisfaction of all liabilities with respect to Participants and their Beneficiaries shall any part of the corpus or income be used for, or diverted to, purposes other than the exclusive benefit of the Participants and their Beneficiaries. At no time prior to the satisfaction of all liabilities may any part of the Trust Fund revert to the City, except due to a mistake of fact as permitted by IRS Revenue Ruling 91-4 or be used or diverted to purposes other than for the exclusive benefit of the Participants and their Beneficiaries.

10.2 Plan Investments. Investment of the Trust Fund shall be by the Trustee under the general direction of the Retirement Committee. The City, or the Retirement Committee if delegated such function by the City, may contract with a funding agent to hold or invest the assets of the Trust Fund. The City, or the Retirement Committee if delegated such function by the City,

may select and contract with investment managers registered under the federal Investment Advisers Act of 1940 to invest, reinvest, and otherwise manage such portion of the assets of the Trust Fund as may be assigned by the City or by the Retirement Committee. The Trust Fund shall be invested pursuant to the policies established by the Nebraska Investment Council. Investment of the Fund may be made without distinction between principal and income.

The powers, duties, and responsibilities of any financial institution contracting to invest and reinvest the Trust Fund shall be limited to those powers, duties and responsibilities set forth in the contract with the City or Trustee, and the liability of such financial institution shall not exceed or extend to any matter not otherwise specified in such contract. Such financial institution may, to the extent necessary or proper under the contract, have custody of the assets of the Trust Fund. The City, the Retirement Committee, the Trustee, and the City Council, its Participants, and all officers and employees of the City shall have no liability or responsibility with regard to the investment performance of the portion of the Trust Fund under management by such financial institutions.

10.3 Retirement Committee Direction of Investment. Effective September 30, 2011, all Participant Accounts shall be invested by the Trustee pursuant to the directions of the Retirement Committee. All investments as may be directed by the Retirement Committee shall be authorized investments under policies of the Nebraska Investment Council. Such directions shall be subject to such restrictions as the Trustee may impose. The Trustee shall act pursuant to and in reliance on such directions.

10.4 Trustee Powers and Duties. The Trustee shall act as official custodian of the cash, securities, and other assets of the Trust Fund not in the custody of the financial institution under contract to invest the Trust Fund or under agreement to safekeep Plan assets, and shall provide or make arrangements for adequate safe deposit facilities for the preservation of such assets subject to the direction of the Retirement Committee, and shall receive all contributions made to the Plan and provide for all transfers of cash and money necessary for investment of the Trust Fund; provided, however, the payment of any money to Participants, Beneficiaries, or for the expenses of the Plan shall be payable only upon the direction of the Trustee and all deposit and withdrawal agreements with outside financial institutions handling Plan assets shall require that Plan assets and moneys may be withdrawn only upon the direction of the Trustee. The Trustee shall keep and maintain adequate records of the investments of the Trust Fund and shall be responsible for maintaining the Employer and Employee Contribution Accounts pursuant to Section 4.1 of the Plan. The Trustee shall assist the Retirement Committee in the preparation of all reports and documents required under Neb. Rev. Stat. §§ 16-1001 to 16-1019, or as otherwise required in administering the Plan, but shall have no further duty to account or report except as may be specifically required by this Plan or as otherwise required by law.

In extension, but not in limitation, of the rights, powers and discretions conferred upon the Trustee herein, the Trustee shall have and may exercise from time to time in the management and custody of the assets of the Trust Fund and, for the purpose of distribution after the termination thereof, without order or license of any court, any one or more or all of the following rights, powers and discretions:

(a) To invest and reinvest the assets of the Trust Fund with the care, skill, prudence and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of like character and with like aims (and to the extent possible consistently with the most recent funding policy and method adopted by the Retirement Committee and communicated to the Trustee) without limitation of any statute, rule of law, or regulation of any governmental body prescribing or limiting the investment of trust assets by corporate or individual trustees, in or to certain kinds, types, or classes of investments or prescribing the portion of the Trust Fund which may be invested in any one property or kind, type, or class of investment; limited, however, to the extent that assets of the Trust Fund are required to be invested pursuant to policies established by the Nebraska Investment Council. Specifically and without limiting the generality of the foregoing, the Trustee may invest and reinvest principal and accumulated income of the Trust Fund in preferred and common stocks of any kind or class of any corporation, including but not limited to investment and small business investment companies of all types; voting trust certificates; interests in investment trusts; shares of mutual funds; interests in a common trust, variable demand note or other type of pooled or collective fund operated by the Trustee; bonds, notes and debentures, secured or unsecured; mortgages on real or personal property; covered call options; deposits in a commercial or savings bank or a savings and loan association; conditional sales contracts; real estate and leases, unless the Plan restricts investments according to policies established by the Nebraska Investment Council. Unless otherwise provided by policies established by the Nebraska Investment Council applicable to this Plan, investment of the entire Trust Fund in common stocks shall be deemed appropriate at any phase of the economic business cycle, but it is not, however, the purpose hereof to direct that the Trust Fund shall be invested either entirely or to any extent whatsoever in such common stocks.

(b) To sell, exchange or otherwise dispose of any asset of whatsoever character at any time held by the Trustee in trust hereunder.

(c) To segregate any part or portion of the Trust Fund for the purpose of administration or distribution thereof and, in its sole discretion, to hold the Trust Fund uninvested whenever and for so long as, in the Trustee's discretion the same is likely to be required for the payment in cash of matured accounts or of accounts normally expected to mature in the near future, or whenever, and for as long as, market conditions are uncertain, or for any other reason which, in the Trustee's discretion, requires such action or makes such action advisable.

(d) To retain and employ such attorneys, agents and servants as may be necessary or desirable, in the opinion of the Trustee, in the administration of the Trust Fund, and to pay them such reasonable compensation for their services as may be agreed upon as an expense of administration of the Trust Fund (which may be paid from the principal of the Fund, current income or current forfeitures prior to reallocation or reduction of the City's contribution), including power to employ and retain counsel upon any matter of doubt as to the meaning of or interpretation to be placed upon this Plan or any provisions thereof with reference to any questions arising in the administration of the Trust Fund or pertaining

to the distribution thereof or pertaining to the rights and liabilities of the Trustee hereunder or to the rights and claims of Participants and Beneficiaries, and the Trustee, in any such event, may act in reliance upon the advice, opinions, records, statements and computations of any attorneys and agents and on the records, statements, and computations of any servants so selected by it in good faith and shall be released and exonerated of and from all liability to anyone in so doing.

(e) To institute, prosecute, and maintain, or to defend, any proceeding at law or in equity concerning the Plan or Trust Fund or the assets thereof or any claims thereto, or the interests of Participants and Beneficiaries hereunder at the sole cost and expense of the Trust Fund and/or at the sole cost and expenses of the accounts of the Participant that may be concerned therein or that may be affected thereby as in the Trustee's opinion, shall be fair and equitable in each case, and to compromise, settle and adjust all claims and liabilities asserted by or against the Plan or Trust Fund or asserted by or against the Trustee, on such terms as the Trustee, in each such case, shall deem reasonable and proper, but the Trustee shall be under no duty or obligation to institute, prosecute, maintain, or defend any suit, action, or other legal proceedings unless it shall be indemnified to its satisfaction against all expenses and liabilities which it may sustain or anticipate by reason thereof.

(f) To institute, participate in and join in any plan of reorganization, readjustment, merger, or consolidation with respect to the issuer of any securities held by the Trustee hereunder, and to sue any other means of protecting and dealing with any of the assets of the Trust Fund which it believes reasonably necessary or proper and in general, to exercise each and every other power or right with respect to each asset or investment held by it hereunder as individuals generally have and enjoy with respect to their own assets and investments, including power to vote upon any securities or other assets having voting power which it may hold from time to time, and to give proxies with respect thereto, with or without power of substitution or revocation, and to deposit assets or investments with any protective committee, or with trustees or depositories designated by any such committee or by any such trustees or any court.

(g) In any matter of doubt affecting the meaning, purpose or intent of any provision of this Plan, to determine such meaning, purpose of intent; and the determination of the Trustee in any such respect shall be binding and conclusive upon all persons interested or who may become interested in the Plan or the Trust Fund.

(h) To require, as a condition to distribution of any accounts, proof of identity or the authority of the person entitled to receive the same, including power to require reasonable indemnification on that account as a condition precedent to its obligations to make distribution hereunder.

(i) To collect, receive, receipt and give a acquittance for all payments that may be or become due and payable on account of any asset in trust which has not, by act of the Trustee taken pursuant thereto, have been payable to others, and payment thereof by the company issuing the same, or by the party obligated thereon, as the case may be, when made to the Trustee hereunder or to any person or persons designated by the Trustee, shall acquit,

release and discharge such company or obligated party from any and all liability on account thereof.

(j) To determine from time to time, as required for the purpose of distributions or for the purpose of allocating the Trust Fund income or for any other purpose of the Plan, the then value of the Trust Fund and of the accounts of the Plan, the Trustee, in each such case, using and employing for that purpose the fair market value of each of the assets constituting the Trust Fund. Each such determination so made by the Trustee in good faith shall be binding and conclusive upon all persons interested or becoming interested in the Plan or the Trust Fund.

(k) To receive and retain the City's and Employee contributions in a form other than cash in the form in which the same are received until such time as the Trustee, in its sole discretion, deems it advisable to sell or otherwise dispose of such assets; to carry all investments of the Trust Fund or any part thereof in its own name or in the name of any nominee selected by it, without designation of the trust capacity in which the same is held, but with the same liability for any act or default of any such nominee as for its own act or default.

(l) To grant an option or options for the sale or other disposition of a Trust Fund asset, including the issuance of options for the purpose of common stock held by the Trust Fund in return for the receipt of a premium from the optionee (it being expressly intended that said options may be in form in terms to permit their being freely traded on an option exchange) and including the repurchase of an option identical in terms to the one issued.

