Agenda Packet

NORFOLK CITY COUNCIL MEETING

Tuesday, February 18, 2020
5:30 p.m.

Created 2/13/2020 12:47 PM

City of Norfolk
NEBRASKA
right at home.

309 N 5th Street
Norfolk, NE 68701
P402-844-2012 F402-844-2028
www.norfolkne.gov

NOTICE OF MEETING
CITY OF NORFOLK, NEBRASKA

NOTICE IS HEREBY GIVEN that a meeting of the City Council of the City of Norfolk, Nebraska, will be held at 5:30 p.m. on Tuesday, February 18, 2020, in the Council Chambers, 309 N. 5th St., Norfolk, Nebraska, which meeting will be open to the public.

The Mayor and City Council reserve the right to adjourn into closed session as per Section 84-1410 of the Nebraska Revised Statutes.

An agenda for such meeting, kept continually current, is available at the office of the City Clerk, 309 N 5th St, Norfolk Nebraska, during normal business hours.

Individuals requiring physical or sensory accommodations, who desire to attend or participate, please contact the City Clerk's office at (402) 844-2000 no later than 4:30 p.m. on the Friday preceding the meeting.

Brianna Duerst
City Clerk

Publish (February 14, 2020)
1 P.O.P.

EQUAL HOUSING OPPORTUNITY

AGENDA

NORFOLK CITY COUNCIL MEETING

February 18, 2020

In accordance with Section 84-1412 sub-section eight (8) of the Reissue Revised Statutes of the State of Nebraska 1943, as amended, one copy of all reproducible written material to be discussed is available to the public at this meeting for examination and copying. The Mayor and City Council reserve the right to adjourn into closed session as per Section 84-1410 of the Nebraska Revised Statutes.

CALL TO ORDER

1. 5:30 p.m. - call meeting to order
2. Inform the public about the location of the Open Meetings Act posted in the Council Chambers and accessible to members of the public
3. Moment of silence/Pledge of Allegiance to the flag of the United States of America
4. Roll call

RECOMMENDED ACTIONS

5. Approval of consent agenda. **Motion**
   All items in the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.
6. Approval of full agenda. **Motion**

CONSENT AGENDA

7. Consideration of approval of the minutes of the February 3, 2020, City Council meeting. **Motion**
8. Consideration of approval of subcommittee appointments by Council President Jim Lange, as follows: Public Services, Traffic and Infrastructure: Corey Granquist, Thad Murren and Jim Lange; Public Health and Safety, Emergency Services: Gary Jackson and Dick Pfeil; Community and Economic Development: Shane Clausen, Rob Merrill, Jim Lange and Corey Granquist; Culture and Recreation: Shane Clausen and Thad Murren; and Policies and Procedures: Rob Merrill, Fred Wiebelhaus and Dick Pfeil **Motion**
9. Consideration of approval of the Mayor's appointment of Kathy Wiegert to the Tree Advisory Board with a term expiring September 2022. **Motion**

10.	Consideration of approval of the Mayor's reappointment of Larry Wenzl and Tim Lyon (alternate) to the Building Code/Property Maintenance Board of Appeals for five-year terms expiring February 2025.	**Motion**
11.	Consideration of approval of the Engineer's Final Certificate for Sidewalk District No. 2017-1 (Victory Road Trail), Sidewalk District No 2018-1 (15th Street), Gap Paving District No. 514 (15th Street), Paving District No. 516 (Legacy Bend First Addition), Water Extension District No. 120 (Legacy Bend First Addition), and Sanitary Sewer Extension District No. 249 (Legacy Bend First Addition).	**Motion**
12.	Motion to establish March 2, 2020 for Board of Equalization to conduct a public hearing for equalization of special assessments for Sidewalk District No. 2017-1 (Victory Road Trail), Sidewalk District No. 2018-1 (15th Street), Gap Paving District No. 514 (15th Street), Paving District No. 516 (Legacy Bend First Addition), Water Extension District No. 120 (Legacy Bend First Addition), and Sanitary Sewer Extension District No. 249 (Legacy Bend First Addition).	**Motion**
13.	Consideration of approval of a temporary construction easement, permanent sewer easement, partial acquisition contract, and warranty deed from Battle Creek/CHS LLC for property along Highway 24 for an amount of $18,630.00.	**Motion**
14.	Consideration of Resolution No. 2020-4 releasing the north 5 foot utility easement located on Lot 1, Block 2, less the East 10 feet thereof, of Wyndham Hills 2nd Addition, to the City of Norfolk, Madison County, Nebraska being a part of the SW 1/4 of the NE 1/4 and the SE 1/4 of the NE 1/4 of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska.	**Resolution 2020-4**
15.	Consideration of Resolution No. 2020-5 approving the final plat of Wyndham Hills 3rd Addition.	**Resolution 2020-5**
16.	Consideration of Resolution No. 2020-6 approving the final plat and subdivision agreement of Mark Johnson's Addition.	**Resolution 2020-6**
17.	Consideration of approval of an agreement with Luis Cortez, doing business as Norfolk Adult Soccer League, allowing the use of the soccer fields located in North Pine Park for soccer games for their 2020 summer/fall soccer season, from April 19, 2020 through September 27, 2020.	**Motion**
18.	Consideration of approval to advertise for bids on a maintenance project, to include pump work and well relining, at the East Water Plant located at 111 South 1st Street.	**Motion**
19.	Consideration of approval of all bills on file.	**Motion**

SPECIAL PRESENTATIONS

20. Proclamation for February 25, 2020, as "Spay Day USA".

21. Proclamation for March 2020 as, "Problem Gambling Awareness Month".

22. Presentation of Lower Elkhorn Natural Resources District grant of $30,000 for Embrace Park restrooms.

PUBLIC HEARINGS AND RELATED ACTION

23. Public hearing at the request of Alfredo Morales to consider a zoning change from C-2 (Central Business District) to I-1 (Light Industrial District) on property located at 332 W Northwestern Avenue and I-2 (Heavy Industrial District) to I-1 (Light Industrial District) on property located at 317 W Northwestern Avenue.

24. Consideration of Ordinance No. 5648 approving a zone change from C-2 (Central Business District) to I-1 (Light Industrial District) on property located at 332 W Northwestern Avenue and I-2 (Heavy Industrial District) to I-1 (Light Industrial District) on property located at 317 W Northwestern Avenue. **Ordinance No. 5648**

REGULAR AGENDA

25. Consideration of Ordinance No. 5646 amending Section 3-5 of the City Code to allow the sale of alcoholic liquor on any day from 6:00 a.m. until 2:00 a.m. the following day. Ordinance No. 5646 passed on first reading at the February 3, 2020 City Council meeting. **Ordinance No. 5646**

26. Consideration of approval of the First Addendum Agreement to the Lottery Operator Agreement Between the City, EHPV Lottery Services LLC d/b/a Big Red Keno, and Endgame Lottery Services LLC d/b/a Big Red Keno to extend the hours the keno lottery may be operated from 1:00 A.M to 2:00 A.M. **Motion**

27. Consideration of approval of Change Order No. 1 with Spohn Ranch, Inc. for the Miracle Skatepark Improvements project resulting in a net decrease of $57,000.00, for a revised contract amount of $477,095.57. **Motion**

28. Consideration of approval of an agreement for services between Retail Strategies, LLC, an Alabama limited liability company, and the City of Norfolk for retail research, analysis, and recruitment consulting services for Norfolk and Madison County, for an amount not to exceed $50,000.00. **Motion**

29. Consideration of approval of Change Order No. 1 with Penro Construction, Co. for the Braasch Avenue 5th to 1st Street project resulting in a net decrease of $142,962.35. **Motion**

30. Consideration of approval of a professional engineering services letter agreement Amendment #1 with Olsson, Inc. for the South Highway 81 Water Extension project for an amount of $60,801.00. **Motion**

City of Norfolk NEBRASKA
right at home.

309 N 5th Street
Norfolk, NE 68701
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STAFF MEMORANDUM

NORFOLK CITY COUNCIL MEETING

February 18, 2020

CALL TO ORDER

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RECOMMENDED ACTIONS

5. Approval of consent agenda. **Motion**
   All items in the consent agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member or a citizen so requests, in which event the item will be removed from the consent agenda and considered separately.
6. Approval of full agenda. **Motion**

CONSENT AGENDA

7. Consideration of approval of the minutes of the February 3, 2020, City Council meeting. **Motion**

   See Enclosure 7.

8. Consideration of approval of subcommittee appointments by Council President Jim Lange, as follows: Public Services, Traffic and Infrastructure: Corey Granquist, Thad Murren and Jim Lange; Public Health and Safety, Emergency Services: Gary Jackson and Dick Pfeil; Community and Economic Development: Shane Clausen, Rob Merrill, Jim Lange and Corey Granquist; Culture and Recreation: Shane Clausen and Thad Murren; and Policies and Procedures: Rob Merrill, Fred Wiebelhaus and Dick Pfeil **Motion**

9. Consideration of approval of the Mayor's appointment of Kathy Wiegert to the Tree Advisory Board with a term expiring September 2022. **Motion**

   See Enclosure 9.

10. Consideration of approval of the Mayor's reappointment of Larry Wenzl and Tim Lyon (alternate) to the Building Code/Property Maintenance Board of Appeals for five-year terms expiring February 2025. **Motion**

11. Consideration of approval of the Engineer's Final Certificate for Sidewalk District No. 2017-1 (Victory Road Trail), Sidewalk District No 2018-1 (15th Street), Gap Paving District No. 514 (15th Street), Paving District No. 516 (Legacy Bend First Addition), Water Extension District No. 120 (Legacy Bend First Addition), and Sanitary Sewer Extension District No. 249 (Legacy Bend First Addition). **Motion**

    The Mayor and City Council are required to approve the final certificate to meet bonding requirements. Construction occurred according to the plans and specifications. Staff request approval.

    See Enclosure 11.

12. Motion to establish March 2, 2020 for Board of Equalization to conduct a public hearing for equalization of special assessments for Sidewalk District No. 2017-1 (Victory Road Trail), Sidewalk District No. 2018-1 (15th Street), Gap Paving District No. 514 (15th Street), Paving District No. 516 (Legacy Bend First Addition), Water Extension District No. 120 (Legacy Bend First Addition), and Sanitary Sewer Extension District No. 249 (Legacy Bend First Addition). **Motion**

    Engineering staff prepared assessment schedules with interest calculated to March 2020. Attached are copies of the notices to send to the affected property owners at the addresses listed on the Madison County Treasurer's property list.

    See Enclosure 12.

13. Consideration of approval of a temporary construction easement, permanent sewer easement, partial acquisition contract, and warranty deed from Battle Creek/CHS LLC for property along Highway 24 for an amount of $18,630.00. **Motion**

    The temporary construction easement for $2,730.00, the permanent sewer easement for $9,300.00, and the partial acquisition contract for $6,600.00 are all for the construction, maintenance, and operation of a sewer line for the Omaha Avenue Sewer Extension project. Staff recommend approval.

    See Enclosure 13.

14. Consideration of Resolution No. 2020-4 releasing the north 5 foot utility easement located on Lot 1, Block 2, less the East 10 feet thereof, of **Resolution 2020-4**

Wyndham Hills 2nd Addition, to the City of Norfolk, Madison County, Nebraska being a part of the SW 1/4 of the NE 1/4 and the SE 1/4 of the NE 1/4 of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska.

Johnson Engineering Company on behalf of Whitecliff Development, the property owner, request the release of this easement. The utility companies do not object to the release of this easement. Staff recommend approval.

See Enclosure 14.

15. Consideration of Resolution No. 2020-5 approving the final plat of Wyndham Hills 3rd Addition. **Resolution 2020-5**

See Enclosure 15.

16. Consideration of Resolution No. 2020-6 approving the final plat and subdivision agreement of Mark Johnson's Addition. **Resolution 2020-6**

See Enclosure 16.

17. Consideration of approval of an agreement with Luis Cortez, doing business as Norfolk Adult Soccer League, allowing the use of the soccer fields located in North Pine Park for soccer games for their 2020 summer/fall soccer season, from April 19, 2020 through September 27, 2020. **Motion**

See Enclosure 17.

18. Consideration of approval to advertise for bids on a maintenance project, to include pump work and well relining, at the East Water Plant located at 111 South 1st Street. **Motion**

19. Consideration of approval of all bills on file. **Motion**

SPECIAL PRESENTATIONS

20. Proclamation for February 25, 2020, as "Spay Day USA".

See Enclosure 20.

21. Proclamation for March 2020 as, "Problem Gambling Awareness Month".

See Enclosure 21.

22. Presentation of Lower Elkhorn Natural Resources District grant of $30,000 for Embrace Park restrooms.

PUBLIC HEARINGS AND RELATED ACTION

23. Public hearing at the request of Alfredo Morales to consider a zoning change from C-2 (Central Business District) to I-1 (Light Industrial District) on property located at 332 W Northwestern Avenue and I-2 (Heavy Industrial District) to I-1 (Light Industrial District) on property located at 317 W Northwestern Avenue.

    See Enclosure 23.

24. Consideration of Ordinance No. 5648 approving a zone change from C-2 (Central Business District) to I-1 (Light Industrial District) on property located at 332 W Northwestern Avenue and I-2 (Heavy Industrial District) to I-1 (Light Industrial District) on property located at 317 W Northwestern Avenue. **Ordinance No. 5648**

    See Enclosure 24.

REGULAR AGENDA

25. Consideration of Ordinance No. 5646 amending Section 3-5 of the City Code to allow the sale of alcoholic liquor on any day from 6:00 a.m. until 2:00 a.m. the following day. Ordinance No. 5646 passed on first reading at the February 3, 2020 City Council meeting. **Ordinance No. 5646**

    The Mayor was contacted by local business owners requesting that the hours of alcohol sales be extended from 1:00 a.m. to 2:00 a.m. Section 53-179 of the Nebraska Statutes allows cities to extend the hours of sale to 2:00 a.m. if an ordinance is adopted by a vote of at least two-thirds of the members of the local governing body.

    Ordinance No. 5646 amends Section 3-5 of the Code to allow alcohol sales for consumption both on- and off-premises on any day from 6:00 a.m. until 2:00 a.m. the next day.

    See Enclosure 25.

26. Consideration of approval of the First Addendum Agreement to the Lottery Operator Agreement Between the City, EHPV Lottery Services LLC d/b/a Big Red Keno, and Endgame Lottery Services LLC d/b/a Big Red Keno to extend the hours the keno lottery may be operated from 1:00 A.M to 2:00 A.M. **Motion**

    The Nebraska County and City Lottery Act allows operation of keno lotteries until 2:00 AM, if the community allows alcohol to be sold until 2:00 A.M.

Ordinance No. 5646 allowing sale of alcohol in Norfolk until 2:00 A.M. passed on first reading at the February 3 City Council meeting. The City's keno operator has requested the First Addendum Agreement to the Lottery Operator Agreement to extend the hours the keno lottery may be operated from 1:00 A.M. until 2:00 A.M.

Staff recommend approval of the First Addendum Agreement to the Lottery Operator Agreement at tonight's Council meeting if Ordinance No. 5646 is passed on second and third readings at tonight's Council meeting. If Ordinance No. 5646 only passes on second reading at tonight's meeting, consideration of the First Addendum Agreement to the Lottery Operator Agreement should be tabled until the March 2 City Council meeting. If Ordinance No. 5646 fails, the First Addendum Agreement to the Lottery Operator Agreement should not be approved.

See Enclosure 26.

27. Consideration of approval of Change Order No. 1 with Spohn Ranch, Inc. for the Miracle Skatepark Improvements project resulting in a net decrease of $57,000.00, for a revised contract amount of $477,095.57. **Motion**

On January 21, 2020 the Mayor and City Council approved a $534,095.57 contract with Spohn Ranch, Inc. for the Miracle Skatepark Improvements project. Change Order No. 1 provides for a discount for revised base course supply, deduct entrance arch from scope of work, and deduct concrete slab for bleachers from the scope of work resulting in a revised contract amount of $477,095.57. Staff recommend approval.

See Enclosure 27.

28. Consideration of approval of an agreement for services between Retail Strategies, LLC, an Alabama limited liability company, and the City of Norfolk for retail research, analysis, and recruitment consulting services for Norfolk and Madison County, for an amount not to exceed $50,000.00. **Motion**

This agreement includes retail trade area research, market and retail analysis, land and property identification and prioritization within the retail corridors, and active recruitment for a period of one year. Staff recommend approval.

See Enclosure 28.

29. Consideration of approval of Change Order No. 1 with Penro Construction, Co. for the Braasch Avenue 5th to 1st Street project resulting in a net decrease of $142,962.35. **Motion**

On July 15, 2019, the Mayor and City Council approved a $3,993,373.10 contract with Penro Construction, Co. for the Braasch Avenue, 5th to 1st Street project. Change Order No. 1 provides the following changes: eliminates storm sewer infrastructure in the intersection of 1st Street and Braasch Avenue, removes pavement removal and replacement, and replaces storm sewer with a junction box connecting to the existing storm sewer system and outlet pipe bored to the river resulting in a revised contract amount of $3,850,410.75. This change order was discussed at a February 3, 2020 subcommittee meeting. Staff recommend approval.

See Enclosure 29.

30. Consideration of approval of a professional engineering services letter agreement Amendment #1 with Olsson, Inc. for the South Highway 81 Water Extension project for an amount of $60,801.00. **Motion**

On December 16, 2019, the Mayor and City Council approved a $7,837.00 contract with Olsson, Inc. for survey work. Amendment #1 includes project management, geotechnical investigation, design, project permitting, and bid phase services for a new total contract amount of $68,638.00. Staff recommend approval.

See Enclosure 30.

CITY OF NORFOLK, NEBRASKA

The Mayor and City Council of the City of Norfolk, Nebraska met in regular session in the Council Chambers, 309 North 5th Street, Norfolk, Nebraska on the 3rd day of February, 2020, beginning at 5:30 p.m.

Following a moment of silence and the Pledge of Allegiance to the flag of the United States of America, Mayor Josh Moenning called the meeting to order. Roll call found the following Councilmembers present: Corey Granquist, Jim Lange, Rob Merrill, Fred Wiebelhaus, Thad Murren, Gary L. Jackson, and Shane Clausen. Absent: Dick Pfeil.

Staff members present were: City Administrator Andy Colvin, City Attorney Danielle Myers-Noelle, City Clerk Brianna Duerst, Finance Officer Randy Gates, Public Safety Director Shane Weidner, Administrative Secretary Bethene Hoff, Public Works Director Steve Rames, Risk Manager Lyle Lutt, City Planner Val Grimes, Staff Engineer John Cahill and Police Chief Don Miller.

The Mayor presided and the City Clerk recorded the proceedings.

The Mayor informed the public about the location of the current copy of the Open Meetings Act posted in the City Council Chambers and accessible to members of the public.

Notice of the meeting was given in advance thereof by publication in the Norfolk Daily News, Norfolk, Nebraska, the designated method of giving notice, as shown by affidavit of publication.

Notice was given to the Mayor and all members of the Council and a copy of their acknowledgement of receipt of notice and agenda is attached to the minutes. Availability of the agenda was communicated in the advance notice and in the notice to the Mayor and Council of this meeting. All proceedings hereafter shown were taken while the convened meeting was open to the public.

Agenda Motions

Councilmember Merrill moved, seconded by Councilmember Jackson to approve the consent agenda as printed. Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen and. Nays: None. Absent: Pfeil. Motion carried.

Councilmember Lange moved, seconded by Councilmember Granquist to adopt the full agenda as printed. Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried.

Consent Agenda Items Approved

Minutes of the January 21, 2020, City Council meeting

Minutes of the January 21, 2020, City Council Work Session meeting

January sales tax report (November sales)

Food & beverage and lodging occupation tax report for 4th quarter 2019

Norfolk Soccer Club, Inc., a Nebraska Nonprofit Corporation, agreement allowing use of the soccer fields and green space in North Pine Park, Winter Park, Liberty Bell Park, Johnson Park, and Ta-Ha-Zouka Park for soccer practice for their 2020 soccer season from April 1, 2020 through November 1, 2020

Norfolk Youth Baseball, Inc., a Nebraska Nonprofit Corporation, (Norfolk Steel Baseball) agreement allowing the use of the baseball fields at Ta-Ha-Zouka Park for baseball practice, camps, and games (not including tournaments) for their 2020 baseball season from March 1, 2020 through November 1, 2020

Norfolk Youth Baseball, Inc., a Nebraska Nonprofit Corporation, (Norfolk Recreational Baseball) agreement allowing the use of the baseball and/or softball fields at Ta-Ha-Zouka Park for baseball practice, games (not including tournaments), and camps, and for limited use of the baseball field at Veterans Memorial Park for the summer baseball season from April 1, 2020 through October 31, 2020

Resolution No. 2020-3 approving the final plat, subdivision agreement and post construction stormwater management plan maintenance agreement and easement of Blackberry Heights 2nd Addition

Riverpoint Properties, LLC, a Nebraska Limited Liability Company, license agreement for the purpose of placing a temporary sidewalk café within the City's right of way located at 411 West Norfolk Avenue, running from May 1 to April 30 of each year to be renewed on an annual basis

Tina M. Kassmeier, doing business as Kelly's Fast Pitch Softball, agreement allowing the use of the softball fields in Ta-Ha-Zouka Park and Liberty Bell Park to hold a softball tournament Friday, May 15, 2020, through Sunday, May 17, 2020

Tina M. Kassmeier, doing business as Kelly's Fast Pitch Softball, agreement allowing the use of the softball fields in Ta-Ha-Zouka Park and Liberty Bell Park to be used for softball practice and games for their 2020 softball season from April 1, 2020 through October 31, 2020

Special Designated Liquor License for Lot 279, 439 W Norfolk Avenue, Norfolk, Nebraska, to serve beer, wine and distilled spirits at Magnolias, 432 W Norfolk Avenue, Norfolk, Nebraska for a "Virtual Vacation" event on Saturday, March 7, 2020 from 9:30 a.m. to 5:00 p.m.

Bills in the amount of $1,276,818.22

Special Presentations

The Mayor proclaimed February 2020 as, "JOOI of Reading Month".

Regular Agenda Items

Granville Custom Homes, Inc. Utility Easement Agreement
(Blackberry Heights Second Addition)

Councilmember Merrill moved, seconded by Councilmember Lange, for approval of an Easement Agreement with Granville Custom Homes, Inc., a Nebraska Corporation, for a utility easement to serve Blackberry Heights Second Addition.

Public Works Director Steven Rames provided information to elected officials. Rames said the easement is necessary for utilities to service the Blackberry Heights 2nd Addition.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried.

Ordinance No. 5646
(extend hours alcoholic liquor sales)

Councilmember Wiebelhaus introduced, seconded by Councilmember Jackson, Ordinance No. 5646 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 3-5 OF THE OFFICIAL CITY CODE TO ALLOW THE SALE OF ALCOHOLIC LIQUOR ON ANY DAY FROM 6:00 A.M. UNTIL 2:00 A.M. THE FOLLOWING DAY; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

City Administrator Andy Colvin said City staff was asked to explore the option of extending alcohol sales until 2:00 a.m. and to look at what was best for Norfolk. Colvin said there was a special subcommittee meeting in December, of which all liquor license holders in the City were notified. Colvin said based on the feedback received at the subcommittee meeting, the ordinance was prepared. Colvin noted the extended sales time would not be required, but would be a choice for business owners.

Moenning spoke to the discussion at the December subcommittee meeting and said most business owners that attended voiced either support or indifference. From the meeting, the key points Moenning noted were public safety, each business' choice to stay open later, extended hours for shift workers and for special events.

Councilmember Wiebelhaus asked about other communities that allow businesses to stay open until 2:00 a.m. and asked if there were any public safety concerns.

Public Safety Director Shane Weidner said the City's public safety department was neutral on the topic and said the communities he contacted regarding extended hours noted limited changes.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried. Ordinance No. 5646 passed on first reading.