(m) To have and to exercise such other and additional powers as may be advisable or proper in its opinion for the effective, economical and equitable administration of the Trust Fund.

(n) The Trustee is specifically authorized and empowered to invest Plan assets in deposit accounts or securities offered by the Trustee, its affiliates or other designated financial or securities institutions, unless the Plan is subject to the policies of the Nebraska Investment Council and such investments are contrary to such policies.

10.5 Accountings by Trustee. The Trustee shall maintain accurate and detailed records and accounts of all transactions of the Plan and the Trust Fund, which shall be available at all reasonable times for inspection or audit by a person designated by the City and the Retirement Committee, and by any other person or entity to the extent required by law. As soon as practicable following the close of each Plan Year, the Trustee shall file with the City and the Retirement Committee a written report setting forth all transactions with respect to the Trust Fund during such Plan Year and listing the assets of the Trust Fund and the fair market value thereof as of the close of the period required by such report. The Trustee shall also provide the City and Retirement Committee with such other information in its possession as may be necessary for the City and/or Retirement Committee to conform with the requirements of the Code that apply to government plans and the requirements of Nebraska law that apply to Police Officers Retirement Systems of Cities of the First Class. As soon as practicable after the last day of each Plan Year, the Trustee

will deliver to the Retirement Committee a statement of each Participant's Accounts as of that date, and the Retirement Committee shall forthwith deliver such statements to each respective Participant. The Trustee shall be responsible for maintaining the Employer and Employee Contribution Accounts pursuant to Section 4.1.

Each statement of account shall be deemed to have been approved by the City if no written objection thereto is filed with the Trustee within 90 days after such statement of account has been delivered to the Retirement Committee. If the Trustee and the City cannot agree with respect to any matter set forth in any such statement of account, the Trustee shall have the right to have such accounts settled by judicial proceedings, in which event only the Trustee, the City, and the Retirement Committee shall be necessary parties.

10.6 Insurance Contracts. In no event shall the City, the Retirement Committee, the Plan, the Trustee, or the City Council, and their respective Participants, officers and employees, or any other person, be responsible for the validity of any insurance or annuity contract which may be held as part of the Trust Fund or which is purchased by the Plan and distributed to a Participant as beneficiary to provide benefits hereunder, or for the failure on the part of any insurer to make payments or provide benefits under any such contract, or for any inability to perform or for any delay in performing, any act occasioned by any restriction or provision of any insurance or annuity contract or by the insurer or any other person or entity.

10.7 Expenses. All reasonable costs, charges, and expenses incurred by the Trustee in connection with the administration of the Trust Fund and such reasonable compensation to the Trustee as may be agreed upon from time to time between the City and the Trustee, shall be paid from the Trust Fund unless the City shall pay the same.

10.8 Taxes. All taxes of any kind whatsoever which may be levied or assessed against the Trust Fund or the income thereof under any existing or future laws shall constitute a charge upon such Trust Fund and shall be payable from the Trust. The Trustee may deduct, withhold and transfer to the proper taxing authorities any such tax which it may be permitted or required to deduct and withhold from the Participant's accounts.

10.9 Resignation and Removal of Trustee. The Trustee may resign or be removed pursuant to the following provisions:

- (a) The Trustee may resign at any time by at least 30 days' written notice to the City effective as of the date specified in such notice.
- (b) The City may remove the Trustee at any time by at least 30 days' written notice to the Trustee, effective as of the date specified in such notice.
- (c) Prior to the effective date of such resignation or removal of the Trustee, the City shall appoint a successor Trustee eligible to act as Trustee under the laws of the State of Nebraska by written instrument delivered to the Trustee with the acceptance of the successor Trustee endorsed thereon.

(d) Upon the resignation or removal of the Trustee, the Trustee shall, as of the effective date thereof, deliver to the City and to the successor Trustee a statement of account, and as soon as practicable thereafter shall transfer and deliver to the successor Trustee the full amount of each Participant's account either in cash or other assets thereof, in the discretion of the Trustee, together with such records as the Trustee shall deem reasonably necessary for administration of the Plan by a successor Trustee. Upon receiving written receipt from the successor Trustee, the resigning Trustee shall be discharged as Trustee hereunder without further liability to any person. The Trustee shall be under no duty whatsoever to make inquiry as to the power and authority of any successor Trustee so designated to act, or as to the validity or exempt status of the trust instrument under which any successor Trustee so designated shall act, and the Trustee shall not be subject to any liability whatsoever from any person for delivering the assets of each Participant's account to the successor Trustee so designated. Prior to transfer of assets held under this Plan to the successor Trustee, the Trustee may reserve such reasonable amount as the Trustee shall deem necessary to provide for expenses incurred in the settlement of the Trustee's accounts or theretofore incurred, and any sums chargeable against the Trustee for which the Trustee may be liable, but if the sums so reserved are not sufficient for such purposes, the Trustee shall be entitled to reimbursement for any deficiency from the successor Trustee. Should the funds reserved be in excess of those needed for the purpose for which reserved, such excess shall be subsequently delivered to the successor Trustee.

10.10 Trustee Liability. The Trustee shall not be liable for the acts or omissions of any investment manager pursuant to Section 10.2 or for the acts or omissions of the City or Retirement Committee in selecting any investment medium for the Plan, nor shall the Trustee be under any obligation to inquire into, invest, advise, or otherwise make any recommendation concerning any asset of the Plan which is subject to the management of an investment manager or selected by the Retirement Committee.

ARTICLE 11

Miscellaneous Provisions

11.1 Non-Alienation of Benefits. None of the benefits, payments, proceeds, or distributions payable under the Plan are subject to the claim of any creditor of any Participant or to the claim of any creditor of any Beneficiary hereunder, or to any legal process of levy or attachment by any creditor of any such Participant or Beneficiary; and no such benefits shall be in any manner liable for or subject to the debts, liabilities, engagements, or torts of any Participant or Beneficiary; and neither shall any such Participant or Beneficiary have any right to alienate, commute, anticipate, transfer, encumber, pledge, or assign any of the benefits, payments, proceeds, or distributions under this Plan.

11.2 Qualified Domestic Relations Orders ("QDRO"). Notwithstanding Section 11.1, the Plan shall comply with any directions set forth in a QDRO meeting the requirements of Code § 414(p); provided, however, no benefits will be paid, assigned, or set aside for any person unless and until the Plan has received such releases and benefit waivers from the Participant or any other person as the Administrator may deem necessary or appropriate to protect the Plan and the Administrator from any claims which may arise as a result of the Plan complying with the

provisions of any QDRO. In no event shall the Plan recognize a QDRO which alters, changes or provides for a form of benefit not otherwise provided for under the Plan, increases benefits not otherwise provided by the Plan, or accelerates or defers the time of payment of Plan benefits, except to the limited extent allowed under Code § 414(p)(4).

The Retirement Committee shall establish procedures in accordance with Code § 414(p) for determining the qualified status of a domestic relations order served upon the Plan. The Retirement Committee shall follow all applicable procedures set forth in Code § 414(p) which apply when a domestic relations order is received, including issuing appropriate instructions to the Trustee or other funding agent with respect to segregating amounts in separate accounts pending the resolution of all matters relating to the domestic relations order and the distribution of Plan benefits with respect thereto.

11.3 Plan Not a Contract of Employment. The Plan shall not be deemed to constitute a contract between the City and any Police Officer, or to be a consideration for the employment of any Police Officer. Nothing in the Plan shall give any Police Officer the right to be retained in the employ of the City; all Police Officers shall remain subject to discharge, discipline or lay-off to the same extent as if the Plan had not been put into effect.

11.4 Compliance with Code Sections 401(a)(7) for Vesting:

- (a) A Participant shall always be 100% vested in his or her accumulated contributions.
- (b) In the event of a full or partial termination of, or a complete discontinuance of Employer contributions to, the Plan, the accrued benefits of the affected Participants under the Plan shall be 100% vested and nonforfeitable to the extent funded and to the extent required by federal law.

11.5 Workers' Compensation Benefits. Notwithstanding any other provisions of the Plan, no Participant shall be entitled during any period of disability to receive in full, both benefits under this Plan provided by the Participant's Retirement Value and additional benefits under the Nebraska Workers' Compensation Act. Similarly, Beneficiaries shall not be entitled to receive, in full, both death benefits under this Plan and additional benefits under the Nebraska Workers' Compensation Act. All Nebraska Workers' Compensation Act benefits shall be payable in full to such Participant or his or her dependents as provided in such Act, but all amounts paid by the City or its insurer under said Act, to any disabled Participant entitled to receive a salary during such disability, or to the surviving spouse or children of any deceased Participant, shall be considered as payments on account of such salary and shall be credited against the benefits provided hereunder. The remaining balance of such benefits, if any, shall be payable as otherwise provided under this Plan. In the event a lump sum benefit or settlement is paid in lieu of a periodic benefit under the Nebraska Workers' Compensation Act, such payment will, for the purposes of determining the benefit paid from this Plan, be converted to a periodic benefit on an actuarially equivalent basis and such equivalent periodic payment will reduce the monthly benefit payment otherwise payable under this Plan in the event of disability or death.

11.6 Merger or Consolidation. No merger or consolidation of this Plan with (or transfer of assets or liabilities to) any other plan shall be effective unless the benefit to which each Participant subsequent to the merger, consolidation, or transfer would be entitled in the event of that successor plan immediate termination is at least equal to, or greater than, the benefit to which the Participant would have been entitled under this Plan had it terminated immediately before the merger, consolidation or transfer.

11.7 Amendment or Termination. Subject to the provisions of any applicable law, the City shall have the right, in its sole and final discretion, to amend or terminate the Plan at any time and to any extent that it may deem advisable; provided, however, that:

(a) All amendments shall become effective on the first day of the month following the giving of not less than 45 days prior notice of the amendment to Participants. However, this 45-day notice requirement shall be applicable only if the amendment limits or otherwise restricts the deferral and distribution rights of the Participants. Notice shall be deemed given when the amendment is posted in the office of the Administrator. No amendments shall deprive any Participant of any of the benefits to which the Participant is entitled under this Plan with respect to amounts credited prior to the effective date of the amendment.

(b) If the Plan is amended, the Administrator shall nonetheless be responsible for the supervision and the payment of benefits resulting from amounts contributed prior to the amendment in accordance with this Section 0.

11.8 Tax Withholding. The Administrator shall withhold from the benefit payments to be made to any recipient under this Plan such taxes as may be required to be withheld by applicable state and federal tax laws, and such withheld taxes shall be promptly remitted to the proper governmental authority.

11.9 Invalidity of Certain Provisions. If any provision of this Plan shall be held invalid or unenforceable, such invalidity or unenforceability shall not affect any other provision hereof, and this Plan shall be construed and enforced as if such provision had not been included.

11.10 Additional Limitations. In case it becomes impossible to perform any act under this Plan, that act shall be performed which, in the judgment of the City, will most nearly carry out the intent and purposes of this Plan, and all parties to this Plan or in any way interested shall be bound by any acts performed under such conditions.

11.11 Compliance with Code. Notwithstanding anything herein to the contrary, the Plan shall be administered in a manner necessary to comply with all tax-qualification requirements applicable to government retirement plans under Code § 401(a) and all provisions of this Plan shall be construed in accordance with such qualification requirements and shall, by this reference, incorporate any subsequent changes made to such qualification requirements as the same may apply to this Plan. The City reserves the right to make such amendments to this Plan, if any, as will be required to enable this Plan to qualify for tax purposes under Code § 401(a) as a tax-qualified plan.

11.12 Compliance with Settlement Agreement. Notwithstanding anything herein to the contrary, the Plan shall be administered in a manner necessary to comply with the agreements and requirements of the Agreement and CI 17-1674 Orders, and all provisions of this Plan shall be construed in accordance with such Settlement Agreement and CI 17-1674 Orders to the extent consistent with the laws of Nebraska and the tax-qualification requirements applicable to government retirement plans under Code § 401(a), as the same may be amended.

11.13 Counterparts. This Plan and Trust Fund may be executed in two or more counterparts, any one of which will be an original without reference to the other.

11.14 Plan Construed as a Whole. The provisions of the Plan shall be construed as a whole in such manner as to carry out the provisions of the Plan and shall not be construed separately without relation to the context.

IN WITNESS WHEREOF, the City has caused this amendment and restatement of the Plan to be executed by its duly authorized officer this _____ day of February , 2023.

CITY OF BELLEVUE, NEBRASKA

By:

Title: _____

APPENDIX A

INSERT COPY OF AGREEMENT

appendix VI

COPY

SETTLEMENT AGREEMENT
BETWEEN BELLEVUE POLICE OFFICERS ASSOCIATION/
FRATERNAL ORDER OF POLICE LODGE NO. 59 AND EACH INDIVIDUAL
COLLECTIVE BARGAINING UNIT MEMBERS SET FORTH HEREIN,
AND THE CITY OF BELLEVUE, NEBRASKA, A MUNICIPAL CORPORATION

WHEREAS, the Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 (hereinafter "the FOP") has been a party to a collective bargaining agreement with the City of Bellevue representing a bargaining unit composed of Police Officers, Arson Investigators, Police Sergeants and Police Lieutenants; and

WHEREAS, the City of Bellevue is a political subdivision of the State of Nebraska and a City of the First Class existing by virtue of the laws of the State of Nebraska, and the City of Bellevue (hereinafter "the City") has been party to collective bargaining agreements with the FOP covering terms and conditions of employment for bargaining unit members; and

WHEREAS, on or about September 27, 2004, a collective bargaining agreement was approved by a vote of the Bellevue City Council after having first been ratified by a vote of the membership of the FOP which contained a provision within that contract identified as Article 35 dealing with retirement benefits for bargaining unit members; and

WHEREAS, on or about June 26, 2006, the Bellevue City Council, by a unanimous vote approved a successor collective bargaining agreement covering contract years 2005-2010 without altering the provisions cited above under Article 35 entitled "Police Retirement"; and

WHEREAS, the City advised the FOP that in 2004, after ratification of the initial agreement containing the Article 35 provision, that the City had been provided with legal authority contending that the provisions in Article 35 were not consistent with the City's ability to offer certain retirement benefits to its employees under Nebraska law; and

WHEREAS, the provision known as Article 35 in the contract remained in the CBA and the FOP instituted litigation in the District Court of Sarpy County, Nebraska in a case captioned *Bellevue Police Officers Association/Fraternal Order of Police, Lodge No. 59 v. City of Bellevue, Nebraska*, Case No. CI 09-1804; and

WHEREAS, the parties recognize there are risks and costs associated with litigation which they desire to avoid and they have reached the agreement embodied herein in the context of a global settlement of all disputes, including arriving at a successor collective bargaining agreement to the 2005-2010 agreement covering contract years 2010/2011 and 2011/2012, and seek to settle a case dealing with a claim of the Union over health insurance benefits pending before the Sarpy County District Court captioned as *Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 v. City of Bellevue*, Case No. CI09-1607; and

WHEREAS, by reason of the disputes and controversies arising from the above litigation, and in recognition and preservation of the interests of the parties, the parties desire to compromise and settle all claims and causes of action of any kind which the Union and its

individual bargaining unit members have or may have arising out of or related to the incidents giving rise to the litigation settled herein as set forth below; and

WHEREAS, by virtue of the agreement set forth herein, the City will provide benefits to the identified members of the bargaining unit in Exhibit "A" attached hereto under the terms and conditions set forth herein and the Union, in exchange for said promises, will dismiss with prejudice the litigation referenced above in Case Nos. CI 09-1804 and CI 09-1607.

NOW, THEREFORE, in consideration of the mutual promises and agreements herein contained, including the recitals herein contained, including the recitals above than the promises set forth herein mutually extended, the parties hereto agree as follows:

1. Those employees whose names appear on Exhibit "A" attached hereto who were employed prior to January 1, 1984 are permitted to choose to retire under the guidelines established in Nebraska State Statute, as outlined therein, or said employees may elect to receive the benefit provided to him or her under the terms of this agreement.

2. All employees identified in Exhibit "A" attached hereto who were hired after December 31, 1983 shall be granted retirement benefits under the following schedule.

3. The following benefits schedule shall apply:

October 1, 2008 – 55% at 55 years of age

When an employee reaches the required age with 25 years of service, the employee shall be entitled to receive the indicated percentage of his regular pay. This percentage shall be determined by averaging the last 5 consecutive years preceding retirement. The employee shall be entitled to the total sum of his retirement account or the corresponding percentage, whichever is the greater, based upon the actuarial formula of 7% and the 1994 GAM Table for Males and Females.

4. To receive compensation for the retirement benefit promised herein, the employee shall be entitled to a single lump sum payment option that the employee will receive as a one-time payment to use or invest for his retirement and the amount shall be based on the calculations provided in paragraph 3 above.

5. Contributions to the employee's retirement account shall be 6% by the employee and 6% by the City.

6. An employee is vested in the City's contributions as follows:

Credited Years of Vesting Service	Vested Percentage
Less than 4 years	0%
4 years but less than 5 years	40%

5 years but less than 6 years	50%
6 years but less than 7 years	60%
7 years but less than 8 years	70%
8 years but less than 9 years	80%
9 years but less than 10 years	90%
10 years or more	100%

An employee is 100% vested upon attaining age 60 or the event of his death or the termination of the plan.

7. Investment of all contributions shall be directed by the City of Bellevue Retirement Committee.

8. Deferred Retirement Option Plan (DROP)

This option allows an employee who appears on the list attached as Exhibit "A" hereto who has reached the minimum number of service years for retirement, but has not achieved the minimum age requirement, to terminate their employment with the Police Department and defer their retirement until they have reached at least the minimum age. Once the employee terminates service with the Police Department, neither the City or employee has further responsibility for adding funds to the employee's account. The account will remain within the retirement plan and when the employee reaches the minimum age, Sections 3 and 4 of this article will then apply, based on the employee's average salary over the 5 previous years before terminating his employment.

Under this plan, should an employee decide to close his fund account and remove the funds prior to reaching the minimum age requirement, then Sections 3 and 4 of this article will not apply.

If an employee chooses to use the DROP, he will not be entitled to the health insurance benefit provided for bargaining unit members by virtue of any collective bargaining agreement providing for such in existence at the time of separation and until such time as he reaches the minimum age as outlined under the retirement plan and accepts a retirement benefits. In case of the death of the employee while enrolled in the DROP, his surviving spouse or heir will receive the lump sum distribution on the date the employee would have begun receiving his benefit. The lump sum will be calculated in the same manner as if the employee had lived.

The employees subject to this agreement understand that the City of Bellevue will not provide benefits under this agreement in the form of a straight life annuity where an employee receives a retirement benefit for life and at the employee's death, payment stops. This provision was the provision within the original Article 45 of the collective bargaining agreement referenced above but will not be carried over as part of this settlement agreement.

The FOP and the City and all employees affected by this agreement who are currently employees of the City of Bellevue understand and agree that the benefits of this agreement will only be applied to those persons identified in Exhibit "A" attached hereto and any persons who are newly hired employees with hire dates that postdate the effective date of this agreement will not be entitled to benefits under this agreement and will have the retirement benefits be controlled solely and exclusively by Neb. Rev. Stat. §16-1001 to §16-1019 as amended. Further, Employees listed on Exhibit "A" who do not reach 25 (twenty-five) years of service with the City shall be due only those retirement benefits established by the employee's retirement plan and Nebraska State Statutes.