Schemmer Associates, Inc. Amendment No. 1
(Benjamin Avenue, 13th Street to 1st Street project)

Councilmember Lange moved, seconded by Councilmember Merrill, for approval of Amendment No. 1 to the engineering services contract with Schemmer Associates, Inc. for the Benjamin Avenue, 13th Street to 1st Street project resulting in an increase of $30,313.57.

Public Works Director Steven Rames provided information to elected officials. Rames said in developing the design concept for the Middle School, a traffic simulation model has been discussed as a necessary element of the project. The amendment to the contract is to develop and

present the simulation model at a public open house at the Middle School. Rames further discussed the costs associated with the amendment.

Moenning asked if there was potential to partner with the school. Rames said there is potential but that conversation has not happened yet. Merrill questioned if that conversation should occur prior to amending the current contract. Rames suggested an amended motion to approve the modeling in order to keep to project moving forward.

Councilmember Lange noted the benefits of a traffic study to easily explain the plan in a way that the general public will understand and feels the traffic study will create buy-in from the public. Lange also said this level of work is outside of the scope of the contract.

Councilmember Merrill moved, seconded by Councilmember Wiebelhaus, to approve Amendment No. 1 to the engineering services contract with an amendment resulting in an increase of $15,700.00 replacing the proposed increase of $30,313.57.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried.

Ordinance No. 5647
(reorganize City Council subcommittees)

Councilmember Merrill introduced, seconded by Councilmember Granquist, Ordinance No. 5647 entitled: AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 2-21.1 OF THE OFFICIAL CITY CODE TO REORGANIZE CITY COUNCIL SUBCOMMITTEES; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM and moved that the ordinance be passed on first reading. Said ordinance was then read into the record by title by the City Clerk.

City Administrator Andy Colvin presented information to elected officials and discussed the proposed subcommittee roles.

- Public Services, Traffic and Infrastructure – Street Maintenance, Water/Wastewater, Transfer Station and Solid Waste, Traffic and Parking.
- Public Health and Safety, Emergency Services – Public Safety, Code Enforcement/Property Maintenance, Emergency Management, and Flood Control.
- Community and Economic Development – Planning/Zoning, Building Services, Economic Development.
- Culture and Recreation – Parks/Forestry, Recreation, Sports Complex, Library Services.
- Policies and Procedures – Items of a general concern, such as risk management, insurance, personnel, and legal issues.

Colvin said the Council President is responsible for assigning committee members and the Mayor serves on all committees.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried. Ordinance No. 5647 passed on first reading.

Councilmember Wiebelhaus moved, seconded by Councilmember Merrill, that the statutory rule requiring reading on three different days be suspended.

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried. The motion to suspend the rules was adopted by three-fourths of the Council and the statutory rule requiring reading on three different days was suspended for consideration of said ordinance.

Thereafter Councilmember Wiebelhaus moved, seconded by Councilmember Merrill, that the statutory rules requiring reading on three different days be suspended and for final passage of the ordinance. The Mayor then stated the question "Shall Ordinance No. 5647 be passed and adopted?"

Roll call: Ayes: Councilmembers Granquist, Lange, Merrill, Wiebelhaus, Murren, Jackson and Clausen. Nays: None. Absent: Pfeil. Motion carried. The passage and adoption of said ordinance having been concurred in by a majority of all members of the Council, the Mayor signed and approved the ordinance and the City Clerk attested the passage and adoption of the same and affixed her signature thereto. The Mayor then instructed the City Clerk to publish said Ordinance No. 5647 as required by law.

There being no further business, the Mayor declared the meeting adjourned at 6:09 p.m.

_____
Josh Moenning
Mayor

ATTEST:

_____
Brianna Duerst
City Clerk

(S E A L)

I, the undersigned Clerk, hereby certify that the foregoing is the full, true and correct original document of proceedings of Monday, February 3, 2020, had and done by the Mayor and City Council; that all of the subjects included in the proceedings were contained in the agenda for the meeting, kept continually current and available for public inspection at the office of the Clerk; that such subjects were contained in said agenda for at least twenty-four hours prior to the 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.

_____
Brianna Duerst
City Clerk

(S E A L)

CITY OF NORFOLK

APPLICATION FOR CITY BOARDS/COMMISSIONS/COMMITTEES

NOTE: As an applicant for a City Board, Commission or Committee, your name, address, and phone number will be available to the press and the public. You will be contacted before any action is taken on your appointment. Incumbents whose term expires are automatically considered for reappointment unless they indicate non-interest.

(Please type or print clearly) DATE: 2-5-20

NAME: Kathy Wiegert TELEPHONE: 402 649 0994 (H)

ADDRESS: 506 N 27th St (O)

E-MAIL ADDRESS: Kathywiegert@hotmail.com

OCCUPATION: Retired, 34 years UPS

(If retired, please indicate former occupation or profession.)

EDUCATION: High School, Atlantic Airline

PROFESSION AND/OR COMMUNITY ACTIVITIES:

St Mary's Hospital

Please return this form to:

Office of the Mayor
309 N 5th Street
Norfolk, NE 68701

I am interested in serving on the:
(Please Check)

( ) Board of Zoning Adjustment
( ) Building Code of Appeals/Property Maintenance Board of Appeals
( ) Civil Service Commission
( ) Fire Code Appeals Board
(✓) Community Beautification Task Force
( ) Housing Authority Board
( ) Library Advisory Board
( ) Planning Commission
( ) Plumbing Board
( ) Property Tax Compliance and Review & 5% LID Committee
( ) Riverfront Overlay Review Board
(✓) Trail Advisory Board
(✓) Tree Advisory Board

Kathy Wiegert
(Signature of Applicant)

City of Norfolk
NEBRASKA
innovation. right at home.

309 N 5th Street
Norfolk, NE 68701
P402-844-2020
www.ci.norfolk.ne.us

Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Sidewalk District No. 2017-1 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

City of Norfolk
NEBRASKA
innovation. right at home.

309 N 5th Street
Norfolk, NE 68701
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Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Sidewalk District No. 2018-1 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

City of Norfolk
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Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Gap Paving District No. 514 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

City of Norfolk
NEBRASKA
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309 N 5th Street
Norfolk, NE 68701
P402-844-2020
www.ci.norfolk.ne.us

Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Paving District No. 516 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

City of Norfolk
NEBRASKA
innovation. right at home.

309 N 5th Street
Norfolk, NE 68701
P402-844-2020
www.ci.norfolk.ne.us

Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Water Extension District No. 120 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

City of Norfolk
NEBRASKA
innovation. right at home.

309 N 5th Street
Norfolk, NE 68701
P402-844-2020
www.ci.norfolk.ne.us

Steven D. Rames, P.E., L.S.
Public Works Director/City Engineer

srames@norfolkne.gov

February 3, 2020

Honorable Mayor
And City Council

Councilpersons:

Sanitary Sewer Extension District No. 249 has been completed in accordance with the contract and the plans and specifications, and I recommend its acceptance by your honorable body.

Steven D. Rames
City Engineer

Notice

To Property Owners in Sidewalk District No. 2017-1 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Sidewalk District No. 2017-1 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Sidewalk District No. 2017-1 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Notice

To Property Owners in Sidewalk District No. 2018-1 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Sidewalk District No. 2018-1 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Sidewalk District No. 2018-1 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Notice

To Property Owners in Gap Paving District No. 514 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Gap Paving District No. 514 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Gap Paving District No. 514 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Notice

To Property Owners in Paving District No. 516 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Paving District No. 516 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Paving District No. 516 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Notice

To Property Owners in Water Extension District No. 120 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Water Extension District No. 120 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Water Extension District No. 120 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Notice

To Property Owners in Sanitary Sewer Extension District No. 249 of the City of Norfolk, Madison County, Nebraska, of hearing on special assessments.

Sanitary Sewer Extension District No. 249 of the City of Norfolk, Madison County, Nebraska, gives notice to all concerned as follows:

That there is on file in the office of the City Clerk of the City of Norfolk, Nebraska, a complete statement of all the costs of the improvements made in Sanitary Sewer Extension District No. 249 in the City of Norfolk, Madison County, Nebraska, together with a plat of the property in the District, especially benefited thereby and a schedule of the amount proposed to be assessed against each separate piece of property, and that all objections thereto or to prior proceedings on account of errors, irregularities or inequalities not made in writing and filed with Brianna Duerst, City Clerk, on or before the 2nd day of March, 2020, shall be deemed to have been waived.

You are further notified that hearing on the proposed assessment will be held by the City Council of the City of Norfolk, Nebraska, sitting as a Board of Adjustment and Equalization during the meeting on the 2nd day of March, 2020, beginning at 5:30 p.m. at the Council Chambers, 309 North 5th Street, Norfolk, Nebraska, at which time special assessments will be levied on said property. At said time and place a hearing will be granted to all persons owning or occupying said property or otherwise interested therein.

_____

Brianna Duerst, City Clerk

Project No.: City of Norfolk – Omaha Avenue Sewer Extension-017-0379
Tract No.: 7
Address: Parcel 590170414
Norfolk, Nebraska

TEMPORARY CONSTRUCTION EASEMENT
(INDIVIDUAL and/or PARTNERSHIP)

KNOW ALL MEN BY THESE PRESENTS:

THAT **BATTLE CREEK/CHS LLC., a Delaware Limited Liability Company**, hereinafter referred to as GRANTOR(S), (whether one or more) for and in consideration of the sum of **TWO THOUSAND, SEVEN HUNDRED THIRTY and NO/100 DOLLARS ($2,730.00)** and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **CITY OF NORFOLK, NEBRASKA**, a Municipal Corporation, hereinafter referred to as CITY, and to its successors and assigns, an easement for the right to enter upon and use for working space for the construction of City of Norfolk - Omaha Avenue Sewer Extension and appurtenances thereto, the parcel of land described as follows, to-wit:

SEE ATTACHED EXHIBIT "A"
TEMPORARY EASEMENT LEGAL DESCRIPTION

It is further agreed as follows:

1. That this easement runs with the land and terminates thirty (30) days after the improvement is completed, with the total duration of actual use of this temporary construction easement not to exceed (1) year(s) or 365 calendar days from the date construction begins.

2. That said easement is granted upon the condition that the CITY will remove or cause to be removed all presently existing improvements thereon, including but not limited to crops, vines, gardens and lawns within the easement area as necessary for construction with the following exceptions:

3. That the CITY shall cause any trench made on said easement strip to be properly refilled and shall cause the area disturbed under this easement to be restored upon completion of construction. This temporary easement is also for the benefit of any contractor, agent, employee, public utility company and representative of the CITY in any of said construction work.

4. That said GRANTOR(S) for himself or themselves and his or their heirs, executors and administrators does or do confirm with the said CITY and its assigns, including public utility companies and their assigns, that he or they, the GRANTOR(S) is or are well seized in fee of the above described property and that he or they has or have the right to grant and convey this easement in the manner and form aforesaid, and that he or they will, and his or their heirs, executors and administrators, shall warrant, and defend this temporary easement to said CITY and its assigns including public utility companies and their assigns against the lawful claims and demands of all persons.

5. The CITY reserves the absolute right to terminate this easement at any time prior to the payment of the above stated consideration, but in no event later than 60 days after the execution of this Easement Agreement.

6. That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings, except a Permanent Easement or Acquisition if and as applicable, between the GRANTOR(S) and the CITY or its agents; and that the GRANTOR(S) in executing and delivering this instrument, has not relied upon promises, inducements, or representations of the CITY or its agents or employees, except as are set forth herein.

7. The consideration recited includes damages for change of grade, if any, and any and all claims for damage arising from change of grade or grading are hereby waived.

IN WITNESS WHEREOF said GRANTOR(S) has or have hereunto set his or their hand(s) this 8 day of November, 2019.

OWNER: Battle Creek/CHS LLC.

BY: Mark Hansborn **ATTEST:**_____

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) SS
COUNTY OF Madison)

Dated this 8 day of November, 2019, before me, a General Notary Public duly commissioned and qualified, came Mark Hansborn the duly authorized representative(s) of **Battle Creek/CHS LLC.**, who acknowledged that he, she or they held the position or title set forth in the instrument, that he, she or they signed the instrument on behalf of the corporation by proper authority and that the instrument was the act of the corporation and are to me known to be said duly authorized representative or representatives and the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

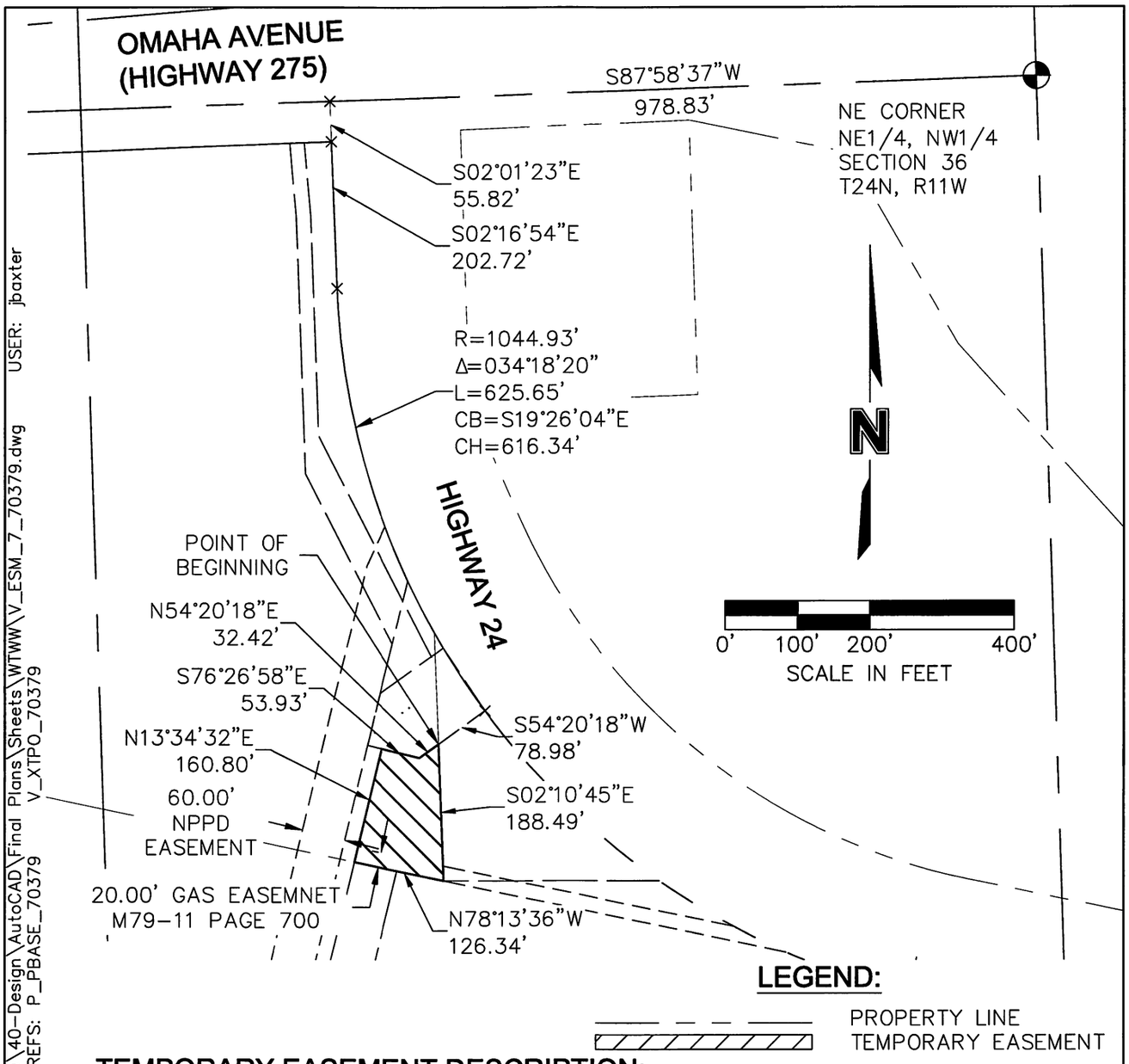
WITNESS my hand and Notarial Seal the day and year last above written.
(SEAL)

GENERAL NOTARY - State of Nebraska
JAN M WHITE
My Comm. Exp. March 23, 2020

Jan M White
NOTARY PUBLIC

CITY OF NORFOLK, NEBRASKA

_____ _____
(Name/Title) (Date)



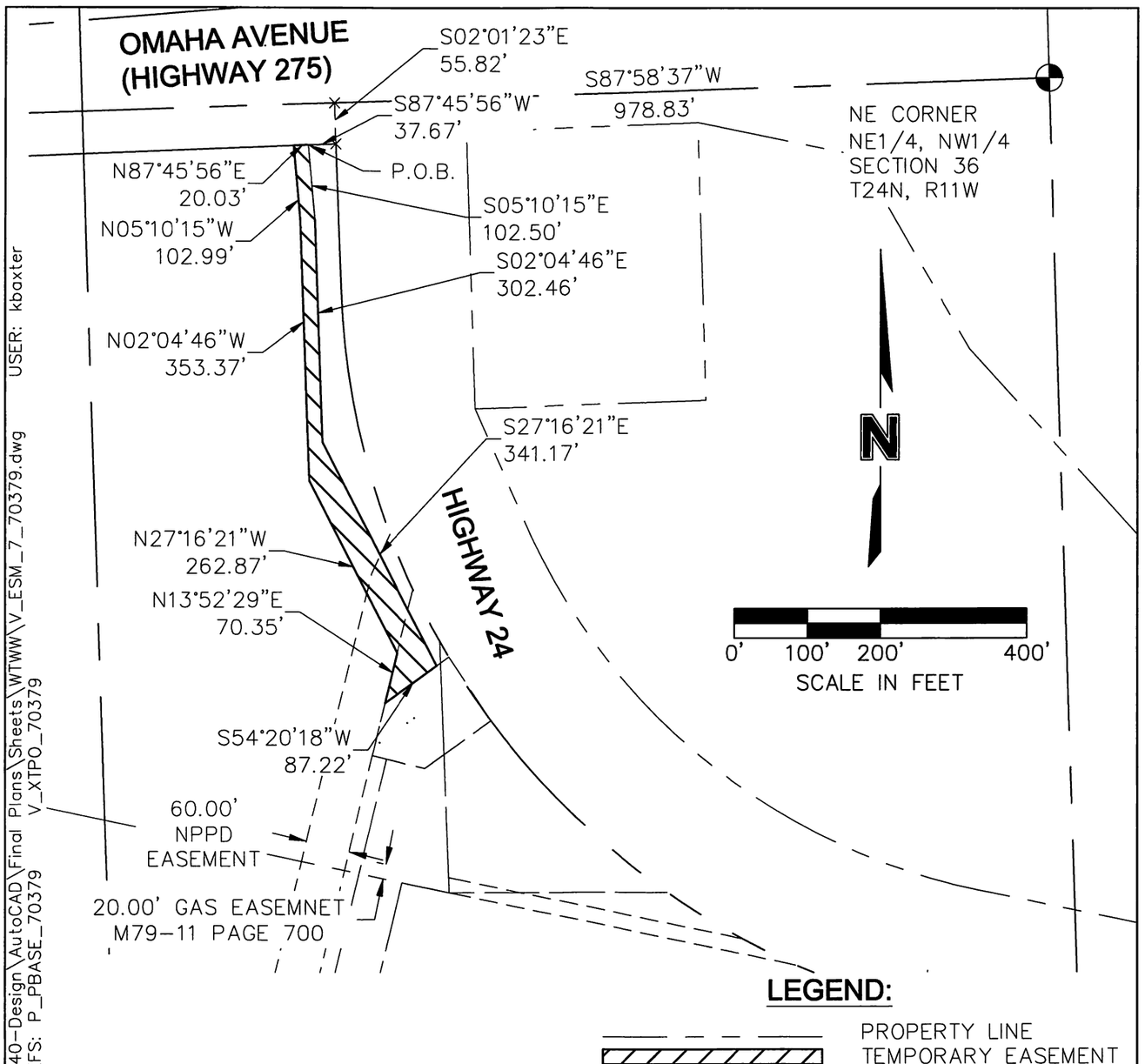
TEMPORARY EASEMENT DESCRIPTION:

A TEMPORARY EASEMENT LOCATED IN THE NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF S87°58'37"W ON THE NORTH LINE OF SAID NE1/4, NW1/4 A DISTANCE OF 978.83 FEET; THENCE S02°01'23"E A DISTANCE OF 55.82 FEET TO A POINT AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) OF HIGHWAY 24 AND SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275); THENCE S02°16'54"E ON THE WEST R.O.W. OF SAID HIGHWAY 24 A DISTANCE OF 202.72 FEET; THENCE SOUTH ON SAID R.O.W. LINE AN ARC LENGTH OF 625.65 FEET ON A CURVE TO THE LEFT ON SAID R.O.W WITH A RADIUS OF 1044.93 FEET, A CHORD BEARING OF S19°26'04"E, A CHORD LENGTH OF 616.34; THENCE S54°20'18"W A DISTANCE OF 78.98 FEET TO THE POINT OF BEGINNING; THENCE S02°10'45"E A DISTANCE OF 188.49 FEET; THENCE N78°13'36"W A DISTANCE OF 126.34 FEET; THENCE N13°34'32"E A DISTANCE OF 160.80 FEET; THENCE S76°26'58"E A DISTANCE OF 53.93 FEET; THENCE N54°20'18"E A DISTANCE OF 32.42 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY EASEMENT CONTAINS 16,931.5± SQUARE FEET OR 0.39 ACRES MORE OR LESS.

DWG: F:\2017\0001-0500\017-0379\40-Design\AutoCAD\Final Plans\Sheets\WTWW\V_ESM_7_70379.dwg USER: jbaxter
DATE: May 10, 2019 7:57am XREFS: P_PBASE_70379 V_XTPO_70379

PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.10.2019	TEMPORARY EASEMENT - TRACT 7	OLSSON ASSOCIATES 701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 2-T



LEGEND:

PROPERTY LINE
TEMPORARY EASEMENT

TEMPORARY EASEMENT DESCRIPTION:

A TEMPORARY EASEMENT LOCATED IN THE NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF S87°58'37"W ON THE NORTH LINE OF SAID NE1/4, NW1/4 A DISTANCE OF 978.83 FEET; THENCE S02°01'23"E A DISTANCE OF 55.82 FEET TO A POINT AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) OF HIGHWAY 24 AND SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275); THENCE S87°45'56"W ON SAID SOUTH R.O.W. LINE A DISTANCE OF 37.67 FEET TO THE POINT OF BEGINNING; THENCE S05°10'15"E A DISTANCE OF 102.50 FEET; THENCE S02°04'46"E A DISTANCE OF 302.46 FEET; THENCE S27°16'21"E A DISTANCE OF 341.17 FEET; THENCE S54°20'18"W A DISTANCE OF 87.22 FEET; THENCE N13°52'29"E A DISTANCE OF 70.35 FEET; THENCE N27°16'21"W A DISTANCE OF 262.87 FEET; THENCE N02°04'46"W A DISTANCE OF 353.37 FEET; THENCE N05°10'15"W A DISTANCE OF 102.99 FEET TO SAID SOUTH R.O.W. LINE; THENCE N87°45'56"E ON SAID SOUTH R.O.W. LINE A DISTANCE OF 20.03 FEET TO THE POINT OF BEGINNING. SAID TEMPORARY EASEMENT CONTAINS 22,683.9± SQUARE FEET OR 0.52 ACRES MORE OR LESS.