In exchange for the promises set forth herein, the FOP will dismiss with prejudice pending litigation in the Sarpy County District Court docketed at Cases No. CR09-1804 (pension litigation) and CI09-1607 (health insurance litigation). Each party will bear its own costs and attorneys fees with respect to the dismissals of said litigation.

As long as there remain employees who are referenced in Exhibit "A" attached hereto employed within positions covered by the bargaining unit represented by the FOP, and as long as the City and the FOP continue to engage in and enter into collective bargaining agreements, this document shall be an addendum to the collective bargaining agreement. However, it is understood that rights under this document inure to the benefit of those persons identified on Exhibit "A" attached hereto, those rights in exists independent of any future collective bargaining agreement between the City and the FOP.

This agreement will be appended to the City of Bellevue Retirement Plan and inure to the benefit of and be operable as to all individuals listed in Exhibit "A" attached hereto.

This settlement is the compromise of a disputed claim and entering into the agreement is not to be construed as an admission of liability on the part of the City of Bellevue or that the provisions of Article 35 of the CBA referenced above were valid or invalid, on the part of the parties to the settlement.

In reaching this settlement, the parties have further agreed to settle collective bargaining disputes and enter into a CBA covering contract year 2010-2011 which agreement is to be ratified at the same time and in conjunction with this agreement.

SO AGREED TO this 9th day of May, 2011.


Justin Pestel, President
Bellevue Police Officers Assn./FOP Lodge 59


Authorized Representative, City of Bellevue

Approved as to form and content:

A handwritten signature in black ink, appearing to read 'John E. Corrigan', written over a horizontal line.

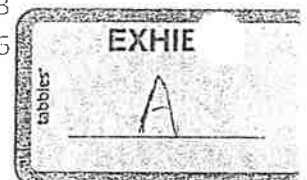
John E. Corrigan
Attorney for Bellevue Police Officers Assn./
FOP Lodge 59

Approved as to form and content:

A handwritten signature in black ink, appearing to read 'Michael F. Polk', written over a horizontal line.

Michael F. Polk
Attorney for City of Bellevue

Last Name	First Name	Hire Date		Original Hire Date
Abbott	Christopher	2/26/2001	BPOA - Only	2/26/2001
Anderson	Roger	11/1/1982	BPOA - Only	11/1/1982
Bailey	Robert	3/7/1996	BPOA - Only	3/7/1996
Bang	KC	12/8/2003	BPOA - Only	12/8/2003
Banks	Howard	3/8/2004	BPOA - Only	3/8/2004
Bartley	James	6/15/1992	BPOA - Only	6/15/1992
Bees	Derek	11/12/1996	BPOA - Only	11/12/1996
Benshoof	Brian	9/10/2010	BPOA - Only	9/10/2010
Betsworth	Lindsey	4/4/2006	BPOA - Only	4/4/2006
Black	Jason	3/16/2009	BPOA - Only	3/16/2009
Brazda	Michael	7/2/1992	BPOA - Only	7/2/1992
Brazda	John	1/23/1995	BPOA - Only	1/23/1995
Brewer	David	2/8/1996	BPOA - Only	2/8/1996
Brown	Corey	1/7/2002	BPOA - Only	1/7/2002
Bryl	Matthew	4/18/2011	BPOA - Only	4/18/2011
Carrera	Emily	3/15/2010	BPOA - Only	3/15/2010
Chizek	David	5/19/2003	BPOA - Only	5/19/2003
Chvala	Caleb	4/18/2011	BPOA - Only	4/18/2011
Corrigan	Michael	3/17/2008	BPOA - Only	3/17/2008
Cvitano	Jason	9/7/2010	BPOA - Only	9/7/2010
Drier	Mark	12/3/1990	BPOA - Only	12/3/1990
Ducker	Dontrell	7/2/2001	BPOA - Only	7/2/2001
Evans	Allison	8/3/2009	BPOA - Only	8/3/2009
Filippi	Jordan	8/7/2008	BPOA - Only	8/7/2008
Floherschut	Timothy	10/27/2006	BPOA - Only	10/27/2006
Franks	Dustin	3/8/2004	BPOA - Only	3/8/2004
Gallo	Francis	3/30/1989	BPOA - Only	3/30/1989
German	Daniel	8/3/2009	BPOA - Only	8/3/2009
Gray	Joseph	11/22/1999	BPOA - Only	11/22/1999
Gross	Melanie	12/17/1990	BPOA - Only	12/17/1990
Grubb	Carl	3/8/2004	BPOA - Only	3/8/2004
Guy	Jamie	8/2/1999	BPOA - Only	8/2/1999
Hargiss	Jonovan	9/15/2008	BPOA - Only	9/15/2008
Haverty	Craig	3/16/2009	BPOA - Only	3/16/2009
Heller	Chad	2/28/2000	BPOA - Only	2/28/2000
Herrick	Terrence	8/3/2009	BPOA - Only	8/3/2009
Hessig	Harold	6/28/1999	BPOA - Only	6/28/1999
Hoffman	Matthew	4/4/2005	BPOA - Only	4/4/2005
Holm	Michael	7/2/2001	BPOA - Only	7/2/2001
HOW	Eric	8/3/2009	BPOA - Only	8/3/2009
Howell	Ulrich	5/19/2003	BPOA - Only	5/19/2003
Janda	Timothy	4/25/2006	BPOA - Only	4/25/2006



Jarvis	Matthew	7/6/1978	BPOA - Only	7/6/1978
Jashineske	Andrew	11/22/1999	BPOA - Only	11/22/1999
Kessler	Suzanne	11/21/1994	BPOA - Only	11/21/1994
Kirwin	Jay	7/15/2002	BPOA - Only	7/15/2002
Kolbe	John	8/3/2009	BPOA - Only	8/3/2009
lampman	Larry	2/28/2000	BPOA - Only	2/28/2000
Larson	Justin	2/16/2003	BPOA - Only	2/16/2003
Laufenberg	Michael	9/17/1979	BPOA - Only	9/17/1979
Legband	Michael	5/29/1990	BPOA - Only	5/29/1990
Lopez	Marcos	7/15/2002	BPOA - Only	7/15/2002
Lowery	John	2/28/2000	BPOA - Only	2/28/2000
Manning	Kishan	2/2/2009	BPOA - Only	2/2/2009
McAlpin	Shawn	5/19/2003	BPOA - Only	5/19/2003
McDaniel	John	11/12/1996	BPOA - Only	11/12/1996
McQuaid	Holly	3/15/2010	BPOA - Only	3/15/2010
Melrose	Jason	8/4/2008	BPOA - Only	8/4/2008
Melvin	Timothy	9/18/2000	BPOA - Only	9/18/2000
Mercer	Bryan	2/2/2009	BPOA - Only	2/2/2009
Meyer	Kirk	5/19/2003	BPOA - Only	5/19/2003
Miller	Steven	3/12/1990	BPOA - Only	3/12/1990
Miller	Scott	5/19/2003	BPOA - Only	5/19/2003
Milos	Joseph	8/28/1989	BPOA - Only	8/28/1989
Munsey	James	11/19/2006	BPOA - Only	11/19/2006
Murray	James	8/18/2008	BPOA - Only	8/18/2008
O'Conner	Dennis	1/23/1995	BPOA - Only	1/23/1995
Page	Robert	9/18/2000	BPOA - Only	9/18/2000
Parent	Christopher	5/1/1981	BPOA - Only	5/1/1981
Pestel	Justin	1/7/2002	BPOA - Only	1/7/2002
Pettit	Michael	10/27/2006	BPOA - Only	10/27/2006
Piernicky	Thomas	8/15/1983	BPOA - Only	8/15/1983
Pilmaier	Michael	1/28/1991	BPOA - Only	1/28/1991
Pleiss	Donald	7/15/2002	BPOA - Only	7/15/2002
Radik	Robert	11/1/1982	BPOA - Only	11/1/1982
Rech	David	1/2/1980	BPOA - Only	1/2/1980
Reed	Chad	9/18/2000	BPOA - Only	9/18/2000
Rosekey	Ryan	3/15/2010	BPOA - Only	3/15/2010
Rybar	James	10/29/1979	BPOA - Only	10/29/1979
Saab	Jerry	4/18/2011	BPOA - Only	4/18/2011
Saum	David	1/16/1990	BPOA - Only	1/16/1990
Schwartz	Larry	2/22/1994	BPOA - Only	2/22/1994
Simones	Zeb	6/27/1999	BPOA - Only	6/27/1999
Stadler	Zachary	4/4/2008	BPOA - Only	4/4/2008
Stinson	Robert	12/17/1990	BPOA - Only	12/17/1990

Stroeher	Kurtis	7/2/2001	BPOA - Only	7/2/2001
Stuck	John	8/2/1999	BPOA - Only	8/2/1999
Towey	Kevin	3/23/1981	BPOA - Only	3/23/1981
Vest	Sean	8/3/2009	BPOA - Only	8/3/2009
Vollmer	Shane	8/3/2009	BPOA - Only	8/3/2009
Vondra	Frank	12/17/1990	BPOA - Only	12/17/1990
Ward	Cassandra	4/18/2011	BPOA - Only	4/18/2011
Wiech	Craig	5/6/1996	BPOA - Only	5/6/1996
Strachota	Kurt	8/15/1983	Command Staff	8/15/1983

APPENDIX B

INSERT COPY OF ABBOTT 9/3/2020 AMENDED ORDER OF JUDGEMENT AND 4/21/22
AMENDER ORDER OF JUDGMENT ON MANDATE

IN THE DISTRICT COURT OF SARPY COUNTY, NEBRASKA

CASE NO. CI 17-1674

CHRISTOPHER ABBOTT; ROBERT BAILEY;)
HOWARD BANKS; JAMES BARTLEY; DEREK)
BEES; BRIAN BENSHOOF; LINDSEY)
BETSWORTH; TROY BOYLE; JOHN BRAZDA)
MICHAEL BRAZDA; COREY BROWN;)
MATTHEW BRYL; EMILY CHASE; DAVID)
CHIZEK; CALEB CHVALA; JASON)
CVITANOV; DONTRELL DUCKER; ALLISON)
EVANS; DUSTIN FRANKS; DANIEL GERMAN)
JOSEPH GRAY; CARL GRUBB; JONOVAN)
HARGISS; CRAIG HAVERTY; CHAD HELLER;)
HAROLD HESSIG; MICHAEL HOLM;)
MATTHEW HOFFMAN; TIMOTHY JANDA;)
SUZANNE KESSLER; JAY KIRWAN; JOHN)
KOLBE; ANDREW JASHINSKE; LARRY)
LAMPMAN; MICHAEL LEGBAND; JOHN)
LOWERY; KISHAN MANNING; JOHN)
McDANIEL; HOLLY McQUAID; JASON)
MELROSE; BRYAN MERCER; KIRK MEYER;)
SCOTT MILLER; JOSEPH MILOS; JAMES)
MURRAY; DENNIS O'CONNOR; ROBERT)
PAGE; MICHAEL PETTIT; DONALD PLEISS;)
RYAN ROSKEY; DAVID SAUM; LARRY)
SCHWARTZ; ZEB SIMONES; ZACHARY)
STALDER; JOHN STUCK; KEVIN TOWEY;)
SEAN VEST; CASSANDRA WARD; and the)
BELLEVUE POLICE OFFICERS)
ASSOCAITION/FRATERNAL ORDER OF)
POLICE LODGE NO. 59,)

Plaintiffs,)

vs.)

CITY OF BELLEVUE, NEBRASKA, a Political)
Subdivision of the State of Nebraska,)

Defendant,)

AND)

ROGER ANDERSON; KC BANG; JASON)
BLACK; DAVID BREWER; MICHAEL)
CORRIGAN; MARK DRIER; JORDAN)

FILED
SARPY COUNTY
DISTRICT COURT
2020 SEP - 3 AM 8:36
Clerk District Court

AMENDED
ORDER OF JUDGMENT



FILIPPI; TIMOTHY FLOHRSCHUTZ; FRANCIS)

GALLO; MELANIE GROSS; JAMIE GUY;)

TERRENCE HERRICK; ERIC HOW; ULRICH)

HOWELL; MATTHEW JARVIS; JUSTIN)

LARSON; MICHAEL LAUFENBERG; MARCOS)

LOPEZ; SHAWN MCALPIN; TIMOTHY)

MELVIN; STEVEN MILLER; JAMES MUNSEY;)

CHRISTOPHER PARENT; JUSTIN PESTEL;)

THOMAS PIERNICKY; MICHAEL PILMAIER;)

ROBERT RADIK; DAVID RECH; CHAD REED;)

JAMES RYBAR; JERRY SAAB; ROBERT)

STINSON; KURTIS STROEHER; SHANE)

VOLLMER; FRANK VONDRA; KURT)

STRACHOTA; CRAIG WIECH; and, JOHN)

DOE,)

Defendants.)

This matter came before the Court on the motions filed by each party for summary judgment. Thomas McCarty appeared on behalf of Plaintiffs. Bree Robbins appeared on behalf of Defendant. Evidence was received and argument heard. For the reasons stated herein, the Court found that the summary judgment motions should be sustained in part and overruled in part as described herein. Further, the matter subsequently came before the Court on the 22nd day of July, 2020 on the Plaintiff's Motion to Alter or Amend and Motion for Attorney Fees and Expenses. The Court has changed the status of Plaintiff Holly McQuaid, further addressed the issue of attorney fees, and made certain minor modifications to the language of the original Order of Judgment, and, to avoid confusion, will reiterate that Order, as amended, in its entirety herein.

Pursuant to Nebraska law, a court should grant summary judgment when the pleadings and evidence admitted show that no genuine issue exists regarding any material fact or the ultimate inferences that may be drawn from those facts and that the moving party is entitled to judgment as a matter of law. *State Farm Fire & Casualty Company v. Dantzler*, 289 Neb. 1, 852 N.W.2d 918 (2014); *Lesiak v. Central Valley Ag Co-op., Inc.*, 283 Neb. 103, 808 N.W.2d 67 (2012); *Golden v. Union Pacific R. Co.*, 282 Neb. 486, 804 N.W.2d 31 (2011). Summary Judgment is not appropriate, even where there are no conflicting evidentiary facts, if ultimate inferences to be drawn from those

facts are not clear. *Draemel v. Rufenacht, Bromagen & Hertz, Inc.*, 223 Neb. 645, 392 N.W.2d 759 (1986).

For purposes of summary judgment, the trial court must take that view of the evidence most favorable to the party against whom the motion is directed, giving to that party the benefit of all favorable inferences that may be reasonably drawn from the evidence to discover if any genuine issue of material fact exists. *Id.* at 650. “Upon a motion for summary judgment, the court examines the evidence to discover if any real issue of fact exists.” *Yankton Prod. Credit Assn. v. Larsen*, 219 Neb. 610, 614, 365 N.W.2d 430, 433 (1985).

A party moving for summary judgment must make a prima facie case by producing enough evidence to demonstrate that the movant is entitled to judgment if the evidence were uncontroverted at trial. *Brock v. Dunning*, 288 Neb. 909, 854 N.W.2d 275 (2014); *McFadden Ranch, Inc. v. McFadden*, 19 Neb.App. 366, 807 N.W.2d 785 (2011); *Chicago Lumber Co. Of Omaha v. Selvera*, 282 Neb. 12, 809 N.W.2d 469 (2011); *BSB Const., Inc. v. Pinnacle Bank*, 278 Neb. 1027, 776 N.W.2d 188 (2009). Once the moving party makes a prima facie case, the burden to produce evidence showing the existence of a genuine issue of material fact that prevents judgment as a matter of law shifts to the party opposing the motion. *Id.*

In the instant matter, Plaintiffs are all police officers employed by Defendant, City of Bellevue (hereinafter “City”). At all relevant times, the retirement benefits of Plaintiffs were governed by the Police Officers Retirement Act (hereinafter referred to as “Retirement Act”), found at Neb. Rev. Stat. §16-1001 *et seq.* Prior to October 1, 2013, the Retirement Act mandated a defined-contribution retirement plan for police officers employed by the City. Each employee-officer contributed 6% of his or her wages to a retirement account through a deduction from his or her regular paycheck. That contribution was matched by the City.

A dispute arose between the City and some of its employees, which was settled by an agreement in May of 2011. That agreement allowed the named employees (a group that includes all Plaintiffs from the current action) upon retirement, to choose between either the employee’s accumulated retirement account balance (as accumulated pursuant to the Retirement Act), or a defined benefit as described in the settlement agreement. To qualify for this defined benefit, an employee must be at least

55 years of age and have worked for at least 25 years at the time of retirement. The terms of the agreement specifically state that the employees and the City were to each contribute 6% of the employee's income towards the employee's retirement account. The settlement agreement specifically provided that the settlement was for the benefit of the named employees and was to survive any future collective bargaining agreement or amendment.

The Retirement Act was amended to raise the required contribution by both the employer and employee to 6.5% effective October 1, 2013; and to 7% effective October 1, 2015. At all relevant times, the City made the contributions as required by the Act and made the required deductions from Plaintiffs' pay. The result of this action is that the contributions made to each Plaintiff's retirement account after October 1, 2013 were higher than what was required by the 2011 settlement agreement. Plaintiffs brought this action seeking a declaratory judgment for, among other things, to declare the imposition of employee contributions as an unconstitutional impairment of contract, to enjoin continued contributions above 6%, and for a return of the excess contributions.

The City is barred from taking actions that "impair the obligations of contracts." U.S. Const. Art. 1, § 10, cl. 1; NE Const. Art. I, § 16. The elements of a Contracts Clause violation are a contractual relationship and a showing the contract has been substantially impaired. *Calabro v. City of Omaha*, 247 Neb. 955, 531 N.W.2d 541 (1995); *Halpin v. Nebraska State Patrolmen's Ret. Sys.*, 211 Neb. 892, 320 N.W.2d 910 (1982). Public employee retirement plans are contracts protected from impairment by the Contracts Clause. See *Halpin*, 211 Neb. At 899-900, 320 N.W.2d at 914; *Calabro*, 247 Neb. At 965, 531 N.W.2d at 549. An impairment of that contract occurs when there is an action that "takes[s] something away and [does] not work to the parties' benefit . . ." *Bauers v. City of Lincoln*, 255 Neb. 572, 583, 586 N.W.2d 452, 461 (1998).

In the instant matter, it is clear that the rights of Plaintiffs under the 2011 settlement agreement were impaired by the higher employee contribution levels required by amendments to the Retirement Act. Specifically, under the 2011 settlement agreement, an employee had a choice between a defined benefit retirement payout and a defined contribution benefit, each at a cost of 6% to the employee. Those amendments, as required by law and implemented by the City, did allow for a higher City contribution to the employees' retirement accounts, and as a result, do enhance the

value of the defined contribution benefit. All amounts contributed by both parties and the earnings are recovered by the employee in the form of a higher benefit.

However, the defined benefit, as bargained for in the 2011 settlement agreement, has the same value to the employee, but at a higher cost after applying the additional payments required by the amendments to the Retirement Act. This is a substantial impairment of the settlement agreement and a breach of that agreement.

In a breach of contract case, the ultimate objective of a damages award is to put the injured party in the same position the injured party would have occupied if the contract had been performed, that is, to make the injured party whole. One injured by a breach of contract is entitled to recover all its damages, including the gains prevented as well as the losses sustained, provided the damages are reasonably certain and such as might be expected to follow the breach. *TNT Cattle Co., Inc. v. Fife*, 304 Neb. 890, 922, 937 N.W.2d 811, 835–36 (2020).