DWG: F:\2017\0001-0500\017-0379\40-Design\AutoCAD\Final Plans\Sheets\WTWW\V_ESM_7_70379.dwg USER: kbaxter
DATE: May 14, 2019 8:18am XREFS: P_PBASE_70379 V_XTPO_70379

PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.14.2019	TEMPORARY EASEMENT - TRACT 7	OLSSON ASSOCIATES 701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 1-T

PERMANENT SEWER EASEMENT
(INDIVIDUAL)

When recorded return to:
City of Norfolk, Nebraska
Public Works Department
309 North 5th Street
Norfolk, Nebraska 68701

FOR OFFICE USE ONLY	
Project:	City of Norfolk –Omaha Avenue Sewer Extension
Project Number:	017-0379 MROW 495
Tract No.:	7
Address:	590170414 Norfolk Nebraska

KNOW ALL MEN BY THESE PRESENTS:

THAT **BATTLE CREEK/CHS LLC., a Delaware Limited Liability Company**, hereinafter referred to as GRANTOR, (whether one or more) for and in consideration of the sum of **NINE THOUSAND, THREE HUNDRED and NO/100 DOLLARS ($9,300.00)** and other valuable considerations, the receipt of which is hereby acknowledged, does hereby grant and convey unto the **CITY OF NORFOLK, NEBRASKA,** a Municipal Corporation, hereinafter referred to as "CITY," and to its successors and assigns, a permanent easement for the right to construct, maintain and operate a sewer (either for storm or sanitary purposes), drainage structure, and/or drainage way, and appurtenances thereto, in, through, and under the parcel of land described as follows, to-wit

SEE ATTACHED EXHIBIT "A"
PERMANENT EASEMENT LEGAL DESCRIPTION

TO HAVE AND TO HOLD unto said CITY, its successors and assigns, together with the right of ingress and egress from said premises for the purpose of constructing, inspecting, maintaining, operating, repairing or replacing said sewer at the will of the CITY. The GRANTOR may, following construction of said sewer continue to use the surface of the easement strip conveyed hereby for other purposes, subject to the right of the CITY to use the same for the purposes herein expressed.

It is further agreed as follows:

1) That no buildings, improvements, or other structures, nor any grading, fill or fill material, or embankment work, shall be placed in, on, over, or across said easement strip by GRANTOR, his or their successors and assigns without express approval of the CITY. Improvements which may be approved by CITY include landscaping, road and/or street surfaces, parking area surfacing, and/or pavement. These improvements and any trees, grass or shrubbery placed on said easement shall be maintained by GRANTOR, his heirs, successors or assigns.

2) That CITY will replace or rebuild any and all damage to improvements caused by CITY exercising its rights of inspecting, maintaining or operating said sewer, except that damage to, or loss of trees and shrubbery will not be compensated for by CITY.

3) That CITY may construct, maintain, repair, reconstruct and operate additional sewer systems within the permanent easement described above.

4) This permanent sewer easement is also for the benefit of any contractor, agent, employee, or representative of the CITY and any of said construction and work.

5) That CITY shall cause any trench made on said easement strip to be properly refilled and shall cause the premises to be left in a neat and orderly condition.

6) That said GRANTOR for himself or themselves and his or their heirs, executors and administrators does or do confirm with the said CITY and its assigns, that he or they, the GRANTOR is or are well seized in fee of the above described property and that he or they has or have the right to grant and convey this permanent sewer easement in the manner and form aforesaid, and that he or they will, and his or their heirs, executors, and administrators, shall warrant and defend this permanent easement to said CITY and its assigns against the lawful claims and demands of all persons. This permanent sewer easement runs with the land.

7) That said permanent sewer easement is granted upon the condition that the CITY may remove or cause to be removed all presently existing improvements thereon, including but not limited to, crops, vines, trees within the easement area as necessary for construction.

8) The CITY reserves the absolute right to terminate this permanent easement at any time prior to the payment of the above stated consideration, but in no event later than 60 days after the execution of this Easement Agreement.

9) That this instrument contains the entire agreement of the parties; that there are no other or different agreements or understandings, except a Temporary Construction Easement if and as applicable, between the GRANTOR and the CITY or its agents; and that the GRANTOR, in executing and delivering this instrument, has not relied upon any promises, inducements, or representations of the CITY or its agents or employees, except as are set forth herein (if applicable):

IN WITNESS WHEREOF said GRANTOR has or have hereunto set his or their hand(s) this 8 day of Nov, 2019.

GRANTOR: BATTLE CREEK/CHS LLC

Mark Jansenborn
By

Attest

CORPORATE ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss
COUNTY OF Madison)

Dated this 8 day of November 2019, before me, a General Notary Public duly commissioned and qualified, came Mark Jansenborn the duly authorized representatives of **BATTLE CREEK/CHS LLC**, who acknowledged that he, she or they held the position or title set forth in the instrument, that he, she or they signed the instrument on behalf of the corporation by proper authority and that the instrument was the act of the corporation and are to me known to be said duly authorized representative or representatives and the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.

(S E A L)

GENERAL NOTARY - State of Nebraska
JAN M WHITE
My Comm. Exp. March 23, 2020

Jan M White
NOTARY PUBLIC

CITY OF NORFOLK, a Municipal Corporation

ATTEST: BY:

Brianna Duerst
City Clerk, City of Norfolk

Josh Moenning
Mayor, City of Norfolk

APPROVED AS TO FORM:

CITY ATTORNEY DATE

STATE OF NEBRASKA)
) SS
COUNTY OF MADISON)

On this _____ day of _____, 2018, before me, a Notary Public in and for said County, personally came **Josh Moenning ,Mayor of the City of Norfolk, Nebraska, a Municipal Corporation,** to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as Mayor and the voluntary act and deed of said Municipal Corporation.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Seal:

NOTARY PUBLIC

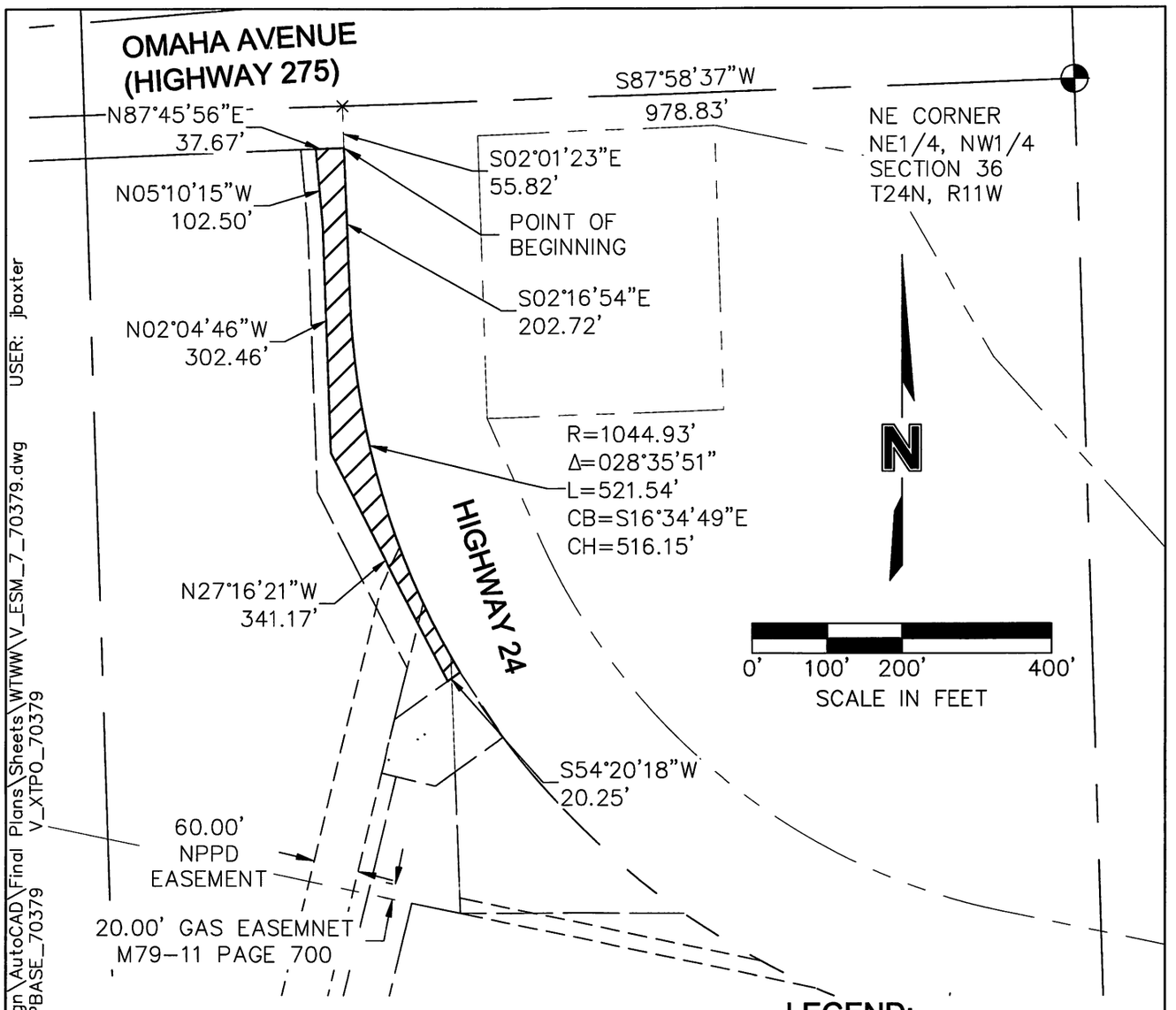
STATE OF NEBRASKA)
) SS
COUNTY OF MADISON)

On this _____ day of _____, 2018, before me,, a Notary Public in and for said County, personally came **Brianna Duerst, City Clerk of the City of Norfolk, Nebraska, a Municipal Corporation** to me personally known to be the respective officer of said Municipal corporation and the identical person whose name is affixed to the foregoing instrument, and acknowledged the execution thereof to be their respective voluntary act and deed as City Clerk and the voluntary act and deed of said Municipal Corporation.

WITNESS my hand and Notarial Seal the day and year last above written.

Notary Seal:

NOTARY PUBLIC



LEGEND:

PROPERTY LINE
PERMANENT EASEMENT

PERMANENT EASEMENT DESCRIPTION:

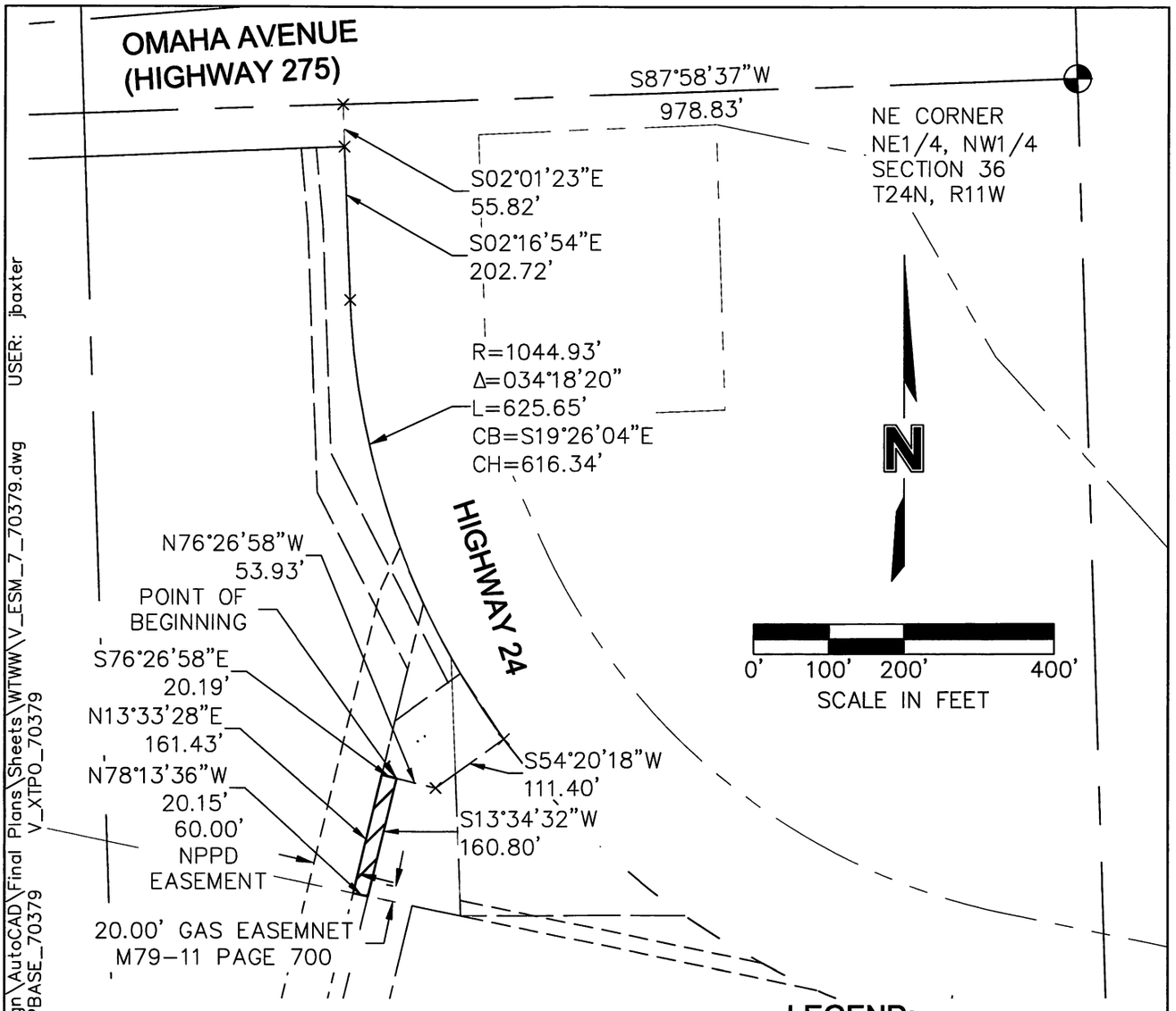
A PERMANENT EASEMENT LOCATED IN THE NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF S87°58'37"W ON THE NORTH LINE OF SAID NE1/4, NW¼ A DISTANCE OF 978.83 FEET; THENCE S02°01'23"E A DISTANCE OF 55.82 FEET TO A POINT AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) OF HIGHWAY 24 AND SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275) TO THE POINT OF BEGINNING; THENCE S02°16'54"E ON THE SAID WEST R.O.W, OF HIGHWAY 24 A DISTANCE OF 202.72 FEET; THENCE SOUTH ON SAID R.O.W. LINE AN ARC LENGTH OF 521.54 FEET ON A CURVE TO THE LEFT WITH A RADIUS OF 1044.93 FEET WITH A CHORD BEARING OF S16°34'49"E AND A CHORD LENGTH OF 516.15 FEET; THENCE S54°20'18"W A DISTANCE OF 20.25 FEET; THENCE N27°16'21"W A DISTANCE OF 341.17 FEET; THENCE N02°04'46"W A DISTANCE OF 302.46 FEET; THENCE N05°10'15"W A DISTANCE OF 102.50 FEET TO A POINT ON SAID SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275); THENCE N87°45'56"E ON SAID R.O.W. LINE A DISTANCE OF 37.67 FEET TO THE POINT OF BEGINNING. SAID PERMANENT EASEMENT CONTAINS 23,709.9± SQUARE FEET OR 0.54 ACRES MORE OR LESS.

DWG: F:\2017\0001-0500\017-0379\40-Design\AutoCAD\Final Plans\Sheets\WTWW\V_ESM_7_70379.dwg USER: jbaxter
DATE: May 10, 2019 6:48am XREFS: P_PBASE_70379 V_XTPO_70379

PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.7.2019	PERMANENT EASEMENT - TRACT 7	OLSSON ASSOCIATES 701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 1

EXHIBIT "A"
Page 1 of 2



PERMANENT EASEMENT DESCRIPTION:

A PERMANENT EASENENT LOCATED IN THE NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF S87°58'37"W ON THE NORTH LINE OF SAID NE1/4, NW¼ A DISTANCE OF 978.83 FEET; THENCE S02°01'23"E A DISTANCE OF 55.82 FEET TO A POINT AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) OF HIGHWAY 24 AND SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275); THENCE S02°16'54"E ON THE WEST R.O.W. OF SAID HIGHWAY 24 A DISTANCE OF 202.72 FEET; THENCE SOUTH ON SAID R.O.W. AN ARC LENGTH OF 625.65 FEET ON A CURVE TO THE LEFT WITH A RADIUS OF 1044.93 FEET WITH A CHORD BEARING OF S19°26'04"E AND A CHORD LENGTH OF 616.34 FEET; THENCE S54°20'18"W A DISTANCE OF 111.40 FEET; THENCE N76°26'58"W A DISTANCE OF 53.93 FEET TO THE POINT OF BEGINNING; THENCE S13°34'32"W A DISTANCE OF 160.80 FEET; THENCE N78°13'36"W A DISTANCE OF 20.15 FEET; THENCE N13°33'28"E A DISTANCE OF 161.43 FEET; THENCE S76°26'58"E A DISTANCE OF 20.19 FEET TO THE POINT OF BEGINNING. SAID PERMANENT EASEMENT CONTAINS 3,249.3± SQUARE FEET OR 0.08 ACRES MORE OR LESS.

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DATE: May 10, 2019 7:52am XREFS: P_PBASE_70379 V_XTPO_70379

PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.7.2019	PERMANENT EASEMENT - TRACT 7	OLSSON ASSOCIATES 701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 2

STATE OF NEBRASKA

LOCAL POLITICAL SUBDIVISION
PARTIAL ACQUISITION CONTRACT - INDIVIDUAL

Copies to:
1. ROW Division, Nebraska Department of Transportation
2. Owner Battle Creek/CHS LLC.
3. Buyer: City of Norfolk, Nebraska

Project No.: **017-0379**
Control No.: _____
Tract No.: **7**

THIS CONTRACT, made and entered into this 8 day of November, 2019, by and between, **BATTLE CREEK/CHS LLC., a Delaware Limited Liability Company**
Address: **1500 East Omaha Avenue Norfolk, Nebraska 68702**
hereinafter called the OWNER, and the **City of Norfolk**, hereinafter called the BUYER.

RIGHT OF WAY

WITNESSETH: In consideration of the payment or payments as specified below, the OWNER hereby agrees to execute to the BUYER, a deed which will be prepared and furnished by the BUYER, to certain real estate described in:

SEE ATTACHED EXHIBIT "A"

The BUYER agrees to purchase the above described Right of Way and to pay, therefore, upon the delivery of said executed Deed. If the OWNER so desires, they shall have the right to receive 100% of the final payments due under this contract prior to vacating the premises being acquired.

Approximately	**0.22**	acres at	**$ 30,000.00**	per acre		$	6,600.00
Approximately		acres at	$	per acre		$	
Approximately		acres at	$	per acre		$	
Moving and replacing approximately		rods of fence at	$	per rod		$	
Moving and replacing approximately		rods of fence at	$	per rod		$	
Other Damages:						$	
						$	
					TOTAL	**$**	**6,600.00**

It is agreed and understood that the BUYER is hereby granted an immediate right of entry upon the premises described above.

The above payments shall cover all damages caused by the establishment and construction of the above project except for CROP DAMAGE, if any, which will be paid for in an amount based on the yield from the balance of the field less expenses of marketing and harvesting. CROP DAMAGE shall mean damage to such crops as are required to be planted annually and which were planted at the time of the signing of this contract and which are actually damaged due to construction of this project, but in no case shall damages be paid for more than one year's crop. The OWNER agrees to make a reasonable attempt to harvest any crop so as to mitigate the crop damage.

If any other party shall hold any encumbrance against the aforementioned property at the time of delivery of the aforementioned property, such payments as are due under this contract shall be made to the OWNER jointly with the party or parties holding such encumbrance, unless said party or parties holding such encumbrance shall have in writing waived their right to receive such payment.

Expenses for partial release of mortgages will be paid by the BUYER, if required.

This contract shall be binding on both parties as soon as it is executed by both parties, but should none of the above real estate be required, this contract shall terminate upon the payment of $10.00 by the BUYER to the OWNER.

This contract may be executed in more than one copy, each copy of which, however, shall serve as an original for all purposes, but all copies shall constitute but one and the same contract.

REMARKS

THIS IS A LEGAL AND BINDING CONTRACT - READ IT.

The representative of the BUYER, in presenting this contract has given me a copy and explained all its provisions. A complete understanding and explanation has been given of the terminology, phrases, and statements contained in this contract. It is understood that no promises, verbal agreements or understanding, except as set forth in this contract, will be honored by the BUYER.

IN WITNESS WHEREOF said GRANTOR has or have hereunto set his or their hand(s) this 8 day of Nov, 2019.

GRANTOR: Battle Creek/CHS LLC.

Mark Gansebom
By

_____
Attest

ACKNOWLEDGMENT

STATE OF NEBRASKA)
) ss
COUNTY OF Madison)

Dated this 8 day of November, 2019, before me, a General Notary Public duly commissioned and qualified, came Mark Gansebom the duly authorized representatives of **Battle Creek/CHS LLC.**, who acknowledged that he, she or they held the position or title set forth in the instrument, that he, she or they signed the instrument on behalf of the corporation by proper authority and that the instrument was the act of the corporation and are to me known to be said duly authorized representative or representatives and the identical person or persons who signed the foregoing instrument and acknowledged the execution thereof to be his, her or their voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year above written.

(S E A L)

GENERAL NOTARY - State of Nebraska
JAN M WHITE
My Comm. Exp. March 23, 2020

Jan M White
NOTARY PUBLIC

BUYER: City of Norfolk, Nebraska

BY:_____

STATE OF _____)
) SS
COUNTY OF _____)

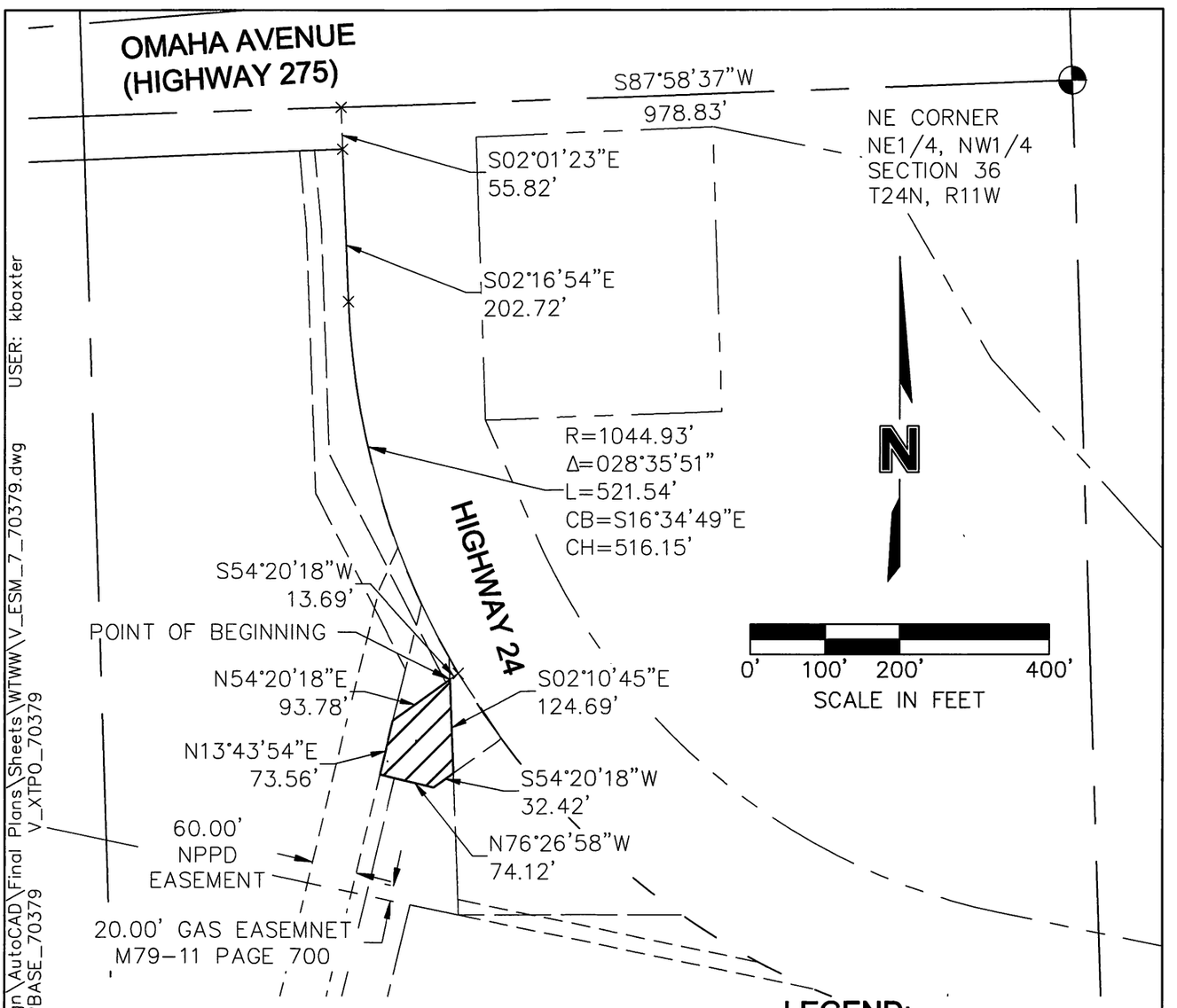
Dated this _____ day of _____, 20____, before me, a General Notary Public, duly commissioned and qualified, personally came _____

to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as buyer(s) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and Notarial Seal the day and year last above written.