While damages need not be proved with mathematical certainty, neither can they be established by evidence which is speculative and conjectural. Uncertainty as to the fact of whether damages were sustained at all is fatal to recovery, but uncertainty to the amount is not, if the evidence furnishes a reasonably certain factual basis for computation of the probable loss. *Walker v. Probandt*, 25 Neb. App. 30, 48, 902 N.W.2d 468, 482 (2017).

The Court notes, in the case at hand, that Plaintiffs cannot suffer damages until such time as one of them has qualified for and chooses one of the retirement options. If, at that time, a Plaintiff chooses the defined contribution benefit, there is no damage, as they will receive the balance of the employee's retirement account, as contemplated in the original agreement. That benefit will actually be enhanced by the higher contributions made by the employee and the City.

However, if the employee were to choose the defined benefit option, the employee is damaged by having paid the higher contributions required under the Retirement Act amendments. The employee's damages in that instance would be the sum of the higher employee contribution and the associated earnings on those contributions. The employee would be entitled to collect the applicable percentage of pay on retirement (the defined benefit). As contemplated by the agreement, the

employee retirement account, less the damages as described in this paragraph, would belong to the City.

Accordingly, the Court finds that Plaintiffs Matthew Bryl, Caleb Chvala, Jason Cvitanov, Holly McQuade, and Ryan Roskey left their employment with the City without yet having achieved 55 years of age or 25 years of service. Under the terms of the agreement, these Plaintiffs did not qualify for the defined benefit. While they have paid the higher contributions to their retirement accounts, they have received those contributions, the higher contributions made by the City, and the accumulated earnings on those contributions. Therefore, these Plaintiffs are not entitled to relief.

Plaintiffs Robert Bailey and John Brazda received a medical retirement and are receiving the payments required pursuant to Neb. Rev. Stat. §16-1011. Those payments are funded by the contributions made by each Plaintiff and the City, as well as the earnings on those contributions, with the City responsible for any shortfall. Neither of these Plaintiffs had obtained 55 years of age or 25 years of service as of the date of retirement. The Court, therefore, also finds that Plaintiffs Robert Bailey and John Brazda are not entitled to relief.

Plaintiff Kevin Towey had over 25 years of service and was over 55 years of age at the time of his retirement. Mr. Towey elected to receive retirement benefits available for those hired prior to 1984. The essence of the Court's ruling is that only those who elect the defined benefit (at a higher cost than agreed) are damaged. Others, including this Plaintiff, receive the value of the extra contributions. Thus, the Court finds that Plaintiff Towey is also not damaged.

The remaining individual Plaintiffs, Christopher Abbott; Howard Banks; James Bartley; Derek Bees; Brian Benshoof; Lindsey Betsworth; Troy Boyle; Michael Brazda; Corey Brown; Emily Chase; David Chizek; Dontrell Ducker; Allison Evans; Dustin Franks; Daniel German; Joseph Gray; Carl Grubb; Jonovan Hargiss; Craig Haverty; Chad Heller; Harold Hessig; Michael Holm; Matthew Hoffman; Timothy Janda; Suzanne Kessler; Jay Kirwan; John Kolbe; Andrew Jashinske; Larry Lampman; Michael Legband; John Lowery; Kishan Manning; John McDaniel; Jason Melrose; Bryan Mercer; Kirk Meyer; Scott Miller; Joseph Milos; James Murray; Dennis O'Connor; Robert Page; Michael Pettit; Donald Pleiss; David Saum; Larry Schwartz; Zeb Simones; Zachary Stalder; John Stuck; Sean Vest; and Cassandra Ward, are still entitled to the full benefit

of the earlier agreement, though they are still employed by the City and have not yet retired. In order to maintain the choice of benefits bargained for in the original agreement, a method is required to allow for a determination of the excess contributions made. At the request of the Court, counsel for the City has provided certain language that may be inserted into the City's Police Retirement Plan and Trust that is compatible with the terminology of that document. While acknowledging that the City may not necessarily agree with the findings made herein, the Court finds that these provisions, as modified herein, will allow for an accurate calculation of the value of the excess contributions and should be inserted as described into the City's Police Retirement Plan and Trust.

There being no issue of material fact, the Court finds that summary judgment should be granted as described herein.

As to the issue of attorney fees, the Court would note that the Amended Complaint seeks an order requiring the Defendants to disgorge all funds collected by the Defendants in excess of the 6% contribution rate, a number that was later represented as being in excess of \$1.1 million. The Court's finding herein does not allow for that result, but also preserves the Plaintiffs' claim to the City's contributions in excess of 6%. As of the present time, there is no individual Plaintiff who has retired and been deprived of a benefit of the 2011 contract. As previously noted, a Plaintiff cannot suffer damages until such time as she or he has qualified for and chooses the defined benefit plan. That has not occurred for all 8 of the Plaintiffs who have already left their employment with the City. Given the contingent nature of that future possibility of damage, it is difficult to come to the conclusion that the Plaintiffs are the prevailing party.

IT IS THEREFORE ORDERED the respective Motions for Summary Judgment are sustained in part and overruled in part.

IT IS FURTHER ORDERED that the claims of Plaintiffs Matthew Bryl, Holly McQuade, Caleb Chvala, Jason Cvitanov, Ryan Roskey, Robert Bailey, John Brazda and Kevin Towey are dismissed.

IT IS FURTHER ORDERED a judgment is entered in favor of the following individual Plaintiffs: Christopher Abbott; Howard Banks; James Bartley; Derek Bees; Brian Benshoof; Lindsey Betsworth; Troy Boyle; Michael Brazda; Corey Brown; Emily

Chase; David Chizek; Dontrell Ducker; Allison Evans; Dustin Franks; Daniel German; Joseph Gray; Carl Grubb; Jonovan Hargiss; Craig Haverty; Chad Heller; Harold Hessig; Michael Holm; Matthew Hoffman; Timothy Janda; Suzanne Kessler; Jay Kirwan; John Kolbe; Andrew Jashinske; Larry Lampman; Michael Legband; John Lowery; Kishan Manning; John McDaniel; Jason Melrose; Bryan Mercer; Kirk Meyer; Scott Miller; Joseph Milos; James Murray; Dennis O'Connor; Robert Page; Michael Pettit; Donald Pleiss; David Saum; Larry Schwartz; Zeb Simones; Zachary Stalder; John Stuck; Sean Vest; and Cassandra Ward; hereinafter referred to as "Remaining Plaintiffs".

IT IS FURTHER ORDERED that Remaining Plaintiffs are granted the following relief:

Upon the date of retirement, each individual Remaining Plaintiff shall be entitled to choose one of the retirement plans described in the May 9, 2011 Settlement Agreement between the Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 and the City of Bellevue, received as attachment K to Exhibit 83.

In the event the individual Remaining Plaintiff chooses to receive the total sum of his retirement account, that Plaintiff shall be entitled to no further relief.

In the event the individual Remaining Plaintiff, having obtained the age of 55 years and 25 years of service, instead chooses to receive 55% of the average pay for his or her last 5 years of service, as described in said agreement, that Plaintiff shall also receive damages representing his or her retirement contribution to the retirement account above 6% of his or her wages and any earnings associated with those contributions. In order to calculate these damages, it is ordered that the City shall insert the following language into the city's Police Retirement Plan and Trust document, as applied to Remaining Plaintiffs only:

The Trustee shall create and maintain separate accounts in the name of each Plaintiff for the crediting of each Plaintiff's 6% contributions and matching 6% City contributions. The account established for a Plaintiff's 6% contributions shall be designated as "EE012" and the account established for the City's 6% contribution shall be designated as "ER012."

The Trustee shall create and maintain additional separate accounts in the name of each Plaintiff for the crediting of each Plaintiff's required excess contributions (as outlined in Nebraska Revised Statute 16-1005, as may be amended). Currently, the "excess contribution" amount required for each Plaintiff is 1% but may be amended pursuant to Neb.

Rev. Stat. 16-1005. The account established for Plaintiff's "excess contribution" shall be designated as "EE912". Said account shall account for the "excess contributions" beginning with the 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning October 1, 2015 and all "excess contributions" above 6% going forward.

The Trustee shall create and maintain additional separate accounts in the name of each Plaintiff for the crediting of the City's required excess contributions (as outlined in Nebraska Revised Statute 16-1005, as may be amended). Currently the "excess contribution" amount required for the City is 1% but may be amended pursuant to Neb. Rev. Stat. 16-1005. The account established for the City's "excess contribution" shall be designated as "ER912". Said account shall account for the "excess contributions" beginning with the 0.5% excess contribution on October 1, 2013 and the 1% excess contribution beginning October 1, 2015 and all "excess contributions" above 6% going forward.

EXAMPLE ACCOUNT SETUP:

<u>Employee Contribution Account</u> (EE012)	<u>Employer Contribution Account</u> (ER012)
6%	6%
<u>Employee Excess Contribution Account</u> (EE912)	<u>Employer Excess Contribution Account</u> (ER912)

1% *or as amended by Neb. Rev. Stat. 16-1005	1% *or as amended by Neb. Rev. Stat. 16-1005
---	---

The "excess" employee contributions and the "excess" employer contributions from October 1, 2013 through the date of this Court's order and the separation of the accounts as outlined above should be accounted for and calculated as outlined below. This separation and calculation should occur within forty-five (45) days from the date of this Court's final order. This calculation should take place for each individual Plaintiff in order to calculate the "excess" employee and "excess" employer amounts.