(S E A L)

_____
NOTARY PUBLIC



DWG: F:\2017\0001-0500\017-0379\40-Design\AutoCAD\Final Plans\Sheets\WTWW\V_ESM_7_70379.dwg USER: kbaxter
DATE: May 14, 2019 9:29am XREFS: P_PBASE_70379 V_XTPO_70379

PROPERTY ACQUISITION DESCRIPTION:

A TRACT OF LAND LOCATED IN THE NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA, AND DESCRIBED AS FOLLOWS:

COMMENCING AT THE NE CORNER NE1/4, NW1/4, SECTION 36, T24N, R1W OF THE 6TH P.M., MADISON COUNTY, NEBRASKA; THENCE ON AN ASSUMED BEARING OF S87°58'37"W ON THE NORTH LINE OF SAID NE1/4, NW$\frac{1}{4}$ A DISTANCE OF 978.83 FEET; THENCE S02°01'23"E A DISTANCE OF 55.82 FEET TO A POINT AT THE INTERSECTION OF THE WEST RIGHT-OF-WAY (R.O.W.) OF HIGHWAY 24 AND SOUTH R.O.W. LINE OF OMAHA AVENUE (HIGHWAY 275); THENCE S02°16'54"E ON THE WEST R.O.W. OF SAID HIGHWAY 24 A DISTANCE OF 202.72 FEET; THENCE SOUTH ON SAID R.O.W. LINE AN ARC LENGTH OF 521.54 FEET ON A CURVE TO THE LEFT ON SAID R.O.W WITH A RADIUS OF 1044.93 FEET WITH A CHORD BEARING OF S16°34'49"E AND A CHORD LENGTH OF 516.15; THENCE S54°20'18"W A DISTANCE OF 13.69 FEET TO THE POINT OF BEGINNING; THENCE S02°10'45"E A DISTANCE OF 124.69 FEET; THENCE S54°20'18"W A DISTANCE OF 32.42 FEET; THENCE N76°26'58"W A DISTANCE OF 74.12 FEET; THENCE N13°43'54"E A DISTANCE OF 73.56 FEET; THENCE N54°20'18"E A DISTANCE OF 93.78 FEET TO THE POINT OF BEGINNING. SAID PROPERTY ACQUISITION CONTAINS 9,280.6± SQUARE FEET OR 0.22 ACRES MORE OR LESS.

PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.14.2019	PROPERTY ACQUISITION - TRACT 7	OLSSON ASSOCIATES 701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 1

RETURN TO: City of Norfolk Public Works Department, 309 North 5th Street, Norfolk, Nebraska 68701

WARRANTY DEED - INDIVIDUAL

PROJECT: 017-0379 **C.N.:** _____ **TRACT:** 7

KNOW ALL MEN BY THESE PRESENTS:

THAT **Battle Creek/CHS, LLC, a Delaware Limited Liability Company**

hereinafter known as the GRANTOR, whether one or more, for and in consideration of the sum of **ONE and NO/100 DOLLARS ($1.00)**, in hand paid, do hereby grant, bargain, sell, convey, and confirm unto the **CITY OF NORFOLK, NEBRASKA**, hereinafter known as the GRANTEE, the following described real estate, situated in Madison County, and State of Nebraska, to wit:

SEE ATTACHED EXHIBIT "A"

TO HAVE AND TO HOLD the premises above described, together with all the Tenements, Hereditaments, and Appurtenances thereunto belonging, unto the GRANTEE, and to its successors and assigns forever.

And the GRANTOR does hereby covenant with the GRANTEE, and with its successors and assigns, that the GRANTOR is lawfully seized of said premises; that they are free from encumbrance; that the GRANTOR has good right and lawful authority to sell the same; and the GRANTOR does hereby covenant to warrant and defend the title to said premises against the lawful claims of all persons, whomsoever.

Signed this 8 day of November, 2019.

INDIVIDUAL and/or PARTNERSHIP

Mark Gansebom _____

INDIVIDUAL ACKNOWLEDGMENT

STATE OF NEBRASKA)
)ss.
COUNTY OF ~~SARPY~~ Madison)

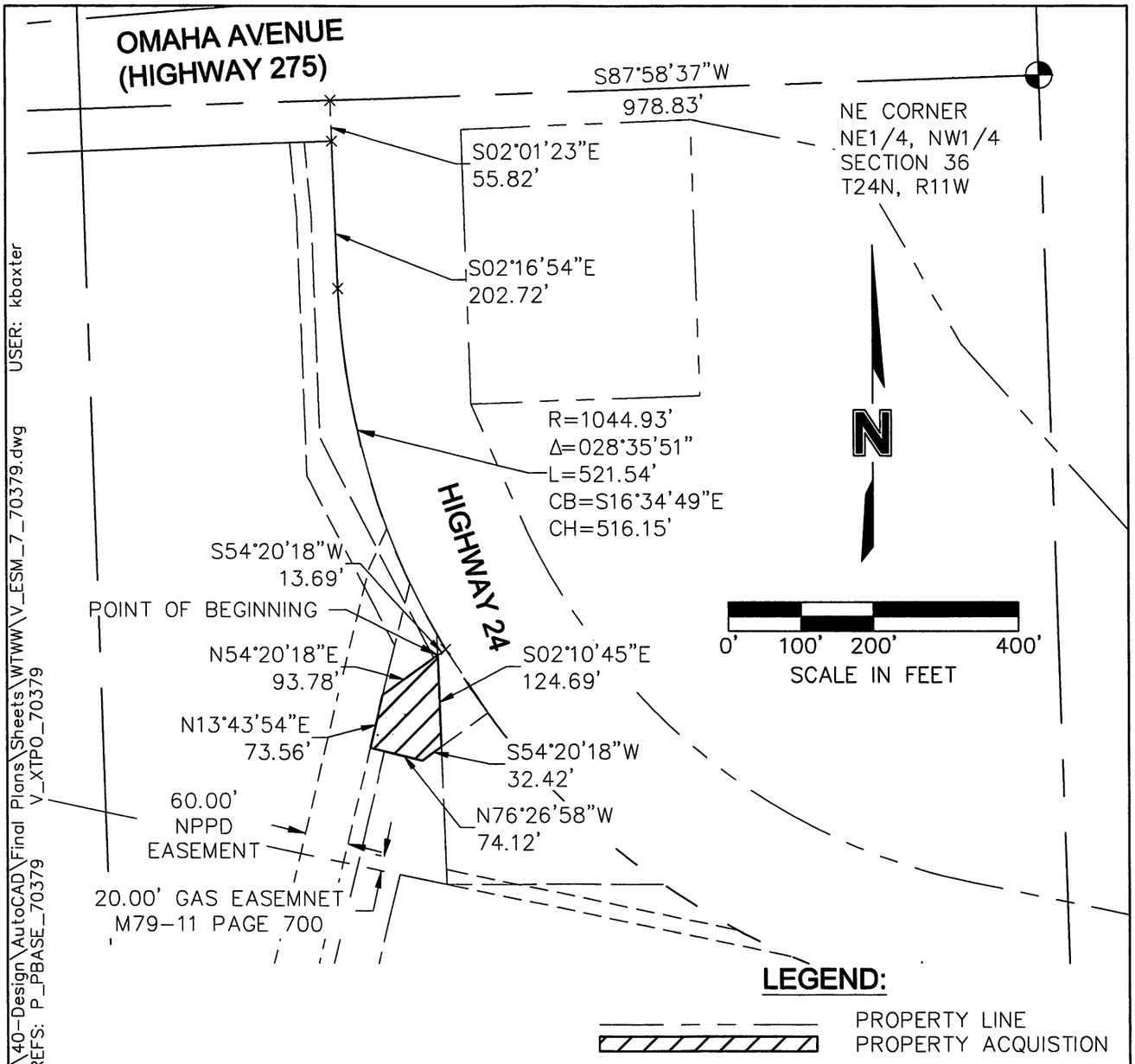
On this 8 day of November, 2019, before me, a General Notary Public, duly commissioned and qualified, personally came Mark Gansebom to me known to be the identical person(s) whose name(s) affixed to the foregoing instrument as GRANTOR(S) and acknowledged the same to be a voluntary act and deed.

WITNESS my hand and notarial seal the day and year last above written

(SEAL)

GENERAL NOTARY - State of Nebraska
JAN M WHITE
My Comm. Exp. March 23, 2020

Jan M White
NOTARY PUBLIC



DWG: F:\2017\0001-0500\017-0379\40-Design\AutoCAD\Final Plans\Sheets\WTWW\V_ESM_7_70379.dwg USER: kbaxter
DATE: May 14, 2019 9:29am XREFS: P_PBASE_70379 V_XTP0_70379

PROPERTY ACQUISITION DESCRIPTION:

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PROJECT: 2017-0379 DRAWN BY: RAS DATE: 5.14.2019	PROPERTY ACQUISITION - TRACT 7	OLSSON ASSOCIATES	701 4th Avenue, Suite 2C P.O. Box 885 Holdrege, NE 68949-0885 TEL 308.995.8706 FAX 308.995.8921	EXHIBIT 1

City of Norfolk, 309 North 5th Street, Norfolk, NE 68701

RESOLUTION NO. 2020 - 4

WHEREAS, Johnson Engineering Company on behalf of Whitecliff Development, the property owner, of Lot 1, Block 2, Wyndham Hills 2nd Addition, to the City of Norfolk, Madison County, Nebraska being a part of the SW ¼ of the NE ¼ and the SE ¼ of the NE ¼ of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska, has asked the City of Norfolk, Nebraska to release the utility easement as shown and described on the attached EXHIBIT "A", and

WHEREAS, the utility companies which may have utilized said easement have no objection to the release of said easement;

NOW THEREFORE, in consideration of the foregoing recitals, the Mayor and City Council of the City of Norfolk, Nebraska, do hereby adopt the following Resolution:

BE IT RESOLVED by the Mayor and City Council of the City of Norfolk, Nebraska, that the north 5' utility easement located on Lot 1, Block 2, less the East 10' thereof, of Wyndham Hills 2nd Addition, to the City of Norfolk, Madison County, Nebraska being a part of the SW ¼ of the NE ¼ and the SE ¼ of the NE ¼ of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska, of said records as filed in Cabinet 7 of Plats, Page 53A at the Register of Deeds office on the 3rd day of October, 2017, and described on the attached EXHIBIT "A" be and the same is hereby released.

PASSED AND APPROVED this _____day of _____, 20___.

ATTEST

_____
Josh Moenning, Mayor

_____
Brianna Duerst, City Clerk

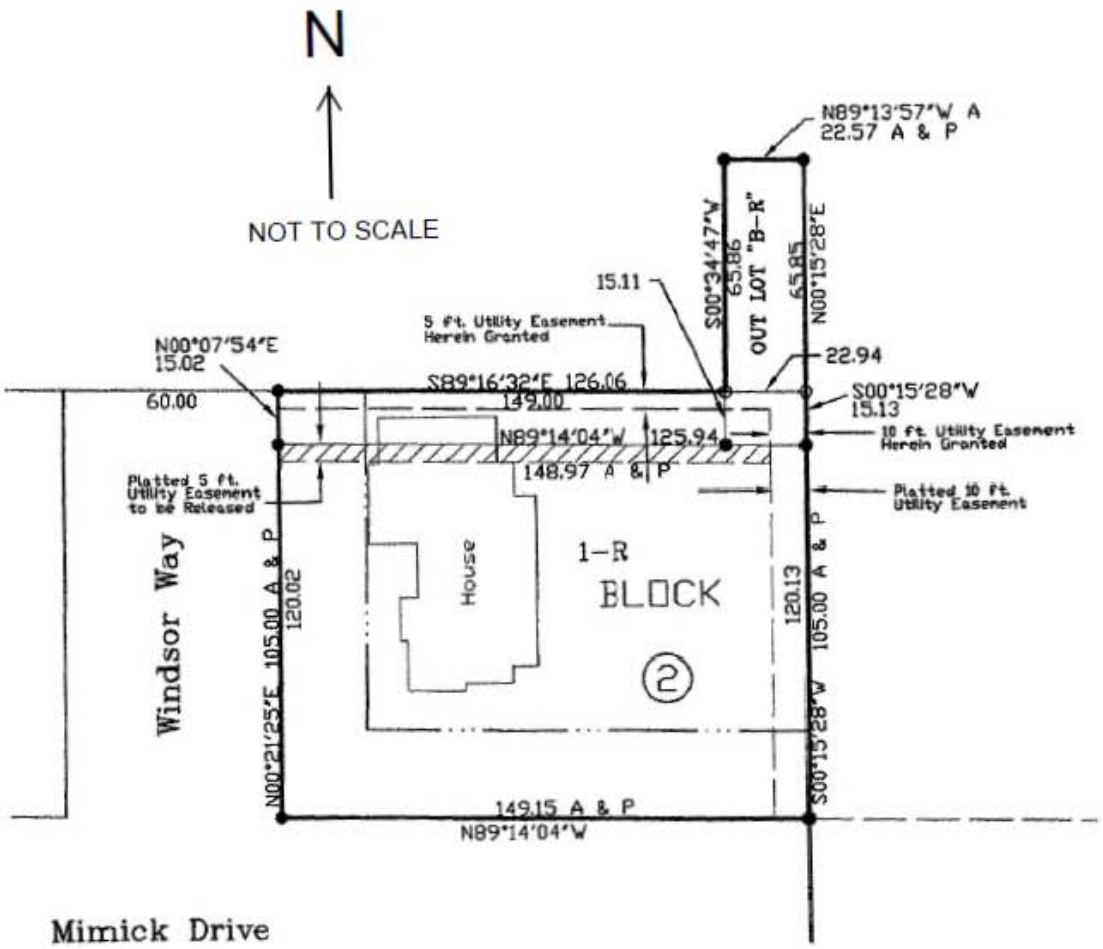
Approved as to form:_____
Danielle L. Myers-Noelle, City Attorney

State of Nebraska
County of Madison

The foregoing instrument was acknowledged before me this _____ by Josh Moenning, Mayor of the City of Norfolk and Brianna Duerst, City Clerk of the City of Norfolk on behalf of the City of Norfolk, Nebraska, a Municipal Corporation.

_____
Bethene A. Hoff, Notary Public

EXHIBIT "A"


N
NOT TO SCALE
N89°13'57"W A
22.57 A & P
S00°34'47"W
65.86
OUT LOT "B-R"
65.85
N00°15'28"E
15.11
5 ft. Utility Easement
Herein Granted
N00°07'54"E
15.02
60.00
S89°16'32"E 126.06
149.00
22.94
S00°15'28"W
15.13
N89°14'04"W 125.94
10 ft. Utility Easement
Herein Granted
148.97 A & P
Platted 5 ft.
Utility Easement
to be Released
Platted 10 ft.
Utility Easement
Windsor Way
N00°21'25"E 105.00 A & P
120.02
House
1-R
BLOCK
2
120.13
105.00 A & P
S00°15'28"W
149.15 A & P
N89°14'04"W
Mimick Drive

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

For Office Use Only	Date Rec'd _____ Fee $_____ Rec'd by _____

SUBDIVISION APPLICATION

Name of Subdivision: Wyndham Hills 3rd Addition

☐ Preliminary ☑ Final

Applicant: Whitecliff Development, Inc. (Name) 1000 West Norfolk Avenue (Address)

(402)-371-0200 (Phone) anndover@doversite.com (Email)

*If applicant is an LLC, a copy of the operating agreement must be submitted with the application.

Contact: (other than Applicant) Richard C. Johnson (Name) 1909 Vicki Lane, Suite 100 (Address)

(402)-750-5492 (Phone) rcj@cableone.net (Email)

Current Zoning: R-1, Single Family Residential

General Location/Address: 2102 Windson Way

Legal Description: See Attached

Property Area, Square Feet and/or Acres: 19,395 sq. ft.

_____ Signature of Owner

_____ Printed Name of Owner

OR

_____ Authorized Agent

Richard C. Johnson Printed Name of Authorized Agent

Return Completed forms to: Norfolk Planning Department; 309 N 5th Street; Norfolk, NE 68701 Rev. 1-2018

LEGAL DESCRIPTION

Lot 1, Block 2, Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska.

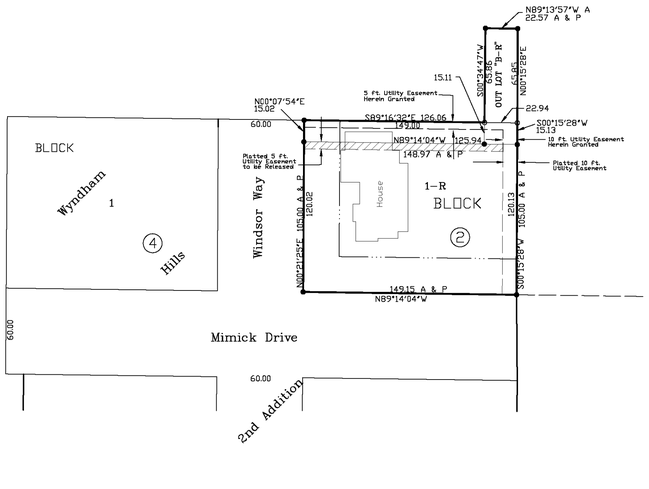
Out Lot "B", Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska

A tract of land lying wholly in the SW 1/4 of the NE 1/4 of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska. Said tract of land is more particularly described as follows: Beginning at the Northwest Corner of Lot 1, Block 2, Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska; thence proceeding North along the East Right-of-Way of Windsor Way on an assumed bearing of North 00 degrees 07 minutes 54 seconds East, 15.02 feet; thence South 89 degrees 16 minutes 32 seconds East, 126.06 feet to a point on the West line of Out Lot "B", as platted in Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska; thence South 00 degrees 34 minutes 47 seconds West, 15.11 feet to the Southwest Corner of said Out Lot "B"; thence North 89 degrees 14 minutes 04 seconds West, 125.94 feet to the point of beginning.

FINAL PLAT OF

WYNDHAM HILLS 3RD ADDITION

TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA
CONSISTING OF LOT 1, BLOCK 2 AND OUT LOT B, WYNDHAM HILLS 2ND ADDITION, TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA AND PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 17, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA



SURVEYOR'S CERTIFICATE

I, RICHARD C. JOHNSON, REGISTERED LAND SURVEYOR IN THE STATE OF NEBRASKA, HAVE DIRECTED AND SUPERVISED THE SURVEY OF THREE TRACTS OF LAND DESCRIBED AS FOLLOWS:

LOT 1, BLOCK 2, WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA.

OUT LOT B, WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA.

A TRACT OF LAND LYING WHOLLY IN THE SW 1/4 OF THE NE 1/4 OF SECTION 17, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 2, WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA, THENCE PROCEEDING NORTH ALONG THE EAST RIGHT-OF-WAY OF WINDSOR WAY ON AN ASSUMED BEARING OF N00°07'54"E, 15.02 FEET; THENCE S89°16'32"E, 126.06 FEET TO A POINT ON THE WEST LINE OF OUTLOT "B" AS PLATTED IN WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; THENCE S00°34'47"W, 15.11 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT "B"; THENCE N89°14'04"W, 125.94 FEET TO THE POINT OF BEGINNING.

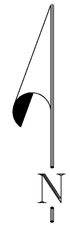
I HAVE SUBDIVIDED SAID TRACTS OF LAND INTO LOT 1-R, BLOCK 2, AND OUT LOT B-R TO BE HEREINAFTER KNOWN AS WYNDHAM HILLS 3RD ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA, CONSISTING OF LOT 1, BLOCK 2 AND OUT LOT "B", WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA AND PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 17, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA AS SHOWN ON THE PLAT HEREIN.

I CERTIFY THAT THE PLAT HEREIN IS THE ORIGINAL, ACCURATE AND CORRECT PLAT OF SAID WYNDHAM HILLS 3RD ADDITION AND THAT SAID PLAT ACCURATELY AND CORRECTLY REFLECTS ALL OF THE LOTS, BLOCKS, ROADS, STREETS, AVENUES, ALLEYS, PARKS, COMMONS, AND OTHER GROUNDS IN SAID ADDITION, ALL OF WHICH ARE CORRECTLY AND ACCURATELY STAKED OFF AND MARKED AND ARE DESIGNATED AND SHOWN ON THE PLAT HEREIN.

I CERTIFY THAT THE SURVEY AND PLAT WERE MADE AT THE INSTANCE AND REQUEST OF THE OWNERS OF SAID TRACT OF LAND WHO ARE HEREIN NAMED.

I CERTIFY THAT I HAVE EXECUTED THE ABOVE INSTRUMENT THIS _____ DAY OF _____, 2020.

_____
RICHARD C. JOHNSON, L.S. NO. 429



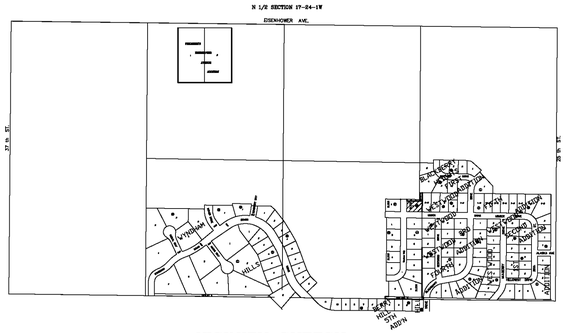
LEGEND

- ● CORNER FOUND (AS SHOWN)
- ○ CORNER SET (3/4" IRON PIPE)
- A ACTUAL (MEASURED DIMENSION)
- P PLATTED (RECORDED DIMENSION)
- FRONT SETBACK--25'
- UTILITY EASEMENTS
  - 10' REAR
  - 5' SIDE

LOT AREAS	STREET ADDRESSES
BLOCK 2	BLOCK 2
LOT 1-R -17,697 SQ. FT.	LOT 1 - 2109 Windsor Way 2304 Mirnick Drive
OUT LOT B-R - 1,498 SQ. FT.	OUT LOT B-R - N/A

PARCEL I.D. NO.
590026542
590026606
590035471

NOTE: A four (4) foot sidewalk was constructed by the owners on the street side or sides of each lot in the addition abutting on a platted street as provided for by Ordinance No. 3780 of the City of Norfolk passed and an approved April 1, 1991 prior to the implementation of Ordinance No. 5617.