To calculate each Employee's "excess" Contributions from October 1, 2013 through date of separation of accounts:

STEP 1 of Calculation

For each quarter, beginning on October 1, 2013, calculate the Excess Employee Contribution Amount as follows:

$$\begin{aligned}
 & \text{[actual contribution]} \\
 \div & \text{ [contribution percentage rate in effect at the time of the actual contribution]} \\
 \times & \text{ ([contribution percentage rate in effect at the time of the actual contribution] -} \\
 & \text{[.06])}
 \end{aligned}$$

= Excess Employee Contribution Amount for the quarterly period

STEP 2 of Calculation

For each quarter, beginning on October 1, 2013, calculate the Annualized Rate of Return as follows (assumes employee contributions are made mid-quarter):

We are solving for the annualized rate of return that results in:

$$\begin{aligned} & \text{[beginning quarterly balance]} \\ \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(3/12)} \\ & + \\ & \quad \text{[total quarterly contributions]} \\ \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(1.5/12)} \\ = & \quad \text{[ending quarterly balance]} \end{aligned}$$

Rearranging the formula:

$$\left(\left(-\text{[total quarterly contributions]} + \left(\text{[total quarterly contributions]}^2 + 4 * \text{[beginning quarterly balance]} * \text{[ending quarterly balance]} \right)^{.5} \right) / \left(2 * \text{[beginning quarterly balance]} \right) \right)^{.8} - 1$$

$$= \text{Annualized Rate of Return for the quarterly period}$$

STEP 3 of Calculation

Beginning with the quarter that started on October 1, 2013, accumulate the Excess Employee Contributions based on the quarterly Annualized Rates of Return as follows:

$$\begin{aligned} & \text{[previous ending quarterly accumulation (\$0 on October 1, 2013)]} \\ \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(3/12)} \\ & + \\ & \quad \text{[total quarterly contributions]} \end{aligned}$$

$$\times (1 + [\text{annualized rate of return for the quarter}])^{(1.5/12)}$$

$$= [\text{ending quarterly accumulation}]$$

Repeat for each quarter through the date of the Final Order in 2020

$$= \text{Total Excess Employee Contribution Amount to be transferred to EE912 Account}$$

To calculate each Employer's "excess" Contributions from October 1, 2013 through date of separation of accounts:

STEP 1 of Calculation

For each quarter, beginning on October 1, 2013, calculate the Excess Employer Contribution Amount as follows:

$$\begin{aligned} & [\text{actual contribution}] \\ \div & [\text{contribution percentage rate in effect at the time of the actual contribution}] \\ \times & ((\text{contribution percentage rate in effect at the time of the actual contribution}) - \\ & [.06]) \end{aligned}$$

$$= \text{Excess Employer Contribution Amount for the quarterly period}$$

STEP 2 of Calculation

For each quarter, beginning on October 1, 2013, calculate the Annualized Rate of Return as follows (assumes employer contributions are made mid-quarter):

We are solving for the annualized rate of return that results in:

$$\begin{aligned}
 & \text{[beginning quarterly balance]} \\
 \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(3/12)} \\
 & + \\
 & \quad \text{[total quarterly contributions]} \\
 \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(1.5/12)} \\
 = & \quad \text{[ending quarterly balance]}
 \end{aligned}$$

Rearranging the formula:

$$\left((-\text{[total quarterly contributions]} + (\text{[total quarterly contributions]}^2 + 4 * \text{[beginning quarterly balance]} * \text{[ending quarterly balance]})^{.5} / (2 * \text{[beginning quarterly balance]}) \right)^{.8} - 1$$

$$= \text{Annualized Rate of Return for the quarterly period}$$

STEP 3 of Calculation

Beginning with the quarter that started on October 1, 2013, accumulate the Excess Employer Contributions based on the quarterly Annualized Rates of Return as follows:

$$\begin{aligned}
 & \text{[previous ending quarterly accumulation (\$0 on October 1, 2013)]} \\
 \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(3/12)} \\
 & + \\
 & \quad \text{[total quarterly contributions]} \\
 \times & \quad (1 + \text{[annualized rate of return for the quarter]})^{(1.5/12)}
 \end{aligned}$$

= [ending quarterly accumulation]

Repeat for each quarter through the date of the Final Order in 2020

= Total Excess Employer Contribution Amount to be transferred to ER912 Account

The City of Bellevue is required to provide John Hancock with any information needed for said calculation.

Plaintiffs will be immediately vested in their "Employee Contribution Account" (EE012) and their "Employee Excess Contribution Account" (EE912).

If a Plaintiff leaves employment with the City prior to vesting in the Contract defined benefit, he or she shall receive the following:

100%	of their "EE012" account
100%	of their "EE912" account
	Their vested portion of the "ER012" and "ER912" account based on the vesting schedule in Neb. Rev. Stat §16-1013, as may be amended.

If a Plaintiff vests in the defined benefit and retires under the Contract, he or she will receive the greater of:

1. His or her defined benefit under the Contract; or
2. The amounts contained within their "EE012" account and the amounts contained in his or her "ER012". The vesting schedule shall be as outlined in the Contract.

Regardless of whether a Plaintiff elects the defined benefit (#1 above) or the amounts in his or her account (#2 above), he or she will receive 100% of the funds in the "EE912" Account.

Where the defined benefit is greater and a Plaintiff retires under the Contract defined benefit, the City shall be liable for the difference between the defined benefit amount and the "EE012"/ER012" accounts.

CALCULATION FOR MAY 9, 2011 DEFINED BENEFIT CALCULATION:

[Defined Benefit Amount]
- [EE012 + ER012]
= City Liability
In addition, the Plaintiff would also get to keep their "EE912" Account.
City receives 100% of their "ER912" Account.

IT IS FURTHER ORDERED that all remaining claims are denied and dismissed.

Dated this 2nd day of September, 2020.

BY THE COURT:



Michael A. Smith
District Judge

CERTIFICATE OF SERVICE

I, the undersigned, certify that on September 3, 2020, I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Alicia B Robbins
tahnee.king@bellevue.net

Christopher Parent
9911 S. 9th Circle
Bellevue, NE 68123

Jerry Saab
7609 Oakwood Street
Ralston, NE 68127

Thomas P McCarty
tmccarty@keatinglaw.com

Joel A Bacon
jbacon@keatinglaw.com

Date: September 3, 2020 BY THE COURT:

Don Heath

CLERK



IN THE DISTRICT COURT FOR SARPY COUNTY, NEBRASKA

CHRISTOPHER ABBOTT; ROBERT) CASE NO. CI 17-1674
BAILEY; HOWARD BANKS; JAMES)
BARTLEY; DEREK BEES; BRIAN)
BENSHOOF; LINDSEY)
BETSWORTH; TROY BOYLE; JOHN)
BRAZDA; MICHAEL BRAZDA;)
COREY BROWN; MATTHEW BRYL;)
EMILY CHASE; DAVID CHIZEK;)
CALEB CHVALA; JASON)
CVITANOV; DONTRELL DUCKER;)
ALLISON EVANS; DUSTIN FRANKS;)
DANIEL GERMAN; JOSEPH GRAY;)
CARL GRUBB; JONOVAN HARGISS;)
CRAIG HAVERTY; CHAD HELLER;) **AMENDED ORDER**
HAROLD HESSIG; MICHAEL HOLM;) **OF JUDGMENT ON**
MATTHEW HOFFMAN; TIMOTHY) **MANDATE**
JANDA; SUZANNE KESSLER; JAY)
KIRWAN; JOHN KOLBE; ANDREW)
JASHINSKE; LARRY LAMPMAN;)
MICHAEL LEGBAND; JOHN)
LOWERY; KISHAN MANNING;)
JOHN McDANIEL; HOLLY)
McQUAID; JASON MELROSE;)
BRYAN MERCER; KIRK MEYER;)
SCOTT MILLER; JOSEPH MILOS;)
JAMES MURRAY; DENNIS)
O'CONNOR; ROBERT PAGE;)
MICHAEL PETTIT; DONALD)
PLEISS; RYAN ROSKEY; DAVID)
SAUM; LARRY SCHWARTZ; ZEB)
SIMONES; ZACHARY STALDER;)
JOHN STUCK; KEVIN TOWEY;)

SEAN VEST; CASSANDRA WARD;)
and the BELLEVUE POLICE)
OFFICERS)
ASSOCIATION/FRATERNAL ORDER)
OF POLICE LODGE NO. 59,)
)
Plaintiffs,)
vs.)
)
CITY OF BELLEVUE, NEBRASKA, a)
political subdivision of the State of)
Nebraska,)
)
Defendant,)
)
AND)
)
ROGER ANDERSON; KC BANG;)
JASON BLACK; DAVID BREWER;)
MICHAEL CORRIGAN; MARK)
DRIER; JORDAN FILIPPI; TIMOTHY)
FLOHRSCHUTZ; FRANCIS GALLO;)
MELANIE GROSS; JAMIE GUY;)
TERRENCE HERRICK; ERIC HOW;)
ULRICH HOWELL; MATTHEW)
JARVIS; JUSTIN LARSON;)
MICHAEL LAUFENBERG; MARCOS)
LOPEZ; SHAWN MCALPIN;)
TIMOTHY MELVIN; STEVEN)
MILLER; JAMES MUNSEY;)
CHRISTOPHER PARENT; JUSTIN)
PESTEL; THOMAS PIERNICKY;)
MICHAEL PILMAIER; ROBERT)
RADIK; DAVID RECH; CHAD REED;)

JAMES RYBAR; JERRY SAAB;)
 ROBERT STINSON; KURTIS)
 STROEHER; SHANE VOLLMER;)
 FRANK VONDRA; KURT)
 STRACHOTA; CRAIG WIECH; and)
 JOHN DOE,)
)
 Defendants.)

This matter comes before the Court on the mandate of the Nebraska Supreme Court, said mandate being filed with the Clerk of the Sarpy County District Court on February 1, 2022. In *Abbott v. City of Bellevue*, 310 Neb. 496 (2021), the Nebraska Supreme Court determined that Bellevue Police Officers Association/Fraternal Order of Police Lodge No. 59 (BPOA) and the remaining plaintiffs are prevailing parties for the purposes of 42 U.S.C § 1988, and remanded the case for a determination of attorney fees under the existing record. On February 18, 2022, the parties filed a stipulation regarding the remand, leaving the issue of attorney fees as the only remaining matter to be decided.

In cases brought under §§ 1983 and 1988, the starting point in determining the amount of attorney fees is the “lodestar,” which is calculated by multiplying the number of hours reasonably expended by reasonable hourly rates. *Hanig v. Lee*, 415 F.3d 822,825 (8th Cir. 2005). Ultimately, a “reasonable” fee is a fee that is sufficient to induce a capable attorney to undertake the representation of a meritorious civil rights case. *Perdue v. Kenny A. ex rel. Winn*, 559 U.S. 542, 552 (2010).

Traditionally, courts have considered twelve factors in determining reasonableness under the lodestar analysis: (1) the time and labor required; (2) the novelty and difficulty of the questions; (3) the skill requisite to perform the legal service properly; (4) the

preclusion of employment by the attorney due to acceptance of the case; (5) the customary fee; (6) whether the fee is fixed or contingent; (7) time limitations imposed by the client or the circumstances; (8) the amount involved and the results obtained; (9) the experience, reputation, and ability of the attorneys; (10) the “undesirability” of the case; (11) the nature and length of the professional relationship with the client; and (12) awards in similar cases. *Ladies Center, Nebraska, Inc. v. Thone*, 645 F.2d 645, 647 (8th Cir. 1981). Courts, however, are not required to exhaustively address each factor. *Griffin v. Jim Jamison, Inc.*, 188 F.3d 996,997-998 (8th Cir. 1999).

The Court notes that there were 59 individual Plaintiffs in this case, which required Plaintiffs’ counsel to communicate with each Plaintiff, either in person, by telephone or via email for each aspect of this case, including formal discovery, subpoenas to third-party financial institutions, and depositions. Plaintiffs’ counsel also attended two separate motion hearings on discovery disputes and prevailed on the City’s attempt to quash Plaintiffs’ Rule 30(b)(6) subpoena.

Most issues in this case were disposed of by summary judgment. Plaintiffs’ counsel prepared 83 exhibits, drafted a lengthy Annotated Statement of Undisputed Facts, drafted and Annotated Statement of Disputed Facts, and drafted extensive briefing to address the complex legal and factual issues at hand. Earlier in the litigation, counsel successfully defended the City’s Motion to Dismiss, which also required extensive briefing.

Counsel for the Plaintiffs presented fee-related evidence from Tom McCarty (Exhibit 95), Tom Locher (Exhibit 96), Gary Young (Exhibit 97), and Joel Bacon (Exhibit 98). All are well-respected Omaha attorneys with considerable litigation experience, including cases in Sarpy County District Court. In those affidavits, counsel opined that a reasonable and appropriate fee in this case is \$100,958.29, plus expenses of \$2,426.10, for a total of \$103,384.39.

At the outset of this case, Plaintiffs' counsel offered to conduct this litigation at a rate of \$250 per hour, plus expenses. Instead, Plaintiffs elected to proceed with a contingent fee agreement, whereby Plaintiffs' counsel would receive 33% of any recovery. As a result, Plaintiffs' counsel has financed this entire case by advancing both their time and costs. This degree of risk warrants an upward departure from the ordinary hourly rates the Plaintiffs' counsel charge to clients who have the ability to pay. This is consistent with the underlying purpose of § 1988, i.e., to "make sure that competent counsel [i]s available" to represent plaintiffs in civil rights litigation.¹ *Blanchard v. Bergeron*, 489 U.S. 87, 91 (1989).

Actuarial Expert Traci Christian, who found that Plaintiffs who elect the Contract Defined Benefit will have overpaid a collective \$1,208,344 by the time they retire. (Exhibit 26 at 14). When the amounts attributed to the Plaintiffs whose claims have been dismissed by the Court are subtracted, this amount remains at \$1,054,064.

In light of this, the Plaintiffs' requested fees and costs, which is 9.8% of the increased benefits Remaining Plaintiffs are projected to receive upon retirement, is reasonable. This is substantially less than the quoted 33% contingent fee amount.

Based on the foregoing, the Court finds that Plaintiffs are the prevailing party and that attorney fees should be awarded in the amount of \$103,384.39.

IT IS THEREFORE ORDERED that, on the Mandate of the Nebraska Supreme Court, the Plaintiffs are found to be the prevailing parties for the purpose of determining attorney fees.

IT IS FURTHER ORDERED that attorney fees are awarded to the Plaintiffs in the amount of \$103,384.39, and a judgment is entered against the Defendant for the same.

IT IS FURTHER ORDERED that the District Court's Amended Order of Judgment, as filed September 3, 2020 is hereby revised to remove the following language from pages 14 and 15 of the Amended Order of Judgment:

If a Plaintiff vests in the defined benefit and retires under the Contract, he or she will receive the greater of:

1. His or her defined benefit under the Contract; or
2. The amounts contained within their "EE012" account and the amounts contained in his or her "ER012". The vesting schedule shall be as outlined in the Contract.

Regardless of whether a Plaintiff elects the defined benefit (#1 above) or the amounts in his or her account (#2 above), he or she will receive 100% of the funds in the "EE912" Account.

IT IS FURTHER ORDERED that said Amended Order of Judgment should be revised to replace the Defined Benefit Calculation on page 15 with the following:

[Defined Benefit Amount]
- [EE012 + ER012]
= City Liability
In addition, the Plaintiff would also get to keep their "EE012," "ER012," and "EE912" Accounts.
City receives 100% of their "ER912" Account

IT IS FURTHER ORDERED that said Amended Order of Judgment should be revised on page 7 to remove the following paragraph:

As to the issue of attorney's fees, the Court would note that the Amended Complaint seeks an order requiring the Defendants to disgorge all funds collected by the Defendants in excess of the 6% contribution rate, a number that was later represented as being in excess of \$1.1 million. The Court's findings herein does not allow for that result, but also preserves the Plaintiffs' claim to the City's contributions in excess of 6%. As of the present time, there is no individual Plaintiff who has retired and been deprived of a benefit of the 2011 contract. As previously noted, a Plaintiff cannot suffer damages until such time as she or he has qualified for and chooses the defined benefit plan. That has not occurred for all eight (8) of the Plaintiffs who have already left employment with the City. Given the contingent nature of that future possibility of damage, it is difficult to come to the conclusion that the Plaintiffs are the prevailing party.

IT IS FURTHER ORDERED that the mandate of the Nebraska Court of Appeals entered on January 28, 2022, and filed with the District Court of Sarpy County, Nebraska, on February 1, 2022, is entered of record this date, and the original judgment entered by the District Court of Sarpy County, Nebraska, on September 3, 2020, shall remain as originally entered, except as modified herein.

Dates this 21 day of April, 2022.

BY THE COURT:



Michael A. Smith

District Judge

CERTIFICATE OF SERVICE

I, the undersigned, certify that on April 21, 2022 , I served a copy of the foregoing document upon the following persons at the addresses given, by mailing by United States Mail, postage prepaid, or via E-mail:

Alicia B Robbins
bree.robbs@bellevue.net

Jerry Saab
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Ralston, NE 68127

Gary L Young Jr
gyoung@keatinglaw.com

Joel A Bacon
jbacon@keatinglaw.com

Thomas P McCarty
tmccarty@keatinglaw.com

Date: April 21, 2022

BY THE COURT:

Don Heath

CLERK



APPENDIX C

There are 53 individuals on this list:

Last Name	First Name	Hire Date
Abbott	Christopher	02/26/2001
Banks	Howard	03/08/2004
Bartley	James	06/15/1992
Bees	Derek	11/12/1996
Benshoof	Brian	09/10/2010
Betsworth	Lindsey	04/04/2006
Boyle	Troy	03/15/2010
Brazda	Michael	07/02/1992
Brown	Corey	01/07/2002
Chizek	David	05/19/2003
Dargy	Thomas	05/06/1996
Ducker	Dontrell	07/02/2001
Franks	Dustin	03/08/2004
German	Daniel	08/03/2009
Gray	Joseph	11/22/1999
Grubb	Carl	03/08/2004
Hargiss	Jonovan	09/15/2008
Hatfield	Steven	11/22/1994
Haverty	Craig	03/16/2009
Heller	Chad	02/28/2000
Hessig	Harold	06/28/1999

Hoffman	Matthew	04/04/2005
Holm	Michael	07/02/2001
Janda	Timothy	04/25/2006
Jashinske	Andrew	11/22/1999
Kessler	Suzanne	11/21/1994
Kirwan	Jay	07/15/2002
Kolbe	John	08/03/2009
Lampman	Larry	02/28/2000
Legband	Michael	05/29/1990
Lowery	John	02/28/2000
Manning	Kishan	02/02/2009
McDaniel	John	11/12/1996
Melrose	Jason	08/04/2008
Melvin	Timothy	09/18/2000
Mercer	Bryan	02/02/2009
Meyer	Kirk	05/19/2003
Miller	Scott	05/19/2003
Milos	Joseph	08/28/1989
Murray	James	08/18/2008
O'Connor	Dennis	01/23/1995
Page	Robert	09/18/2000
Pettit	Michael	10/27/2006
Pleiss	Donald	07/15/2002
Reed	Chad	09/18/2000

Saum	David	01/16/1990
Schwartz	Larry	02/22/1994
Simones	Zeb	06/27/1999
Stalder	Zachary	04/04/2008
Stroeher	Kurtis	07/02/2001
Stuck	John	08/02/1999
Stukenholtz	David	06/30/1992
Vest	Sean	08/03/2009