VICINITY SKETCH
NOT TO SCALE

CONSENT OF LIEN HOLDER

WE, ELKHORN VALLEY BANK, BEING A LIEN HOLDER ON THE TRACTS OF LAND DESCRIBED HEREIN DO HEREBY AGREE AND CONSENT TO THE PLATTING OF SAID TRACTS OF LAND AS REFLECTED HEREIN.

ELKHORN VALLEY BANK

_____
(SIGNATURE)

_____
(PRINTED NAME & TITLE)

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
) S.S.
COUNTY OF MADISON)

ON THIS _____ DAY OF _____, 2020, BEFORE ME, A NOTARY PUBLIC IN AND FOR SAID COUNTY AND STATE, CAME _____, _____ OF ELKHORN VALLEY BANK, PERSONALLY KNOWN TO ME TO BE THE IDENTICAL PERSON WHOSE NAME IS AFFIXED TO THE FOREGOING INSTRUMENT AND HE HAS ACKNOWLEDGED THE EXECUTION THEREOF TO BE HIS VOLUNTARY ACT AND DEED AND THE VOLUNTARY ACT AND DEED OF ELKHORN VALLEY BANK.

WITNESS MY HAND AND OFFICIAL SEAL THE LAST DATE AFORESAID.

_____
NOTARY PUBLIC

_____
PRINTED NAME

MY COMMISSION EXPIRES ON THE _____ DAY OF _____, 20 _____, A.D.

APPROVAL

THE FOREGOING AND WITHIN PLAT, APPROVED BY THE HONORABLE MAYOR AND CITY COUNCIL OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA BY RESOLUTION DULY PASSED THIS _____ DAY OF _____, 2020.

FURTHER, THE UTILITY EASEMENT OVER THE NORTH 5 FEET OF LOT 1, BLOCK 2, WYNDHAM HILLS 2ND ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA IS HEREBY RELEASED.

ATTEST:

BRIANNA BUERST, CLERK

JOSH MOENNING, MAYOR

APPROVAL

THE FOREGOING AND WITHIN PLAT APPROVED BY THE PLANNING COMMISSION OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA THIS _____ DAY OF _____, 2020.

DAN SPRAY, CHAIRMAN

OWNERS' CERTIFICATE & WAIVER

WE, WYNDAM HILLS OF NORFOLK, L.L.C., A NEBRASKA LIMITED LIABILITY COMPANY, AND WHITECLIFF DEVELOPMENT, INC., A NEBRASKA CORPORATION ARE THE SOLE OWNERS OF THE TRACTS OF LAND DESCRIBED DESCRIBED HEREIN. WE HAVE CAUSED TO BE MADE A SURVEY AND PLAT OF SAID TRACTS OF LAND TO BE HEREINAFTER KNOWN AS WYNDHAM HILLS 3RD ADDITION TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA CONSISTING OF LOT 1, BLOCK 2 AND OUT LOT "B", WYNDHAM HILLS 2ND ADDITON TO THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA AND PART OF THE SW 1/4 OF THE NE 1/4 OF SECTION 17, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA.

WE DO HEREBY PROVIDE EASEMENTS FOR THE CONSTRUCTION AND MAINTENANCE OF UTILITIES OF THE NORTH 5 FEET AND THE EAST 10 FEET OF THE NORTH 20.13 FEET OF LOT 1-R, BLOCK 2 AS SHOWN ON THE PLAT HEREIN.

WE HEREBY WAIVE ANY RIGHT TO CLAIMS AS A RESULT OF DAMAGES OCCASIONED BY THE ESTABLISHMENT OF GRADES OR ALTERATIONS OF THE SURFACE OF ANY PORTION OF STREETS AND ALLEYS TO CONFORM TO ESTABLISHED GRADES.

WHITECLIFF DEVELOPMENT, INC.
A NEBRASKA CORPORATION

ANN B. DOVER, PRESIDENT

WYNDAM HILLS OF NORFOLK, L.L.C.,
A NEBRASKA LIMITED LIABILITY COMPANY

THOMAS E. DOVER, SR.
MANAGING MEMBER

ACKNOWLEDGEMENT OF NOTARY

STATE OF NEBRASKA)
) S.S.
COUNTY OF MADISON)

THE FOREGOING WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2020 BY THOMAS E. DOVER, SR., MANAGING MEMBER OF WYNDAM HILLS OF NORFOLK, L.L.C., A NEBRASKA LIMITED LIABILITY COMPANY.

_____
NOTARY PUBLIC

_____
NOTARY PUBLIC (PRINTED NAME)

MY COMMISSION EXPIRES ON THE _____ DAY OF _____, 20_____, A.D.

ACKNOWLEDGEMENT OF NOTARY

)
) S.S.
)

THE FOREGOING WAS ACKNOWLEDGED BEFORE ME THIS _____ DAY OF _____, 2020 ANN B. DOVER, PRESIDENT, OF WHITECLIFF DEVELOPMENT, INC., A NEBRASKA CORPORATION.

_____
NOTARY PUBLIC

_____
NOTARY PUBLIC (PRINTED NAME)

MY COMMISSION EXPIRES ON THE _____ DAY OF _____, 20_____, A.D.

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

February 4, 2020

Honorable Mayor
and
City Council

Dear Mayor and Council:

On February 4, 2020 the Norfolk Planning Commission reviewed the final plat of Wyndham Hills 3rd Addition.

All items required for the final plat approval have been submitted and reviewed by the City Engineer.

The Planning Commission recommends approval of the final plat with a vote of 9-0.

Sincerely,

Dan Spray, Chairman
Norfolk Planning Commission

City of Norfolk, 309 N. 5th Street, Norfolk, Nebraska 68701

RESOLUTION NO. 2020-5

WHEREAS, the following described real property is located within the City of Norfolk or within the extraterritorial area in which the City exercises zoning jurisdiction, to wit:

Lot 1, Block 2, Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska.

Out lot "B", Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska.

A tract of land lying wholly in the SW ¼ of the NE ¼ of Section 17, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska. Said tract of land is more particularly described as follows: Beginning at the Northwest Corner of Lot 1, Block 2, Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska; thence proceeding North along the East Right-of-Way of Windsor Way on an assumed bearing of North 00 degrees 07 minutes 54 seconds East, 15.02 feet; thence South 89 degrees 16 minutes 32 seconds East, 126.06 feet to a point on the West line of Out Lot "B", as platted in Wyndham Hills 2nd Addition to the City of Norfolk, Madison County, Nebraska; thence South 00 degrees 34 minutes 47 seconds West, 15.11 feet to the Southwest Corner of said Out Lot "B"; thence North 89 degrees 14 minutes 04 seconds West, 125.94 feet to the point of beginning.

WHEREAS, said property is owned by Whitecliff Development, Inc. and Wyndham Hills of Norfolk, LLC; and

WHEREAS, the owners of the above described property are desirous of platting the property pursuant to the laws of the State of Nebraska and the City of Norfolk; and

WHEREAS, a plat has been prepared in anticipation of platting the above described property.

NOW, THEREFORE, in consideration of the foregoing recitals, the Mayor and City Council of the City of Norfolk, Nebraska, hereby adopt the following Resolution:

BE IT RESOLVED by the Mayor and City Council of the City of Norfolk, Nebraska, that the final plat of Wyndham Hills 3rd Addition to the City of Norfolk, Madison

County, Nebraska, duly made, acknowledged and certified, be and the same are hereby approved and ordered filed and recorded in the office of the Register of Deeds of Madison County, Nebraska.

BE IT FURTHER RESOLVED that the above described property shall hereinafter be legally described as set forth and depicted on the final plat being approved hereunder.

PASSED AND APPROVED this _____ day of _____, 2020.

ATTEST:

_____
Josh Moenning, Mayor

_____
Brianna Duerst, City Clerk

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

For Office Use Only	Date Rec'd 1/21/20 Fee $ 280.00 Rec'd by JLO

SUBDIVISION APPLICATION

Name of Subdivision: Mark Johnson's Addition

☐ Preliminary ☑ Final

Applicant: Big J's Rental LLC (Mark Johnson) 2703 N 25th St., Norfolk
Name Address
402-649-4597
Phone Email
*If applicant is an LLC, a copy of the operating agreement must be submitted with the application.

Contact: (other than Applicant) Mark Johnson 2703 N 25th St., Norfolk
Name Address
402-649-4597
Phone Email

Current Zoning: I-1

General Location/Address: 2610 Old Hadar Road, Norfolk

Legal Description: Lot 3, Jim Hupps' Subdivision, Madison County, NE

Property Area, Square Feet and/or Acres: 4.46 Acres

Mark Johnson
Signature of Owner

Mark Johnson
Printed Name of Owner

OR

Authorized Agent

Printed Name of Authorized Agent

Return Completed forms to: Norfolk Planning Department; 309 N 5th Street; Norfolk, NE 68701 Rev. 1-2018

MARK JOHNSON'S ADDITION
to Madison County, Nebraska

Lot	Area	Address
One	1.73 acres	2610 Old Hadar Road
Two	1.88 acres	2614 Old Hadar Road
Three	0.85 acres	2618 Old Hadar Road

Proj. No.
2019-102

Legend
- ◙ Pin Found
- ■ Pipe Found
- O Pin Set
- △ Calc. Point
- P Platted Dist.
- M Measured Dist.
- R Recorded Dist.

Store Safe Inc.
Tract in SE 1/4 9-24N-1W

Adjacent Land Owners as per gWorks (10/03/2019)

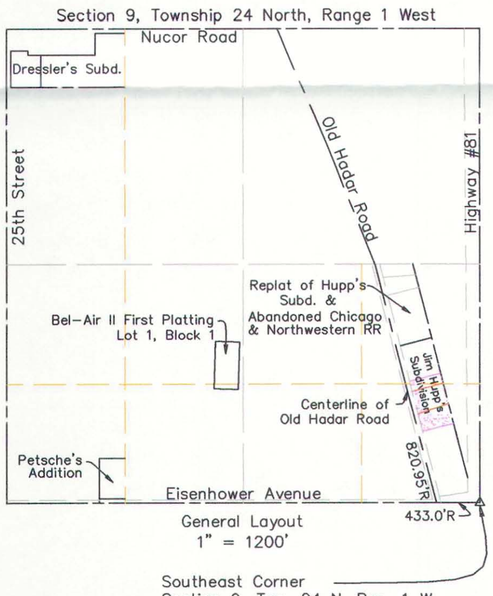
- GL Existing Gas Line
- Property Line
- Utility Easement Line
- Bldg. Setback Line
- Gas Line Easement Line

Notes:
1) Bearings are based on Grid North (US/NAD83/NE Datum) based on direct observation using G.P.S. equipment.
2) Distances shown on the Plat are Horizontal Ground Distances.
3) A five (5) foot sidewalk shall be constructed by the owner on the street side or sides of each lot in the addition abutting on a platted street as provided for by Ordinance No. 5617 of the City of Norfolk passed and approved on June 3, 2019.
4) Septic and well located on Lot One will be used by Lot Two.
5) Lot Three does not meet the minimum requirements outlined in City Code Section 27-292 for the use of an on-site sewage system. In no event shall the uses of Lot Three require sanitary sewer service unless connected to city sewer.
6) See subdivision agreement for notes on post construction stormwater management.

Barbara A. Reeves Tr.
Tract in E 1/2 SE 1/4 9-24N-1W

Store Safe Inc.
Tract in SE 1/4 9-24N-1W

Section 9, Township 24 North, Range 1 West



General Layout
1" = 1200'

Southeast Corner
Section 9, Twp. 24 N, Rge. 1 W
Section corner is a calculated points as per my survey dated July 24, 2018
100.0' South (on section line) to "X" found in concrete
100.0' East (on section line) to "X' found in concrete
100.0' West to "X" found in concrete (this point in line with "X' to the East and section line)

Surveyors Statement

I, LaVern F. Schroeder, Registered Land Surveyor in the State of Nebraska, have made a survey of MARK JOHNSON'S ADDITION to Madison County, Nebraska. Said Addition is a replat of Lot 3, Jim Hupp's Subdivision in the Southeast 1/4 of Section 9, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska; that the Plat attached hereto is the original, accurate, true and correct plat of said MARK JOHNSON'S ADDITION to Madison County, Nebraska; that said plat accurately and correctly reflects all of the lots, blocks, streets, avenues, alleys, parks, commons, and other grounds in said MARK JOHNSON'S ADDITION to Madison County, Nebraska, all of which are correctly designated and shown on the attached plat; that I surveyed and platted said MARK JOHNSON'S ADDITION to Madison County, Nebraska consisting of Lots One, Two & Three at the instance and request of the owner.

The tract of land comprising said Addition is more particularly described as follows:

Lot 3, Jim Hupp's Subdivision in the Southeast 1/4 of Section 9, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska

I hereby state that I have executed this instrument on this 21st day of January, 2020.

_____
LaVern F. Schroeder
Registered Land Surveyor #312

Owners Certificate

I, the undersigned, sole owner of the real estate described in the Surveyors Statement, have caused said real estate to be platted into Lots One, Two & Three, to be known hereinafter as MARK JOHNSON'S ADDITION to Madison County, Nebraska. Said Addition is a replat of Lot 3, Jim Hupp's Subdivision in the Southeast 1/4 of Section 9, Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska; do hereby dedicate the streets, avenues, drives, roads, and alleys and other public grounds to the use and benefit of the public and provided further are easements as shown on this plat.

_____
Mark Johnson, Member of
Big J's Rental, L.L.C.

State of Nebraska)
County of Madison)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by Mark Johnson, Member on behalf of Big J's Rental, L.L.C., a limited liability company.

My commission expires: _____ _____ (Signature)

_____ (Printed)
Notary Public

APPROVAL

The foregoing and within plat, dedication and instrument was approved by the Planning Commission of the City of Norfolk, Madison County, Nebraska on this _____ day of _____, 2020.

_____
Dan Spray
Chairman

APPROVAL

The foregoing and within plat, dedication and instrument was approved by the Honorable Mayor of the City of Norfolk, Madison County, Nebraska, by resolution duly passed on this _____ day of _____, 2020.

Attest: _____ _____
Brianna Duerst, City Clerk — Josh Moenning, Mayor

WAIVER

I, Mark Johnson, Member of Big J's Rental, L.L.C., am the owner of the real estate described hereon and hereby waive any right of claims as a result of damages occasioned by the establishment of grades or alterations of the surface.

_____
Mark Johnson, Member of
Big J's Rental, L.L.C.

State of Nebraska)
County of Madison)

This is to certify that this instrument was filed for record by the Register of Deeds Office at _____ M on this _____ day of _____, 2020.

_____
Diane Nykodym
Register of Deeds

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

February 4, 2020

Honorable Mayor
and
City Council

Dear Mayor and Council:

On February 4, 2020 the Norfolk Planning Commission reviewed the final plat of Mark Johnson's Addition.

All items required for the final plat approval have been submitted and reviewed by the City Engineer.

The Planning Commission recommends approval of the final plat with a vote of 9-0.

Sincerely,

Dan Spray, Chairman
Norfolk Planning Commission

City of Norfolk, 309 N. 5th Street, Norfolk, Nebraska 68701

RESOLUTION NO. 2020-6

WHEREAS, the following described real property is located within the City of Norfolk or within the extraterritorial area in which the City exercises zoning jurisdiction, to wit:

Lot 3, Jim Hupp's Subdivision in the Southeast ¼ of Section 9, Townsip 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska.

WHEREAS, said property is owned by Big J's Rental, LLC.; and

WHEREAS, the owner of the above described property is desirous of platting the property pursuant to the laws of the State of Nebraska and the City of Norfolk; and

WHEREAS, a plat and subdivision agreement have been prepared in anticipation of platting the above described property.

NOW, THEREFORE, in consideration of the foregoing recitals, the Mayor and City Council of the City of Norfolk, Nebraska, hereby adopt the following Resolution:

BE IT RESOLVED by the Mayor and City Council of the City of Norfolk, Nebraska, that the final plat of Mark Johnson's Addition to the City of Norfolk, Madison County, Nebraska, and its accompanying subdivision agreement, duly made, acknowledged and certified, be and the same are hereby approved and ordered filed and recorded in the office of the Register of Deeds of Madison County, Nebraska.

BE IT FURTHER RESOLVED that the above described property shall hereinafter be legally described as set forth and depicted on the final plat being approved hereunder.

PASSED AND APPROVED this _____ day of _____, 2020.

ATTEST:

_____
Josh Moenning, Mayor

_____
Brianna Duerst, City Clerk

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

By: City of Norfolk,
309 North 5th Street,
Norfolk, Nebraska 68701

SUBDIVISION AGREEMENT

MARK JOHNSON'S ADDITION
TO MADISON COUNTY, NEBRASKA

This agreement is made and entered into this ____ day of _____, 2020 by and between the **City of Norfolk**, hereinafter referred to as **"The City"** and **Big J's Rental LLC** a Nebraska limited liability company, hereinafter referred to as **"The Developers".**

RECITALS

WHEREAS, The Developers are the owners of certain property situated in the City of Norfolk, Madison County, Nebraska, and legally described as follows:

LOT 3, JIM HUPP'S SUBDIVISION IN THE SOUTHEAST ¼ OF SECTION 9, TOWNSHIP 24 NORTH, RANGE 1 WEST OF THE 6TH P.M., MADISON COUNTY, NEBRASKA

WHEREAS, the Developers wish to plat said property and hereby submit to the City as provided by law, an accurate Subdivision Plat to be known as Mark Johnson's Addition, to Madison County, Nebraska. Being part of the Northeast Quarter of Section 17, Township 24 North, Range 1 West of the Sixth P.M., Madison County, Nebraska.

AND WHEREAS, new subdivisions are subject to certain required minimum improvements as specified by City ordinances;

IT IS, THEREFORE, agreed by the parties contained herein as follows:

GENERAL CONDITIONS:

1. Sanitary Sewer: The developer and the City agree that there is not sanitary sewer service within 300 feet of the subdivision. Lot Two may install a service line to make use of the existing septic system on Lot One. Lot Three does not meet the minimum requirements outlined in City Code Section 27-292 for the use of an on-site sewage system. In no event shall the uses of Lot Three require sanitary sewer service unless connected to city sewer. There will be no cost to the City for installation or maintenance of said waste water treatment facilities.

2. Water: The Developer and the City agree that there is no municipal water available to the subdivision, therefore the Developers will provide a private well until such city water is extended to the site. The private well shall meet all the requirements set forth by the Nebraska Department of Health and Human Services. There will be no cost to the City for water improvements in the subdivision.

3. Street Improvements: The Developer agrees that no new streets are needed to serve this subdivision at this time. There will be no cost to the City for street improvements at this time.

4. Sidewalks: A five foot wide sidewalk shall be constructed on the street side(s) of each lot in the Subdivision by each respective owner, as provided for in Ordinance No. 5617 of the City of Norfolk, passed and approved on June 3, 2019.

5. Grading and Drainage: The developer agrees that there will be no cost to the City for grading of the subdivision. The developer also agrees that there will be post construction stormwater BMPs installed if soil disturbance meets or exceeds one acre during any future development or redevelopment inside the subdivision. These BMPs will be required to meet the water quality standards outlined in the City's post construction program.

MISCELLANEOUS

1. The Developer agrees to pay all interest and principal on any special assessments levied by the City on the Property, or any portion thereof, as same shall become due until such time as the Property is sold. At the time any lot of the Property is conveyed to a third party, any special assessments remaining unpaid against said lot being transferred shall be paid in full at the time of closing of the conveyance of said lot at which time the City will release the Developer from any future obligations, assessments, or special assessments against said lot. If the Developer fails to keep special assessments current, the City may seek to collect the amount not paid by any remedy at law or in equity.

2. The Developer agrees to hold the City of Norfolk harmless from any liability and claims arising out of and relative to the development of this subdivision, except those claims arising from City gross negligence.

3. The Developer understands that occupancy permits for structures on lots in the subdivision will not be issued until all improvements described in this agreement are constructed and accepted by the City. The Developer further agrees to specifically comply with Section 23-45(j)-3 of the Norfolk City Code which states that:

> "Forty-eight (48) hours' notice shall be given to the City Engineer prior to the start of construction on any improvements. The Developer's Engineer shall provide the City with a signed certification, assuring that improvements have been installed in accordance with the approved plans and specifications."

4. The Developer agrees to keep the public Right-of-way free from accumulation of water, waste material, weeds or rubbish, and to maintain the finished street surfaces free from dirt caused during development of the subdivision.

5. The Developer agrees that it will install conduit for electrical wires in the Property, including the conduit necessary for street lights. Conduit for street lights will be installed concurrently with other electrical conduit in the Property. There will be no cost to the City for installation of electrical conduit.

6. Any contracts entered into by Developer for the construction or installation of the improvements set forth in this agreement shall provide that the contractor or subcontractor constructing or installing such improvements shall have no recourse against City for any costs or claims related to the construction or installation of such improvements, except where resulting from the gross negligence of the City.

7. Developer shall undertake such acts, responsibilities, and obligations as may be necessary or appropriate to prevent and control any adverse impact on any real estate or property beyond the Property directly or indirectly caused by, attributable to, or related to construction and installation of the improvements to be installed or constructed by Developer under this Agreement.

8. Neither this agreement nor any obligations hereunder shall be assigned without the express written consent of the City, which may be withheld in City's sole discretion.

9. In the performance of this agreement, the Developer, its agents, contractors, subcontractors, and consultants shall not discriminate, or permit discrimination, against any person on account of disability, race, color, sex, age, political or religious opinions or affiliations, or national origin in violation of any applicable laws, rules, or regulations of any governmental entity or agency with jurisdiction over any such matter.

10. This agreement, and the terms and duties set forth herein, shall run with the land and shall be binding upon the parties hereto, their successors in interest in the real estate described herein, their heirs, personal representatives, and assigns.

[SIGNATURE PAGES TO FOLLOW]

Big J's Rental, a Nebraska Limited Liability Company

By_____
Title: Member
Printed Name: Mark Johnson

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

ATTEST:

_____ _____
Brianna Duerst, City Clerk Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

STATE OF NEBRASKA)
) ss
COUNTY OF _____)

On this _____ day of _____, 2020, before me, a Notary Public, in and for said County and State, personally came Mark Johnson, Member, of Big J's Rental, a Nebraska limited liability company, who executed the foregoing instrument and acknowledged before me that he is duly authorized and did execute the same on behalf of the company.

Dated this _____ day of _____, 2020.

_____
Notary Public

_____
Notary Public, printed

STATE OF NEBRASKA)
) ss
COUNTY OF _____)

Before me, a Notary Public, duly qualified in and for said county and state, personally appeared Josh Moenning, Mayor of the City of Norfolk, Nebraska, and Brianna Duerst, Norfolk City Clerk, known to me to be the identical persons who executed the foregoing instrument and acknowledged the execution thereof to be their voluntary act and deed on behalf of the City of Norfolk.

Witness my hand and notarial seal this _____ day of _____, 2020.

_____
Notary Public

_____
Notary Public, printed

4832-1013-0272, v. 5

AGREEMENT

This Agreement is made and entered into the _____ day of _____, 2020, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY", and Luis Cortez, doing business as Norfolk Adult Soccer League, hereinafter referred to as "SOCCER LEAGUE", WITNESSETH:

In consideration of the mutual covenants contained herein, and for other good and valuable consideration, CITY agrees to allow SOCCER LEAGUE to use the CITY's facility for soccer games subject to the following:

1. FACILITY. CITY, being the owner of soccer fields located in North Pine Park in Norfolk, Nebraska, is willing to allow the soccer fields to be used by SOCCER LEAGUE for soccer games for their 2020 summer/fall soccer season.

2. TERM. This Agreement shall be effective April 19, 2020 through September 27, 2020.

3. FEE. SOCCER LEAGUE shall pay a fee to CITY in the amount of Three Hundred Twenty Dollars ($320.00) for the eight (8) teams in their program for the use of CITY's soccer fields. Said fee shall be paid to CITY upon execution of this Agreement at the Norfolk City Clerk's Office, 309 North 5th Street, Norfolk, Nebraska.

4. NONEXCLUSIVE USE/TIMES. The parties understand that SOCCER LEAGUE's use of the soccer fields shall be nonexclusive and is subject to such times as may be designated or assigned by CITY's park and building maintenance superintendent.

5. FIELD MARKING. SOCCER LEAGUE shall mark the soccer fields for games at their own expense and only in a manner that is first approved by CITY's park and building maintenance superintendent.

6. ADMISSION FEES. SOCCER LEAGUE is not authorized to use the soccer fields under this Agreement for tournaments or any other games for which they charge admission fees for participants or spectators.

7. INSURANCE. SOCCER LEAGUE shall provide CITY with a certificate of general liability insurance in the following minimum amounts:

	General Aggregate	$2,000,000
a.	Bodily Injury/Property Damage	$1,000,000 each occurrence
b.	Personal Injury Damage	$1,000,000 each occurrence
c.	Contractual Liability	$1,000,000 each occurrence
d.	Products Liability & Completed Operations	$1,000,000 each occurrence
e.	Fire Damage	$ 100,000 any one fire
f.	Medical Expense	$ 5,000 any one person

SOCCER LEAGUE shall name CITY as an additional insured. The policy issued shall cover all activities sponsored by SOCCER LEAGUE while using CITY's soccer fields with no exclusions. A certificate of insurance shall be filed with the City Clerk's office upon execution of this Agreement. Said insurance shall be the primary insurance coverage for SOCCER LEAGUE's events. SOCCER LEAGUE agrees to be responsible for any damages or claim of loss not covered by SOCCER LEAGUE's insurance. In the event the certificate of insurance is not filed by April 9, 2020, then (1) SOCCER LEAGUE shall pay a late fee to CITY in the amount of $75.00, and (2) this Agreement shall be voidable at the option of CITY's risk manager.

8. HOLD HARMLESS/INDEMNIFICATION. SOCCER LEAGUE agrees to save, hold harmless, indemnify and defend CITY, its representatives, agents and employees from any loss or damage or claim of loss by SOCCER LEAGUE or any third party from damage or claim of damage that arises from any of the activities authorized or undertaken as provided in this Agreement and for any loss to CITY that results from SOCCER LEAGUE failing to perform its obligations under this Agreement or engaging in any activity not authorized by this Agreement**.**

9. RELEASES. In the event that SOCCER LEAGUE obtains Releases for participation in SOCCER LEAGUE's events while utilizing CITY's facilities under the terms of this Agreement, said Releases shall include a provision releasing CITY from the same liability and in the same manner that is afforded to other entities being released.

10. VOLUNTEERS. Any volunteers that access CITY's soccer fields as part of this Agreement are SOCCER LEAGUE's volunteers and SOCCER LEAGUE shall be responsible for any insurance coverage or liability related to or stemming from SOCCER LEAGUE's volunteers.

11. VEHICLE PARKING. Parking of vehicles shall be restricted to the main parking lot.

12. FIELD DAMAGE. SOCCER LEAGUE shall be responsible for any damage to any part of the soccer fields above normal use and wear for all times during which SOCCER LEAGUE has control of the soccer fields.

13. CLEANUP. SOCCER LEAGUE shall perform all trash cleanup of the area.

14. CONCESSIONS. SOCCER LEAGUE is prohibited from selling or participating in the sale of any concessions while utilizing CITY's facilities under the terms of this Agreement.

15. TENT. CITY shall allow SOCCER LEAGUE to erect up to two tents in the park at a location approved by CITY's park and building maintenance superintendent. Prior to setting any tent stakes, SOCCER LEAGUE shall coordinate with CITY's park and building maintenance superintendent as to the contemplated location of the tents. CITY will attempt to locate any private underground lines it owns. SOCCER LEAGUE shall not set any stakes until receiving approval from CITY's park and building maintenance superintendent as to the exact location where the tents are to be placed. SOCCER LEAGUE shall be responsible for any damage to any underground utility lines or to any unlocated lines.

16. NO SIGNS ALONG STATE HIGHWAY. Pursuant to Nebraska Administrative Code Title 410, Chapter 3, SOCCER LEAGUE shall not place signs advertising SOCCER LEAGUE's events on property adjacent to any state highway.

17. CANCELLATION. Notwithstanding any other provision of this Agreement, CITY retains the right to cancel any activities scheduled on CITY property due to inclement weather or for any other reason.

IN WITNESS WHEREOF, the parties hereto have executed the foregoing Agreement in duplicate the day and year first above written. This Agreement may be executed in counterparts. Each such counterpart, executed in duplicate, shall be deemed an original hereof and all such executed counterparts shall together be one and the same instrument.

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

ATTEST:

_____ By_____
Brianna Duerst, City Clerk Josh Moenning, Mayor

Approved as to Form: _____
Danielle Myers-Noelle, City Attorney

_____
Luis Cortez d/b/a
Norfolk Adult Soccer League

PROCLAMATION
for
"SPAY DAY USA"

WHEREAS: cats and dogs provide companionship and share the homes of hundreds of individuals in the Norfolk; and

WHEREAS: the problem of pet overpopulation is a reason for the cost of animal control and animal pound expense for Norfolk taxpayers; and

WHEREAS: animal pounds and shelters throughout the country must euthanize approximately four million cats and dogs each year, although many of them are healthy and adoptable, due to the lack of critical resources such as money, space, and good adoptive homes; and

WHEREAS: spaying and neutering cats and dogs, among other animal companions, has been shown to drastically reduce pet overpopulation; and

WHEREAS: veterinarians, national and local animal welfare organizations, and private citizens have joined together again this year to advocate and support the spaying and neutering of companion animals on "Spay Day USA 2020".

NOW, THEREFORE, BE IT RESOLVED, that I, Josh Moenning, Mayor of the City of Norfolk, Nebraska, by the power vested in me, do hereby proclaim February 25, 2020 as:

"SPAY DAY USA"

in the City of Norfolk and the surrounding area and urge citizens to observe this day by having their own cats or dogs spayed or neutered or by sponsoring the spaying or neutering of another person's cat or dog or a homeless cat or dog.

_____ **February 18, 2020**

MAYOR

SEAL

Proclamation
for
"PROBLEM GAMBLING AWARENESS MONTH"

WHEREAS: there are individuals and families in our community adversely affected by problem gambling; and

WHEREAS: compulsive gambling is often hidden from family members, social services and mental health professionals; and

WHEREAS: compulsive gambling often occurs in combination with other disorders such as chemical dependency and depression; and

WHEREAS: it is important to raise awareness of the warning signs of compulsive gamblers and connect them with professional help.

NOW THEREFORE, I, Josh Moenning, Mayor of the City of Norfolk, by the power vested in me, do hereby proclaim the month of March, 2020, as:

"Problem Gambling Awareness Month"

and urge citizens to learn more about the consequences of problem gambling and help available through the Nebraska Gamblers Assistance Program.

_____

Mayor

February 18, 2020

s e a l

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

For Office Use Only	Date Rec'd 1/10/19 Fee $_____ Rec'd by JOLSON

ZONING CHANGE APPLICATION

Applicant: Alfredo Morales (Name) 337 W NorthWestern Ave Norfolk NE 68701 (Address)
402 640-9585 (Phone) amorales915@Hotmail.com (Email)

*If applicant is an LLC, a copy of the operating agreement must be submitted with the application.

Contact: (other than applicant) _____ (Name) _____ (Address)
_____ (Phone) _____ (Email)

Current Zoning: C-2 & I-2 **Proposed Zoning:** I-1

Location of Property: 332 & 317 W. Northwestern Ave

Legal Description: See attached

Property Area, Square feet and/or Acres: approx. 0.86 Ac

Use of Adjoining Properties:

North: resid. East: business South: business West: business

Signature of Owner

Printed Name of Owner

OR

Authorized Agent

Printed Name of Authorized Agent

Return Completed forms to: Norfolk Planning Department; 309 N 5th Street; Norfolk, NE 68701 Rev. 2018

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

ZONING CHANGE
JUSTIFICATION FORM

1. What type of development does the Norfolk Comprehensive Plan recommend for this area?
Industrial

2. Does the zone change request conform to the Comprehensive Plan?
yes

3. Is the proposed property in the Floodplain hazard area as delineated under the Federal Flood Insurance program?
No

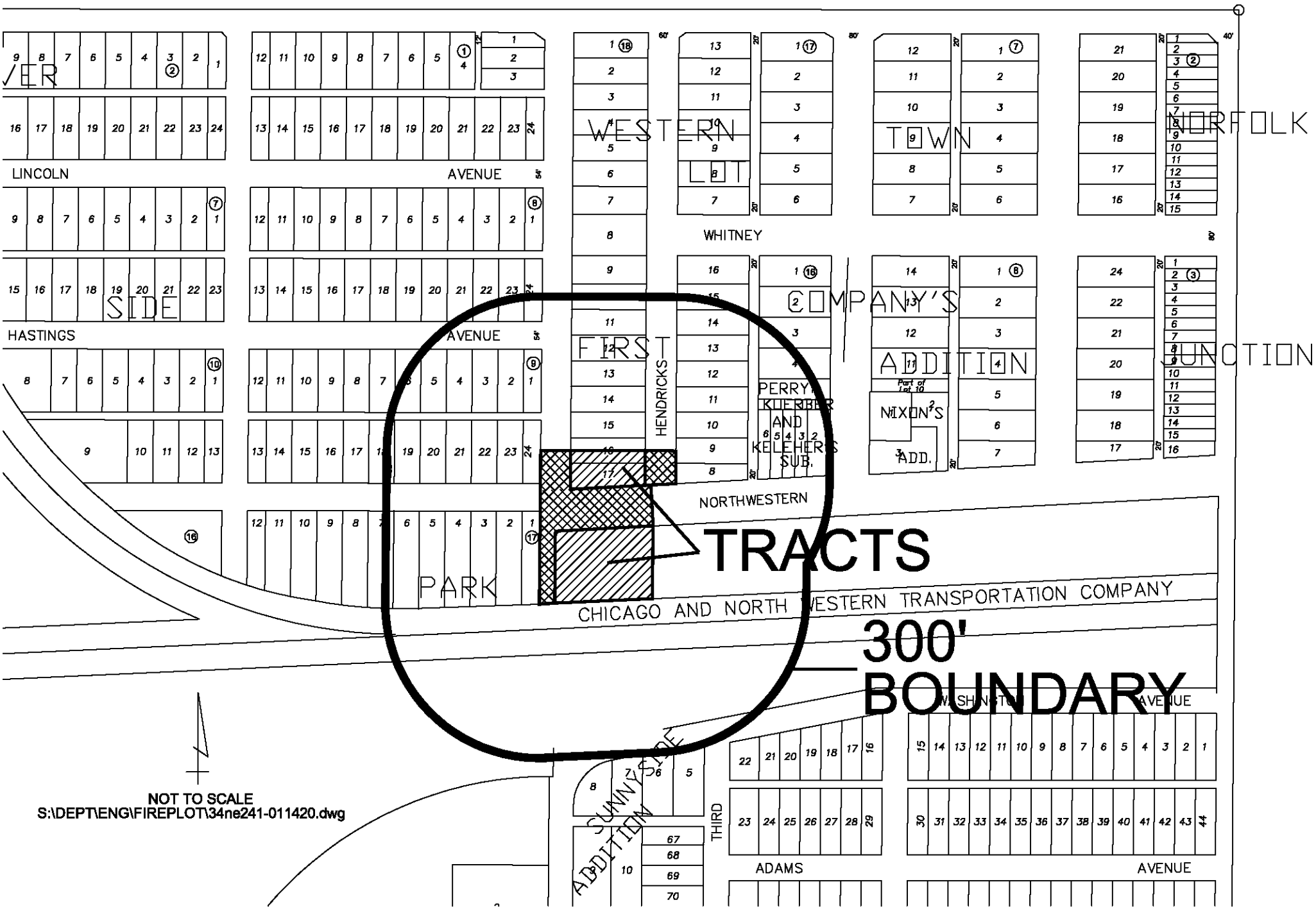
4. What is the justification for the zone change as it relates to the overall Land Use?
request for business use like the surrounding neighbors

5. How would this zoning district conform with adjacent properties' zoning?
yes

6. What is the general character of the area?
business + residential

7. Is adequate sewer and water available? How do you propose to provide adequate public utilities?
yes

Return Completed forms to: Norfolk Planning Department; 309 N 5th Street; Norfolk, NE 68701 Rev. 1-2018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CHICAGO AND NORTH WESTERN TRANSPORTATION COMPANY
NORTHWESTERN
PARK
LINCOLN AVENUE
HASTINGS AVENUE
WESTERN LOT
FIRST ADDITION
HENDRICKS
WHITNEY
COMPANY'S ADDITION
NORFOLK JUNCTION
PERRY KUEBLER AND KELEHER'S SUB.
NIXON'S ADD.
SUNNYSIDE ADDITION
THIRD
ADAMS
AVENUE

City of Norfolk
NEBRASKA
progress. right at home.

309 N 5th St
Norfolk, NE 68701
P402-844-2280 F402-844-2028
www.ci.norfolk.ne.us

February 4, 2020

Honorable Mayor
and
City Council

Dear Mayor and Council:

The Norfolk Planning Commission held a public hearing on February 4, 2020 at the request of Alfredo Morales to consider a zoning change from C-2 (Central Business District) to I-1 (Light Industrial District) on property located at 332 W Northwestern Avenue and I-2 (Heavy Industrial District) to I-1 (Light Industrial District) on property located at 317 W Northwestern Avenue.

The Planning Commission recommends approval of the request with a 9-0 vote.

Sincerely,

Dan Spray, Chairman
Norfolk Planning Commission

ORDINANCE NO. 5648

AN ORDINANCE OF THE CITY OF NORFOLK, MADISON COUNTY, NEBRASKA; AMENDING THE ZONING DISTRICT MAP OF THE CITY OF NORFOLK, NEBRASKA; PROVIDING WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND PROVIDING FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. That the C-2 (Central Business District) and I-2 (Heavy Industrial District) zoning on the following described real estate:

Lot 17 and the South Half of Lot 16, Block 18, Subdivision of Outlot "A" of Western Town Lot Company's First Addition to Norfolk Junction, Norfolk, Madison County, Nebraska.

AND

Tract 1
That part of the Northeast Quarter of the Northeast Quarter of Section 34, Township 24 North, Range 1 West of the Sixth Principal Meridian, Madison County, Nebraska bounded and described as follows: Commencing at the intersection of the West line of said Quarter-Quarter Section and the Southerly line of Northwestern Avenue (formerly First Street); thence Easterly along said Southerly line of Northwestern Avenue a distance of 60 feet to the point of beginning of the parcel of land herein described; thence continuing Easterly along said Southerly line of Northwestern Avenue a distance of 130 feet; thence Southerly parallel with the West line of said Quarter-Quarter Section to a point distant 20 feet Northwesterly, measured at right angles, from the center line of Chicago and North Western Railway Company Spur Track I.C.C. No. 125, as said spur track is now located; thence Southwesterly parallel with said spur track center line to a point on a line drawn parallel with the West line of said Quarter-Quarter Section through the point of beginning; thence Northerly along said last described parallel line to the point of beginning. The parcel herein described is shown on and more particularly described as Tract "1" of a survey by Jeffrey S. Ryan, RLS #541, filed of record on the 1st day of December, 2008 at Cabinet 6, Page 192B of Survey records of the Register of Deeds of Madison County, Nebraska, may also be described as follows:
A tract of land located in part of the Northeast Quarter of the Northeast Quarter of section 34. Township 24 North, Range 1 West of the 6th P.M., Madison County, Nebraska more particularly described as follows:
Commencing at the intersection of the West line of the East Half of the Northeast Quarter of said section 34 and the Southerly line of Northwestern Avenue; thence North 86 degrees 50 minutes 13 seconds East (An assumed bearing) 60.0 feet on said South line of Northwestern Avenue to the Point of Beginning; thence continuing North 86 degrees 50 minutes 13 seconds East, 130.00 feet on said South line to the Northwest corner of a tract of land deeded to Brad's Repair; thence South 00 degrees 08 minutes 56 seconds West 141.96 feet on the West line of said tract to a point 20.00 feet Northwesterly, measured at right angles from the center line of Chicago and Northwestern Railway Company spur track I.C.C. No. 125 as said tract is

now located; thence South 87 degrees 02 minutes 29 seconds West, 93.59 feet on a line parallel with and 20.00 feet North of said spur truck to a point of curvature; thence Southwesterly on said curve concave to the Southeast, said curve has a radius of 2819.43 feet and an arc distance of 35.45 feet, the chord of said curve has a bearing of South 86 degrees 45 minutes 34 seconds West and a distance of 35.43 feet, said curve runs parallel with and 20 feet North of said spur track; thence North 00 degrees 14 minutes 25 seconds West, 141.62 feet to the Point of Beginning, said tract contains 18,327.82 square feet more or less.

AND

Tract 2

That part of the Northeast Quarter of the Northeast Quarter of Section 34, Township 24 North, Range 1 West of the Sixth Principal Meridian, Madison County, Nebraska bounded and described as follows: Beginning at the intersection of the West line of said Quarter-Quarter Section and the Southerly line of Northwestern Avenue (formerly First Street); thence Easterly along said Southerly line of Northwestern Avenue a distance of 60 feet; thence Southerly parallel with the West line of said Quarter-Quarter Section to a point distant 20 feet Northwesterly, measured at right angles, from the center line of Chicago and North Western Transportation Company Spur Track I.C.C. No. 125, as said spur track is now located; thence Southwesterly parallel with said spur track center line to a point on the West line of said Quarter-Quarter Section; thence Northerly along said West line to the point of beginning. The parcel herein described is shown on and more particularly described as Tract “2” of a survey by Jeffrey S. Ryan, RLS #541, filed of record on the 1st day of December, 2008 at Cabinet 6, Page 192B of Survey records of the Register of Deeds of Madison County, Nebraska, may also be described as follows:

That part of the Northeast Quarter of the Northeast Quarter of Section 34, Township 24 North, Range 1 West of the Sixth Principal Meridian, Madison County, Nebraska bounded and described as follows: Beginning at the intersection of the West line of said Quarter-Quarter Section and the Southerly line of Northwestern Avenue (formerly First Street); thence Easterly along said Southerly line of Northwestern Avenue a distance of 60 feet; thence Southerly parallel with the West line of said Quarter-Quarter Section to a point distant 20 feet Northwesterly, measured at right angles, from the center line of Chicago and North Western Transportation Company spur track I.C.C. No. 125, as said spur track is now located; thence Southwesterly parallel with said spur truck center line to a point on the West line of said Quarter-Quarter Section; thence Northerly along said West line to the point at beginning. Said Tract "2" may also be described as follows:

A tract of land located in part of the Northeast Quarter of the Northeast Quarter of Section 34, Township 24 North. Range 1 West of the 6th P.M., Madison County, Nebraska, more particularly described as follows: Beginning at the intersection of the West line of the East Half of the Northeast Quarter of said Section 34 and the Southerly line of Northwestern Avenue; thence North 85 degrees 50 minutes 13 seconds East (An assumed bearing) 60.0 feet; thence South 00 degrees 14 minutes 25 seconds East, 141.62 feet to a point 20.00 feet North measured at right angles, from the centerline of Chicago and Northwestern Railway Company spur track I.C.C. No. 125, as said spur is now located; thence Southwesterly on o curve concave to the Southeast; said curve has a radius of 2819.43 and an arc distance of 61.15 feet; the chord of said curve has a bearing of South 85 degrees 46 minutes 41 seconds West and a distance of 61.15 feet; said curve runs parallel with and 20.0 feet North of said

spur track to a point on the West line of the East half of said Northeast quarter, thence North 00 degrees 03 minutes 58 seconds West, 142.78 feet on said West line to the Point of Beginning, said tract of land contains 8,636.51 square feet, more or less,

is hereby changed to I-1 (Light Industrial District).

Section 2. That this ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form according to law.

PASSED AND APPROVED this _____ day of _____, 2020.

_____
Josh Moenning, Mayor

ATTEST:

_____
Brianna Duerst, City Clerk

(SEAL)

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

ORDINANCE NO. 5646

AN ORDINANCE OF THE CITY OF NORFOLK, NEBRASKA TO AMEND SECTION 3-5 OF THE OFFICIAL CITY CODE TO ALLOW THE SALE OF ALCOHOLIC LIQUOR ON ANY DAY FROM 6:00 A.M. UNTIL 2:00 A.M. THE FOLLOWING DAY; TO PROVIDE WHEN THIS ORDINANCE SHALL BE IN FULL FORCE AND EFFECT; AND TO PROVIDE FOR THE PUBLICATION OF THIS ORDINANCE IN PAMPHLET FORM.

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

Section 1. That Section 3-5 of the Official City Code be and the same is hereby amended to read as follows:

Sec. 3-5. Hours of sale ~~on Sunday~~.

(a) Consumption off the premises.

Alcoholic liquor, including beer and wine, may be sold for consumption off the premises where sold, on ~~Sunday between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday~~ any day from 6:00 a.m. until 2:00 a.m. the following day.

(b) Consumption on the premises.

Alcoholic liquors, including beer and wine for consumption on the premises may be sold at retail or dispensed ~~between the hours of 6:00 a.m. Sunday and 1:00 a.m. Monday~~ on any day from 6:00 a.m. until 2:00 a.m. the following day.

Section 2. That this Ordinance was approved by a two-thirds vote of the members of the City Council as required by *Nebraska Revised Statutes*, §53-179.

Section 3. That the effective date of this Ordinance shall be from and after its passage, approval and publication in pamphlet form as required by law.

PASSED AND APPROVED this _____ day of _____, 2020.

ATTEST:

_____ _____

Brianna Duerst, City Clerk Josh Moenning, Mayor

Approved as to form: _____

Danielle Myers-Noelle, City Attorney

FIRST ADDENDUM AGREEMENT

This First Addendum Agreement is made and entered into this _____ day of _____, 2020, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as “CITY”; and EHPV Lottery Services LLC, A Nebraska Limited Liability Company, doing business as Big Red Keno, and Endgame Lottery Services LLC, a Nebraska Limited Liability Company, doing business as Big Red Keno, hereinafter collectively referred to as “CONTRACTOR”.

WHEREAS, CITY and EHPV Lottery Services LLC entered into a Lottery Operator Agreement, herein referred to as the "original Agreement" on August 4, 2008, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "1", wherein EHPV Lottery Services LLC agreed to operate a Keno-type lottery in the City of Norfolk according to the terms and conditions set forth therein; and

WHEREAS, on or about December 15, 2008, EHPV Lottery Services, LLC and Endgame Lottery Services LLC entered into a Norfolk Lottery Operator Assignment and Assumption Agreement, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit “2”, wherein EHPV Lottery Services LLC assigned all of its right, title and interest under the original Agreement to Endgame Lottery Services LLC and said Assignment and Assumption stated that EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement; and

WHEREAS, on or about July 15, 2013, CITY and CONTRACTOR entered into a Renewal Agreement extending the original Agreement (as assigned by EHPV Lottery Services LLC to Endgame Lottery Services LLC on December 15, 2008) through August 3, 2013, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit “3”; and

WHEREAS, on or about July 16, 2018, CITY and CONTRACTOR entered into a Renewal Agreement extending the original Agreement (as assigned by EHPV Lottery Services LLC to Endgame Lottery Services LLC on December 15, 2008) through August 3, 2023, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit “4”; and

WHEREAS, CITY and CONTRACTOR desire to amend the original Agreement (as assigned and renewed) to allow the operation of keno until 2:00 a.m. to coincide with CITY’s allowable hours of alcohol sales.

IT IS THEREFORE agreed by and between the parties as follows:

1. That paragraph 4 of the original Agreement (as assigned and renewed) is hereby amended to read as follows:

"4. HOURS OF OPERATION.

The Contractor may operate the keno lottery only between the hours of 6:00 A.M. and 2:00 A.M."

2. All other terms, conditions and provisions of the original Agreement (as assigned and renewed) are to apply to this Agreement and are made a part of this Agreement as though they were expressly rewritten, incorporated and included herein.

3. EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement as amended by this First Addendum Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this First Addendum Agreement in triplicate the day and year first above written.

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation,

ATTEST:

_____
Josh Moenning, Mayor

_____
Brianna Duerst, City Clerk

Approved as to form: _____
Danielle Myers-Noelle, City Attorney

EHPV LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

_____
Printed Name: _____
Witness

By_____
Printed Name: _____
Title: _____

ENDGAME LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

_____
Printed Name: _____
Witness

By_____
Printed Name: _____
Title: _____

EXHIBIT "1"

LOTTERY OPERATOR AGREEMENT

This Agreement is made and entered into this 4th day of August, 2008, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "City," and EHPV Lottery Services LLC, A Nebraska Limited Liability Company, doing business as Big Red Keno, hereinafter referred to as "Contractor."

RECITALS

WHEREAS, a majority of the voters of the City of Norfolk who participated in the Primary Election on May 13, 2008 cast ballots in favor of authorizing the establishment of a municipal lottery for the operation of a Keno-type lottery pursuant to the Nebraska County and City Lottery Act (Section 9-601 et. seq. of the Nebraska Revised Statutes) in the City of Norfolk, Nebraska; and

WHEREAS, the Mayor and City Council of the City of Norfolk, Nebraska approved moving forward to establish such lottery and advertised for proposals of a Keno-type lottery to be operated by an independent contractor lottery operator; and

WHEREAS, the Mayor and City Council accepted the Contractor's proposal for operating a Keno-type lottery in the City of Norfolk, Nebraska; and

WHEREAS, Contractor agrees to conduct a lottery in compliance with all applicable laws and regulations of the United States, State of Nebraska, and City of Norfolk; and

WHEREAS, the proceeds of the lottery shall be used pursuant to Section 9-604 of Nebraska Revised Statutes.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the parties do hereby agree and contract as follows:

1. DEFINITIONS

a. Gross Proceeds. "Gross Proceeds" shall mean the total aggregate receipts received from the conduct of the lottery without any reduction for prizes, discounts, taxes or expenses and shall include receipts from admission costs, any consideration necessary for participation, and the value of any free tickets, games or plays used; but shall not include any amounts received from the sale of concessions or any other legitimate business operations as authorized in this Agreement.

b. Expenses. Expenses shall mean:

(1) all costs associated with the purchasing, printing or manufacturing of any items to be used or distributed in the lottery;

(2) all office or clerical expenses in connection with the lottery;

(3) all promotional expenses for the lottery;

(4) all salaries of persons employed to operate, conduct, or supervise the lottery;

(5) any rental or lease expense related to the lottery;

(6) any fee or commission paid to any person associated with the lottery;

(7) license fees paid to the department; and

(8) any other costs associated with the conduct of the lottery, but not including taxes paid pursuant to Neb. Rev. Stat. Section 9-648 or prizes awarded to participants.

c. Keno Lottery or Keno Type Lottery. "Keno Lottery" or "Keno Type Lottery" shall mean any lottery as permitted by Neb. Rev. Stat. Section 9-607(1)(c)(ii).

d. Others. For the purposes of this Agreement and except for those definitions expressly set forth herein, unless the context otherwise requires, the definitions found in the Nebraska County and City Lottery Act, Neb. Rev. Stat. Section 9-601 et seq., and any rules and regulations promulgated thereunder shall be used.

2. RIGHTS AND DUTIES OF CONTRACTOR

a. The City hereby grants to the Contractor and the Contractor hereby accepts the exclusive right to operate personally and directly on behalf of the City a keno type lottery (as defined in Neb. Rev. Stat. Section 9-607) within the corporate limits of the City for the term of this Agreement. In operating such lottery, the Contractor acknowledges and agrees that it is acting in the capacity of an independent contractor only.

b. The Contractor agrees that the keno type lottery to be operated by it will include a one hundred thousand dollar ($100,000.00) top prize and will strictly conform to the Contractor's proposal to the City which is attached hereto and marked as Exhibit "A," as well as the terms, provisions, and conditions of this Agreement. To the extent that any terms of the Contractor's proposal and this Agreement are deemed or construed to be inconsistent or in conflict, the terms of this Agreement shall apply.

c. The Contractor agrees to strictly comply with and conform to the requirements, provisions, and conditions of the Nebraska County and City Lottery Act, Neb. Rev. Stat. Section 9-601 et seq., together with any and all other federal, state, and local laws and administrative rules and regulations promulgated by the Nebraska Department of Revenue.

d. The Contractor agrees to submit to the Nebraska Department of Revenue an application for a license as a lottery operator and all required documentation and information as soon as reasonably possible after final approval of this Agreement, and to promptly complete all acts necessary to obtain such operator's license as required by Neb. Rev. Stat. Section 9-630 at all times during the term of this Agreement.

e. The Contractor shall provide the expertise, equipment, services, supplies, employees, locations, and financing necessary to operate the keno type lottery on behalf of the City. Each outside ticket used in the keno lottery shall have the City's name printed clearly thereon and shall bear numbers, which numbers shall be in sequence. No such ticket shall be sold unless the name of the City and number are printed thereon.

f. The Contractor shall devote one hundred percent (100%) of pickle card proceeds at the permanent main location to Norfolk charities.

3. LOTTERY FACILITIES

a. The Contractor is authorized to operate a main location within the corporate limits of the City. Initially, the contractor shall operate from a temporary main location to be selected, with the approval of the City Council, from one of the approved satellite locations, to be opened as soon as possible following the execution of this agreement. As soon as reasonably possible thereafter, the Contractor shall move to a permanent main location as described in Contractor's proposal to the City which includes the construction of a sports bar/family restaurant within Norfolk, with the Contractor using all reasonable efforts to have such move completed within twelve months from the effective date of this agreement. Said main location, and any and all new or additional main locations shall be subject to approval of the City Council and must conform to the Contractor's proposal to the City in all respects, except as expressly waived or otherwise agreed to by the City Council. Nothing herein shall be construed to prohibit the Contractor from relocating the main location, or opening an additional main location, provided, however, that any new main location must be approved by the City Council and any move to a new main location must be accomplished in such a fashion as to cause no more than three days' delay or interruption in the conduct of the keno lottery operation.

b. The Contractor may operate any number of satellite locations subject to the approval of the City Council, which approval shall not be unreasonably withheld. Each satellite location must meet the following qualification standards:

(1) The Contractor and the satellite location owner must have a written agreement governing keno lottery operations at the satellite location. Such agreement shall prohibit any satellite owner from violating any law, rule, or regulation governing the keno type lottery operation and such agreement shall be submitted to the City Council;

(2) The satellite location shall have seating capacity and available parking sufficient to accommodate members of the general public who may wish to come to the location to observe or play the game of keno or to engage in any other activity conducted on the premises;

(3) The satellite location shall have sufficient facilities to permit the Contractor to sell keno tickets;

(4) The satellite location shall have a board or other monitor, clearly visible to the players, on which the winning numbers are displayed;

(5) The satellite location shall have proper security for the keno lottery operations and associated activities;

(6) All persons with any direct or indirect ownership in the satellite location must be of good character and financially responsible; and

(7) The satellite location shall meet such other criteria as established by the City.

Each satellite location shall possess the capability of issuing keno tickets and displaying and reviewing winning numbers.

c. The Contractor shall be responsible for the operation of the keno lottery at each location in strict compliance with this Agreement and all laws, rules, and regulations governing keno lottery operations. The Contractor shall notify the City of any violation occurring at a satellite location and shall take all necessary action to correct any violation occurring at the satellite location within twenty-four (24) hours of the time the Contractor knows or should have known of the violation, including termination of all keno lottery operations at the satellite location, if necessary.

d. During the first year of the term of this contract, Contractor shall spend at least one-half of one percent (.5%) of Gross Proceeds of the Norfolk keno lottery for such year on marketing expenses directly attributable to the Norfolk keno lottery, including without limitation the cost to the Contractor of obtaining, running and distributing newspaper advertisements, billboards, promotional items, giveaways, flyers, point of sale materials, posters and other marketing promotions and materials. After the first year of the contract, the Contractor shall spend at least one-third of one percent (.333%) of Gross Proceeds of the Norfolk keno lottery for said marketing expenses. Said marketing expenses shall be a part of the Contractor's fourteen percent (14%) of the Gross Proceeds.

4. HOURS OF OPERATION.

The Contractor may operate the keno lottery only between the hours of 6:00 A.M. and 1:00 A.M.

5. APPROVAL OF EQUIPMENT AND SECURITY

a. Prior to commencing operation, the Contractor shall make available upon request for inspection, testing, and approval all lottery equipment proposed to be used in the keno lottery operation. Said inspections and/or tests shall be conducted by the City or its designee, including but not limited to the Nebraska Department of Revenue, Federal Bureau of Investigation (FBI), other governmental or law enforcement agencies, or independent testing or auditing firms. Any such inspection may be in addition to any required by state law. Inspections or tests may also be conducted at any time during the course of this Agreement by the City or its designee without prior notice. The City retains the right to reject any lottery equipment not meeting all legal requirements, its rejection of which shall not be unreasonably given. In the event of rejection, the Contractor shall immediately discontinue use of such lottery equipment and provide sufficient lottery equipment to perform its duties under this Agreement.

b. The Contractor shall be required to install and maintain security devices and measures to ensure the integrity, honesty, and fairness of the keno lottery operation. Such security system is subject to the approval of the City, which approval shall not be unreasonably withheld. The security system is subject to inspection and testing at any time without prior notice in the same manner described in paragraph 5.a.

c. One (1) copy of the detailed plans, drawings, and specifications of the security system, outlining in specific detail the system and devices to be used shall be kept on file in a secured place in the office of the City. The same shall be available only to individuals authorized by the City, with the concurrence of the Contractor, to have access to the same for the purpose of ensuring compliance with this Agreement, and in particular paragraph 5.b. above. Any such material shall not be construed to be a public record. The Contractor shall keep this information continually current.

6. TERM

The initial term of this Agreement shall be for five (5) years from the date hereof, unless earlier terminated as provided in this Agreement. Following the initial term, the parties may agree to renew this Agreement for three (3) additional terms of five (5) years each.

7. COMPENSATION AND ALLOCATION OF PROCEEDS

a. Excluding proceeds on the sale of concessions and other legitimate business operations, the Contractor shall be entitled to an amount not to exceed fourteen percent (14%) of the Gross Proceeds of the keno lottery and shall from said fourteen percent (14%) be solely responsible for the payment of all expenses and operation of the keno lottery, including taxes, insurance, rent, advertising, printing, manufacturing, equipment, supplies, fees, commissions, salaries, marketing expenses required in paragraph 3(d), and all other such expenses incurred in the operation of the keno

lottery; provided, however, the City and not the Contractor shall be responsible for the two percent (2%) lottery tax imposed upon the City pursuant to Neb. Rev. Stat. Section 9-648, and such other audit and legal expenses as agreed to be paid by the City under this Agreement.

b. Pursuant to Neb. Rev. Stat. Section 9-629, no less than sixty-five percent (65%) of the Gross Proceeds of the keno lottery shall be used for the awarding of prizes. The Contractor may, in its discretion, adjust upward from sixty-five percent (65%) the amount of Gross Proceeds used for awarding prizes to the participants; provided, the minimum set forth herein shall not amend or supersede the percentage for awarding of prizes set forth in the proposal, and that the Contractor provide the City written notice within twenty-four (24) hours of any change in the prize pay tables.

c. The remainder of the Gross Proceeds of the keno lottery shall be paid to the City, but in no event shall the Contractor pay to the City with respect to any calendar month, or portion thereof, an amount less than twelve and one-half percent (12.5%) of the Gross Proceeds, less the amount of any unclaimed wins paid to the City for such month. Two percent (2%) of the City's 12.5% shall be used to pay the state tax pursuant to Neb. Rev. Stat. Section 9-648 for said period.

d. The payment of proceeds and unclaimed wins to the City shall be made no later than fifteen (15) days following the last day of the keno lottery operations for each month and shall be accompanied by the monthly financial report as provided for in paragraph 8.a. of this Agreement. Interest shall accrue on all payments due the City at the judgment interest rate established by state law from the first day of each month such payment is due until paid, if payment is not made on or before fifteen (15) days following the last day of the keno lottery operations for each month.

e. All funds of the lottery shall be maintained by the Contractor in an account at a federally insured financial institution. All funds, if any, over and above the fourteen percent (14%) of Gross Proceeds paid to the Contractor, the twelve and one-half percent (12.5%) of Gross Proceeds paid to the City each month and amounts paid to winning players ("Accumulated Funds"), shall be allowed to accumulate in such account during the continuation of the keno lottery. If at the end of any calendar month the Accumulated Funds exceed $200,000.00, the Operator shall pay the excess to the City as provided in paragraph 7.d. Upon expiration or termination of this Agreement for any reason, all Accumulated Funds, if any, shall be paid to the City.

f. In addition to the 12.5% of the Gross Proceeds guaranteed to the City, the Contractor shall, within 10 days of the signing of this Agreement, make a donation of one hundred thousand dollars ($100,000.00) to the City to be used specifically toward the proposed renovations of the athletic facilities at Memorial Field.

g. In addition to the 12.5% of the Gross Proceeds guaranteed to the City, upon the completion of the Contractor's main location, the Contractor shall offer a "Memorial

Field Burger" at its main location and shall contribute one dollar ($1.00) to the City for every burger sold to be used for improvements at Memorial Field.

8. RECORD KEEPING AND AUDITING

a. The Contractor agrees to maintain or cause to be maintained complete books and records of all operations associated with the operation of the keno lottery, including but not limited to all costs and proceeds associated with the keno lottery and concession sales. All books and records must be sufficient to comply with the provisions of the Nebraska County and City Lottery Act, Neb. Rev. Stat. Section 9-601 et seq., and the rules and regulations promulgated thereunder. The Contractor shall submit to the City monthly financial reports for said operations no later than fifteen (15) days following the last day of each month's operation. Such monthly reports shall contain all information necessary to complete any report required by law, rules, regulations, including information related to proceeds, expenses, taxes, fees, maintenance, and commissions for the month reported.

b. The City shall have the right, without notice, to review and examine all books and records of the Contractor relating to the keno lottery operations, sales of concessions, and other legitimate business operations conducted at the keno lottery locations. An annual audit of the Contractor's books and records as required by the County and City Lottery Act and Regulations shall be conducted by an independent certified public accountant firm selected by Contractor and approved by City, the cost of which shall be borne by the City. The City shall have the right to conduct or cause to be conducted an audit of the Contractor's books and records at any other time. If the City elects to retain outside auditors in the performance of such audit, the City shall pay the cost of such audit.

c. The Contractor agrees to provide to the City, and keep current, financial statements of the Contractor. The Contractor shall prohibit the transfer of any ownership interest in the Contractor without prior approval of the City.

d. The Contractor agrees to notify the City within thirty (30) days of the commencement of any litigation, whether civil or criminal, involving the Contractor, or any officer, director, or partner of the Contractor, or any shareholder of the Contractor owning greater than five percent (5%) of the outstanding equity of the Contractor. In addition, the Contractor agrees to notify the City of any violation of the applicable laws, rules, and regulations governing keno lottery operations committed by an employee of the Contractor within twenty-four (24) hours of the time the Contractor knows or should have known of the violation.

e. The Contractor shall be responsible for all federal, state, and local taxes, licensing, and reporting requirements for itself, the City, and lottery winners as provided or permitted by law; except that the City shall be responsible for payment of the two percent (2%) lottery tax imposed upon it pursuant to Neb. Rev. Stat. Section 9-648,

but the Contractor shall prepare any report therefore. The Contractor shall register with the Internal Revenue Service pursuant to Section 4412 of the IRS Code, and pay the required occupation tax unless the keno lottery operation conducted by the Contractor is not subject to the federal excise tax on wagering imposed under Section 4401 et seq. of the Internal Revenue Code of 1954.

f. All Gross Proceeds of the keno lottery, except that portion paid out in cash prizes of One Thousand Five-Hundred Dollars ($1,500.00) or less, shall be deposited in a separate bank account maintained at a federally insured bank. All expenses and prizes, except cash prize payouts of One Thousand Five-Hundred Dollars ($1,500.00) or less, shall be paid by check drawn on said bank account.

g. The Contractor shall provide a monthly ticket report to the City with a detailed record of all tickets and of each winning ticket and amount. The Contractor shall provide in said monthly report the name and address of each player with net winnings of One Thousand Five-Hundred Dollars ($1,500.00) or more. The monthly ticket report shall be provided within twenty-five (25) days following the last day of each month's operations, and may be provided electronically, provided that Contractor shall cooperate with the City to ensure compatibility of the electronic format.

h. In the event this Agreement is terminated or forfeited prior to the expiration of its term, the Contractor shall immediately submit to the City a financial report prepared as would otherwise be required, since the period for which the payment was made. Payment for said period shall be due to the City within fifteen (15) days following the termination.

9. BREACH AND TERMINATION

a. Breach. The Contractor shall be deemed in breach of this Agreement upon the happening of any of the following events:

(1) Insolvency of the Contractor;

(2) The filing of a petition of bankruptcy for the protection, under chapters 7, 11, or 13 of the Bankruptcy Code, of the Contractor, any officer, director, or partner of the Contractor, or any person owning greater than five percent (5%) of the outstanding equity of the Contractor or any corporate owner of the Contractor.

(3) The conviction of the Contractor, any officer, director, partner, or employee of the Contractor, or any person owning greater than five percent (5%) of the outstanding equity of the Contractor or any corporate owner of the Contractor, of a felony relating to the honesty or trustworthiness of the Contractor in performance of this Agreement or in the performance of any other gaming operation. Convictions of other crimes involving moral turpitude or of such a nature as, in the opinion of the City, may in any way adversely reflect upon the

keno lottery operation or the City, or in any way give the appearance of impropriety, shall give the City, by and through the City Council, the right to request the removal of any such person so convicted. Failure to honor such request will constitute a breach of this Agreement;

(4) The failure to comply with any federal, state, or local law, or rules and regulations;

(5) The failure to provide material information, the furnishing of false information, or the omission of material information as required to be disclosed by the Contractor under this Agreement;

(6) Any attempt to evade any material provision of this Agreement, or the practice of, any fraud or deceit upon the City or patrons of the keno lottery operations;

(7) The failure to cooperate with any certified public accountant performing auditing functions provided for by this Agreement, the Police Department, any City officials, the City Council, officials of the Department of Revenue, or any other public authority empowered to monitor or enforce this Agreement;

(8) The failure to pay prizes as required by law or this Agreement;

(9) The failure to pay the City the agreed upon percentage of proceeds;

(10) The failure to obtain or maintain the required insurance coverage;

(11) The failure to obtain or maintain the required letter of credit; or

(12) Any other breach under this Agreement.

b. Termination for Breach. In addition to any other remedies provided in this contract, or any other remedies available to the City at law or in equity, if the Contractor breaches any of the terms of this Agreement, or is otherwise in default of this Agreement, the City may give written notice to the Contractor that if the Contractor fails to cure such breach or default within 30 days after notice is received, then the Agreement shall be terminated. The City may, however, and without any obligation whatsoever to do so, extend the period within which to allow the Contractor to cure any such breach or default. In the event that the Contractor fails to cure any such breach or default within the required time, then this Agreement shall be automatically terminated, it being expressly understood and agreed that no further action need be taken by the City to so terminate this Agreement and further, that the Operator expressly waives further notice of termination in such circumstance. The City may terminate this Agreement immediately without notice, an opportunity to cure or an opportunity to appeal upon the occurrence of any event of breach under Paragraph 9(a)(1), (2) or (3).

c. Other Remedies for Breach. In the event of any breach of this Agreement, and in addition to all remedies available under this Agreement or at law or in equity, the City shall be entitled to affirmative or negative injunctive relief.

d. Termination upon Election. This Agreement may also be terminated by the City upon thirty (30) days notice to the Contractor if the keno type lottery has been discontinued by an election authorized under Neb. Rev. Stat. Section 9-626 or Section 9-627.

e. Absence of Locations. The obligations of Contractor under this Agreement are subject to the willingness of one or more locations within City to serve as satellite locations upon commercially reasonable terms. The failure of the Contractor to operate the lottery due to a lack of willing satellite locations shall not be considered a breach of this Agreement. If Contractor does not have any satellite locations operating for any continuous period of 90 days at any time during the term of this Agreement, the City shall have the right to terminate this Agreement.

10. COMPLIANCE WITH GOVERNING LAWS

a. The Contractor agrees to comply and conform with all applicable federal, state, and local laws relating to the operation of the keno lottery. In the event any such law should be changed, amended, repealed, or newly enacted, the Contractor shall conform the keno lottery operation to such change by the time of the effective date of the change in law. In the event the particular keno type lottery placed in operation with this Agreement is declared illegal, or the enabling statutes of the State of Nebraska are repealed, or other similar federal or state action occurs, this Agreement may be terminated by the City without liability. In the event that a change in federal or state law resulting in licensing, reporting, filing, disclosure, or other non-economic type regulation, the Contractor shall conform and comply with all such regulation and this Agreement shall continue in full force and effect.

b. Should the City determine that a material provision of this Agreement is affected by any subsequent action of the federal or state government, the City Council shall have the right to modify any of the provisions herein to such reasonable extent as may be necessary to carry out the full intent and purpose of this Agreement.

11. CESSATION OR INTERRUPTION OF OPERATIONS

In the event that the Contractor shall cease operations at all locations for more than twenty-four (24) hours, except Sundays and legal holidays, the Contractor shall notify the City in advance of the interruption or as soon thereafter as possible stating the reasons for the interruption and the anticipated length of the cessation of operations.

12. INSURANCE

Contractor shall, at all times, maintain insurance with an insurer acceptable to the City covering general liability in the amount of One Million dollars ($1,000,000.00) per occurrence and Five Million Dollars ($5,000,000.00) aggregate for bodily injury and One Hundred Thousand Dollars ($100,000.00) for property damage and shall provide for assumed contractual liability coverage as imposed by this Agreement notwithstanding that the City be named as additional insured. Contractor shall provide, on an annual basis, proof of said insurance to the City and City shall be named insured therein. Said insurance shall contain a non-cancellation provision requiring thirty (30) days' written notice to the City prior to cancellation of coverage. Contractor shall maintain coverage for workers compensation as required by state law. Failure to maintain insurance as required shall constitute a breach of this Agreement.

13. PERFORMANCE BOND

The Contractor shall maintain an irrevocable letter of credit issued by a federally insured bank or other financial institution in the amount of at least One Hundred Thousand Dollars ($100,000.00) to secure the contractor's performance under lottery operator agreements with various communities in Nebraska. Contractor shall add City as a full beneficiary of such letter to secure contractor's performance under this agreement, and shall provide the City with appropriate documentation thereof, and shall maintain such letter of credit and the City's status as beneficiary thereof during the term of this agreement. Alternatively, the Contractor may provide the City with a different form of letter of credit, provided that the form of such letter of credit and institution upon which it is drawn must be approved by the City, which approval shall not be unreasonably withheld.

14. CONTRACTOR'S EMPLOYEES

The Contractor agrees to provide adequate training and supervision of its employees and anyone who will be involved in the operation of the keno lottery. Each employee of Contractor who is engaged in the operation of the keno lottery or who has direct unsupervised access to the lottery equipment shall be insured in the amount of One Hundred Thousand Dollars ($100,000.00) for crime coverage for the benefit of the City.

15. LIABILITY AND INDEMNIFICATION.

a. The Contractor shall bear sole responsibility and shall hold harmless and indemnify the City from all claims by third parties, including all sums reasonably expended for attorneys' fees in the defense of any claim or loss arising from the operation of or failure to operate the keno lottery. Such claims shall include but not be limited to claims regarding the ownership, selection, possession, use, leasing, renting, operation, control, maintenance, delivery, and installation of equipment provided by the Contractor. The Contractor further agrees to hold harmless and indemnify the City for any and all loss, damage, injury, and claims arising and/or resulting from the

conduct of the keno lottery, including but not limited to bodily injury to third parties or damage to property, financial loss by reason of entitlement to or settlement of prizes exceeding net proceeds, failure by the Contractor or its employees and agents to comply with the terms of this Agreement, and all injury or damage that may result from any operations of services rendered under the terms and conditions of this Agreement whether or not resulting from a negligent act or omission of the Contractor.

b. The Contractor shall bear full responsibility and liability for any and all prizes in the operation of the keno lottery and shall be solely responsible for honoring and paying all prize claims. The Contractor shall pay all prizes in the manner and at the time required by this Agreement or applicable law, rule, or regulation.

16. CONFLICT OF INTEREST.

The Contractor shall not knowingly permit any person whom it knows to be an elected or appointed official of the City or member of his/her immediate family either directly or indirectly, during his/her term of office and for one (1) year thereafter to own any interest in or be employed by, or in any manner receive, either directly or indirectly, payments or other things of value from the Contractor (other than legitimate keno prizes won), from any parent, subsidiary or affiliate entity of the Contractor, or from any person owning an interest in or working for any of the foregoing or promoting the interests thereof, without immediate notice to the City of the relationship. Within 30 days after receipt of such notice, the City may notify the Contractor that it does not approve of the relationship, at which point the Contractor shall promptly terminate such relationship. For purposes of this Agreement, "immediate family" shall mean a person who is related to the official by blood, marriage, or adoption and resides in the same household of the official; or person who is claimed by the official, or spouse of the official, as a dependent for federal income tax purposes.

17. PLAYER INELIGIBILITY

Neither the Contractor, nor any officer, director, partner or shareholder of the Contractor, shall play the keno lottery or claim any keno lottery prizes.

18. DISCRIMINATION

No person shall on the grounds of race, color, sex, age, national origin, or political or religious opinion or affiliation, be excluded from participation in, be denied the proceeds of, or be subject to unlawful discrimination of any nature in any activity conducted pursuant to the terms of this Agreement, provided that Contractor may:

(1) Refuse to permit play by any person prohibited from playing under applicable law;

(2) Allow its locations, in their discretion from time to time, to adopt policies barring from their premises persons prohibited under applicable law from consuming alcohol; and

(3) Bar from employment any person prohibited from participating in County and City Lottery Act activities under applicable law.

19. WAIVER

Failure of the City upon any one (1) or more occasions to insist upon or seek compliance with any condition or provision of this Agreement shall not be deemed to be a waiver of compliance with any similar or dissimilar provisions or conditions.

20. SEVERABILITY

Any invalidity or unenforceability of any provision or provisions of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, nor shall the invalidity or unenforceability of a portion of any provision of this Agreement affect the validity and enforceability of the balance of such provision. All other provisions and parts of provisions shall remain in full force and effect; provided, however, if in the sole opinion of the City the removal or inoperative effect of any such provision or part of any provision so declared invalid or unenforceable shall materially affect the City's rights hereunder, the City may terminate this Agreement.

21. CONSTRUCTION

This Agreement incorporates and integrates all terms and conditions of all documents and law mentioned herein or incidental hereto and constitutes the entire agreement between the parties hereto superseding any prior agreement or understanding whether oral or written, express or implied. This Agreement may not be discharged or modified except as provided herein or permitted by law. Any and all such amendments or modifications to this Agreement shall be binding upon the Contractor's surety without notice to the surety. Headings used herein are for the convenience of the parties and shall not be given any weight in the interpretation of this Agreement. The Contractor's proposal, and all presentations, handouts and materials provided by the Contractor and attached hereto are incorporated herein by this reference and shall be binding terms of this Agreement.

22. APPLICABLE LAW

This Agreement shall be governed and construed in accordance with the laws of the State of Nebraska. Any legal action to enforce or declare any rights or obligations created or imposed by this Agreement shall be commenced in a court of the State of Nebraska.

23. ASSIGNABILITY

The parties hereto agree that all rights and obligations created or imposed by this Agreement are personal to the parties and that neither this Agreement nor any rights or obligations hereunder may be assigned, transferred, or sub-contracted by the Contractor without the prior express written consent of the City. Violation of this provision shall be deemed a material breach of this Agreement.

24. NOTICES

Notices, for any and all purposes hereunder, including service of process, shall be deemed to be sufficient if sent by certified or registered mail, postage prepaid, addressed as follows:

(1) To the City:
City of Norfolk, Nebraska
127 N 1st Street
Norfolk, NE 68701

(2) To the Contractor:
Big Red Keno
11248 John Galt Blvd.
Omaha, NE 68137

The parties hereto may designate a different person or address by providing written notice of such change to the other party.

25. ADVERTISING AND PROMOTION

a. The Contractor shall be responsible for all advertising and promotion of all keno lottery operations. In the event that federal or state law precludes the Contractor from engaging in any type of desired advertising, such advertising may be proposed and placed by the Contractor and purchased by the City, if permitted by law, subject to prompt and complete reimbursement by the Contractor.

b. The City reserves the right to reject any advertising or other promotional activity for the keno lottery operation for any reason and require its discontinuance.

26. FORCE MAJEURE

If the Contractor's ability to perform under this Agreement is, in the opinion of the City Council, substantially impaired by reason of any cause which is unforeseeable and beyond the Contractor's control, including but not limited to fire, casualty, catastrophe, unavoidable accident, riot, war, strike, or act of God, the Contractor shall have the right to terminate this Agreement; provided, however, that upon such termination the City shall

have the right to retain any cash reserve and/or performance bond for a period not to exceed six (6) months to insure that all outstanding valid claims against the Contractor are honored or paid in whole. Alternatively, the Contractor may, in lieu of terminating this Agreement, seek the City's approval of a proposed plan to remedy the impairment within a specified time, which plan may include modifications to the terms of this Agreement. Any modifications must be mutually agreed upon and expressed in writing. The Contractor shall give the City written notice of an intent to invoke the provisions of this paragraph within forty-eight (48) hours of the event impairing the Contractor's ability to perform.

Dated this 4th day of August, 2008.

ATTEST

Witness

EHPV LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company,
d/b/a Big Red Keno

By:
Title: President & CEO

ATTEST

City Clerk

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation

By:
Mayor

EXHIBIT "2"

NORFOLK LOTTERY OPERATOR
ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption Agreement is made by and between EHPV LOTTERY SERVICES LLC, a Nebraska limited liability company ("EHPV"), ENDGAME LOTTERY SERVICES LLC, a Nebraska limited liability company ("Endgame"), and the City of Norfolk, a Municipal Corporation in the State of Nebraska ("City").

WHEREAS, the City and EHPV doing business as Big Red Keno entered into a Lottery Operator Agreement on August 4, 2008 (the "Agreement"); and

WHERAS, EHPV is undergoing a corporate reorganization in which its assets related to the Norfolk keno lottery are being transferred to Endgame which will carry on the business of Big Red Keno in Norfolk, pursuant to a Purchase Agreement and related documents between EHPV and End Game; and

WHEREAS, the intent of the reorganization is to vest a minority share of ownership in certain member of management of EHPV; and

WHEREAS, majority ownership and control of Endgame remains with EHPV Lottery Services LLC; and

WHEREAS, EHPV has asked the City to approve the assignment of EHPV's interest in the Agreement to Endgame;

THEREFORE, in consideration of the foregoing and the agreements contained herein, the parties hereby agree as follows:

EHPV hereby assigns all of its right, title and interest under the Agreement to Endgame, and Endgame hereby accepts such assignment.

Subject to the granting of all necessary state licenses and approvals, the City hereby approves the assignment of the Agreement from EHPV to Endgame, and the City accepts Endgame as the lottery operator for the City.

EHPV will continue to comply with and fulfill all of its obligations under the Agreement until all necessary local and state licenses and approvals have been received, and the transfer from EHPV to Endgame has been completed.

From and after the effective date of the transfer, Endgame agrees to comply with all provisions of the Agreement as operator under the Agreement. Endgame will continue to operate the keno lottery in substantially the same manner as it has been operated by EHPV, and subject to all requirements of the Agreement.

Obligations of EHPV/Endgame under the Agreement will continue to be secured by a bank Letter of Credit provided to the City by EHPV at the commencement of the Agreement. Endgame will ensure that its obligations under the agreement are secured by a continuing bank letter of credit or other appropriate security provided by EHPV or Endgame, throughout the term of the Agreement and any extensions thereof, in accordance with the terms of the Agreement.

EHPV will transfer the prize reserve fund, if any, to Endgame for the benefit of the City.

The City hereby approves Endgame as the operator of all keno locations currently operated by EHPV on the effective date of this instrument, subject to necessary state licensing and approvals.

The City hereby continues the authorization of certain persons described in the City's Form 50G application filed with the Nebraska Department of Revenue as authorized representatives for purposes of signing County/City Lottery Worker Applications (Form 50G Schedule III).

The parties acknowledge that the execution of this Assignment and Assumption Agreement is for the sole benefit of EHPV and Endgame and that this is not a novation, therefore, following execution of this Assignment and Assumption Agreement, EHPV and Endgame shall both remain responsible and liable for performance of the original Lottery Operator Agreement executed by City and EHPV on August 4, 2008.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed by their duly authorized representatives.

EHPV LOTTERY SERVICES LLC

By: _____
Daniel G. Pankow
President & CEO

Attest: _____
William F. Harvey
General Counsel

ENDGAME LOTTERY SERVICES LLC

By: _____
Daniel G. Pankow
President & CEO

Attest: _____
William F. Harvey
General Counsel

CITY OF NORFOLK, a Municipality in the State of Nebraska

By: _____
Mayor

Attest: _____
City Clerk 12-15-2008

EXHIBIT "3"

RENEWAL AGREEMENT

This Agreement is made and entered into this 15 day of July, 2013, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY"; and EHPV Lottery Services LLC, A Nebraska Limited Liability Company, doing business as Big Red Keno, and Endgame Lottery Services LLC, a Nebraska Limited Liability Company, doing business as Big Red Keno, hereinafter collectively referred to as "CONTRACTOR".

WHEREAS, CITY and EHPV Lottery Services LLC entered into a Lottery Operator Agreement, herein referred to as the "original Agreement" on August 4, 2008, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "1", wherein EHPV Lottery Services LLC agreed to operate a Keno-type lottery in the City of Norfolk according to the terms and conditions set forth therein; and

WHEREAS, on or about December 15, 2008, EHPV Lottery Services, LLC and Endgame Lottery Services LLC entered into a Norfolk Lottery Operator Assignment and Assumption Agreement, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "2", wherein EHPV Lottery Services LLC assigned all of its right, title and interest under the original Agreement to Endgame Lottery Services LLC and said Assignment and Assumption stated that EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement; and

WHEREAS, the original Agreement, by its terms, will expire on August 3, 2013; and

WHEREAS, CITY and CONTRACTOR desire to renew the original Agreement on the same terms and conditions, pursuant to paragraph 6 of the original Agreement, for the first additional term of five (5) years so that the Agreement will expire on August 3, 2018.

IT IS THEREFORE agreed by and between the parties as follows:

1. That the original Agreement is hereby renewed for the first additional period of five (5) years on the same terms and conditions and shall expire on August 3, 2018.

2. All the terms, conditions and provisions of the original Agreement are to apply to this Agreement and are made a part of this Agreement as though they were expressly rewritten, incorporated and included herein.

3. EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement as renewed by this Renewal Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate the day and year first above written.

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation,

Sue Fuchtman, Mayor

ATTEST:

Elizabeth A. Deck, City Clerk

Approved as to form: _____
Clint Schukei, City Attorney

EHPV LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

Printed Name: Katrina Coffey
Witness

By _____
Printed Name: Wm. F. Harvey
Title: General Counsel

ENDGAME LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

Printed Name: Katrina Coffey
Witness

By _____
Printed Name: Wm. F. Harvey
Title: General Counsel

EXHIBIT "4"

SECOND RENEWAL AGREEMENT

This Agreement is made and entered into this 16 day of July, 2018, by and between the City of Norfolk, Nebraska, a Municipal Corporation, hereinafter referred to as "CITY"; and EHPV Lottery Services LLC, A Nebraska Limited Liability Company, doing business as Big Red Keno, and Endgame Lottery Services LLC, a Nebraska Limited Liability Company, doing business as Big Red Keno, hereinafter collectively referred to as "CONTRACTOR".

WHEREAS, CITY and EHPV Lottery Services LLC entered into a Lottery Operator Agreement, herein referred to as the "original Agreement" on August 4, 2008, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "1", wherein EHPV Lottery Services LLC agreed to operate a Keno-type lottery in the City of Norfolk according to the terms and conditions set forth therein; and

WHEREAS, on or about December 15, 2008, EHPV Lottery Services, LLC and Endgame Lottery Services LLC entered into a Norfolk Lottery Operator Assignment and Assumption Agreement, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "2", wherein EHPV Lottery Services LLC assigned all of its right, title and interest under the original Agreement to Endgame Lottery Services LLC and said Assignment and Assumption stated that EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement; and

WHEREAS, on or about July 15, 2013, CITY, EHPV Lottery Services LLC, and Endgame Lottery Services LLC entered into a Renewal Agreement extending the original Agreement (as assigned by EHPV Lottery Services LLC to Endgame Lottery Services LLC on December 15, 2008) through August 3, 2013, which is by reference made a part hereof and a copy of which is attached hereto as Exhibit "3"; and

WHEREAS, the original Agreement (as assigned and previously renewed) will expire on August 3, 2018; and

WHEREAS, CITY and CONTRACTOR desire to renew the original Agreement (as assigned and previously renewed) on the same terms and conditions, pursuant to paragraph 6 of the original Agreement, for the second additional term of five (5) years so that the Agreement will expire on August 3, 2023.

IT IS THEREFORE agreed by and between the parties as follows:

1. That the original Agreement (as assigned and previously renewed) is hereby renewed for the second additional period of five (5) years on the same terms and conditions and shall expire on August 3, 2023.

7-30-18
c: Cleist Andy
Dani Lyle
Randy Stacey
Jeanie Srios

2. All the terms, conditions and provisions of the original Agreement (as assigned) are to apply to this Agreement and are made a part of this Agreement as though they were expressly rewritten, incorporated and included herein.

3. EHPV Lottery Services LLC and Endgame Lottery Services LLC shall both remain responsible and liable for performance of the original Agreement as renewed by this Renewal Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement in triplicate the day and year first above written.

CITY OF NORFOLK, NEBRASKA,
A Municipal Corporation,

Josh Moenning, Mayor

ATTEST:

Elizabeth A. Deck, City Clerk

CITY OF NORFOLK SEAL INCORPORATED SEPT. 12, 1881 NEBRASKA

Approved as to form: Danielle L. Myers-Noelle
Danielle Myers-Noelle, City Attorney

EHPV LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

Printed Name: NICHOLAS J THIELEN
Witness

By
Printed Name: Daniel Pankow
Title: CEO

ENDGAME LOTTERY SERVICES LLC,
A Nebraska Limited Liability Company
d/b/a Big Red Keno

ATTEST:

Printed Name: NICHOLAS J THIELEN
Witness

By
Printed Name: Daniel Pankow
Title: CEO

SPOHN RANCH, INC.

DESIGN. BUILD. COME TOGETHER.

6824 S. Centinela Ave., Los Angeles, CA 90230 626-330-5803 626-330-5503 *fax*

Change Order No. 1

January 29, 2020

TO: **City of Norfolk**
309 N 5th St
Norfolk, NE 68701

Attn: Pat Mrsny

WE SUBMIT THE FOLLOWING CHANGE ORDER IN RESPONSE TO:

JOB NAME:	**Miracle Skatepark**
SR JOB NUMBER:	**# 19-4149-IN**
PROJECT NUMBER:	
ERROR/OMISSION:	
FIELD CONDITION:	
DESIGN CHANGE:	
OWNER/CLIENT REQUEST:	**X**
ESCALATION:	

The Original Contract Price:		**$ 534,095.57**
Discount for revised base course supply	$ (8,000.00)	
Deduct entrance arch from scope of work	$ (30,000.00)	
Deduct concrete slab for bleachers from scope of work	$ (19,000.00)	
Previously Submitted Change Orders (NONE)	$0.00	
Net deduction to the Original Contract Price:		**$ (57,000.00)**
The new Contract Price including this Change order:		**$ 477,095.57**

NOTES:

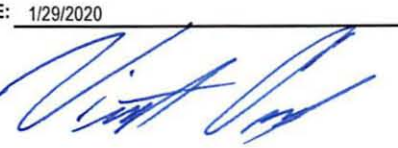
1 THIS WORK WILL NOT COMMENCE UNTIL CHANGE ORDER IS APPROVED _____ (Initial Here)

2 A SIGNATURE BELOW AUTHORIZES US TO PROCEED WITH THE WORK DESCRIBED ABOVE, AT THE STATED PRICES. YOUR ACCOUNTING DEPARTMENT IS AUTHORIZED TO ISSUE PAYMENT AS INDICATED _____ (Initial Here)

3 EXTENSION OF TIME NECESSARY FOR THIS CHANGE IS _____0_____ CONSECUTIVE WORKING DAYS.

4 THIS ESTIMATE WILL REMAIN IN EFFECT FOR 15 DAYS ONLY. AFTER EXPIRATION, A NEW ESTIMATE WILL BE SUBMITTED UPON REQUEST.

APPROVED:	City of Norfolk	**SPOHN RANCH:**	
BY:	_____	**BY:**	Vincent Onel
TITLE:	_____	**TITLE:**	VP of Skatepark Development
DATE:	_____	**DATE:**	1/29/2020



PROFESSIONAL SERVICES AGREEMENT TO PROVIDE CONSULTING SERVICES

This Professional Services Agreement to Provide Consulting Services (this "Agreement") sets forth the mutual understanding of (the "Client") the City of Norfolk, Nebraska and Retail Strategies, LLC, an Alabama limited liability company (the "Consultant") on this the _____ day of _____ (the "Execution Date"), for the provision of professional consulting services as more fully set forth below.

RECITALS:

The Consultant possesses a high degree of professional skill and experience and is a unique provider of professional consulting services in retail recruitment.

The Client desires to hire the Consultant to provide professional consulting services because of its professional skill and experience.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements set forth in this Agreement, the Client and the Consultant, intending to be legally bound, do hereby agree as follows:

1. **CONSULTING SERVICES.** The Consultant agrees to provide the following professional consulting services to the Client (the "Services"):

A. **Research.** The Consultant will identify the Client's retail trade area using a blend of demographics, political boundaries, drive times and/or custom boundaries. The Consultant will perform market and retail analysis based on current industry standards at the time such reports are run. The Consultant will map retail locations and analyze opportunities given local and macro retail trends.

B. **In-Market Real Estate Analysis.** The Consultant will analyze existing shopping centers and retail corridors and actively reach out to local brokers and real estate owners. The Consultant will identify, evaluate and catalogue priority commercial properties for development or redevelopment based on their highest-and-best-use ("targeted zones"). The Consultant will identify priority business categories to expand locally and to recruit to the area.

C. **Retail Recruitment.** The Consultant will proactively recruit businesses for targeted zones through the contact of a minimum of 45 retailers, restaurants, brokers or developers. The Consultant will regularly update the Client Representative on retail recruitment efforts via email, telephone and the Consultant's client web portal known as "Basecamp." Two market visits per calendar year is included in this agreement, additional travel outside of this agreement and requested by the Client shall be approved and paid for by the Client. In addition, the Consultant will also represent the Client at International Council of Shopping Center conferences annually and provide updates according to the yearly conference schedule.

D. Updates. The Consultant will provide the Client Representative with updates within three business days of receipt of a request from the Client Representative (as defined in Section 4 below).

2. TERM. The Consultant's engagement and provision of Services will commence upon the Execution Date as set forth above. The Consultant's engagement and this Agreement will terminate automatically on the anniversary of the Execution Date (the "Term") unless earlier terminated as provided in Section 6 below. At the end of the Term, the Client, acting by and through the Client Representative, may extend the Term at its option for two successive one-year periods at the rate set forth under Consulting Fee below by Client delivering written notice to Consultant at least 30 days prior to the expiration of the initial Term or any extension thereof. At the end of three years, the Client, acting by and through the Client Representative, may extend the Term at its option for successive one-year periods on such terms and conditions as the Client Representative, acting for and on behalf of the Client, and the Consultant may agree upon in writing.

3. CONSULTING FEE.

Consulting Fee. In consideration for providing the Services, the Client agrees to pay the Consultant a consulting fee (the "Consulting Fee") in the amount of $50,000 within 60 days of the Execution Date. In the event Client exercises its option to extend the initial Term of the Agreement by giving 30 days' written notice to Consultant, Client shall pay to Consultant an amount of $30,000 for each additional one-year period on or before the anniversary of the Execution Date.

A. Payment Default. If the Client fails to pay any portion of the Consulting Fee on the requisite payment date, the Consultant will immediately cease all Services, including but not limited to: (1) negotiation of incentive agreements; (2) all recruiting and marketing efforts; (3) representation of the Client at trade shows; (4) booking meetings for the Client with prospective retailers; and (5) including the Client in marketing materials.

B. Web Platform Service Fees. Consultant will update demographic information annually during the Term of this Agreement. Modifications, corrections, and/or additions to the Client's Web Platform (As described in Section 4 Below) within the first thirty (30) days of delivery to Client are included within the Consulting Fee as set forth above. Should the Client request Web Platform changes, modifications, or corrections after the designated thirty (30) day Consultant will bill an hourly rate not to exceed One Hundred and no Dollars ($100) per hour for time spent ("Web Platform Service Fee"). Request for Web Platform service must be made to the Consultant in writing. Consultant will use good faith effort to complete such requests within ten (10) days of receiving written request from client. Upon completion of performing Web Platform service the Consultant shall submit invoices to the Client supported by information in such detail as may be required by the Client and shall be sufficient to substantiate that the Consultant has performed the services.

4. CLIENT INFORMATION AND ACCESS.

A. To the extent reasonable and permitted by law, the Client will provide the Consultant with access to relevant personnel, facilities, records, reports and other information accessible by the Client that the Consultant may reasonably request from time-to-time during the Term. The Client acknowledges and agrees that the Consultant's scheduled delivery of the

Services is dependent upon the timely access to such personnel, facilities, records, reports and other requested information.

B. To facilitate such access and Consultant's delivery of the Services, the Client designates the Economic Developer (the "Client Representative"), currently Candice Alder, The Client Representative will serve as the primary liaison between the Consultant and the Client. The Client Representative will have responsibility for regular communications between the Client and the Consultant, including providing updates in a timely manner through Basecamp. The Client Representative's communications to the Consultant will include information regarding retail growth and development, such as actual and prospective business openings and closings, changes in economic drivers (e.g., significant increases or decreases in workforce of major employers, school enrollments, housing or healthcare services) and changes in the ownership of targeted real estate (e.g., transfers of real estate or changes in the finances of ownership). The Client Representative will also be responsible for disseminating updates relative to consultant's activities related to scope of work to members of local stakeholder groups of the Client (e.g. City Council, Economic Development Boards, and Chamber of Commerce etc.).

Initials of Client Representative: _____

C. The Client hereby authorizes the Client Representative (i) to act on behalf of the Client in the day-to-day administration and operation of this Agreement and the arrangements it contemplates and (ii) to execute and deliver, on behalf of the Client, such notices, approvals, consents, instruments, amendments or other documents as may be necessary or desirable to facilitate or assist the Consultant with the provision of the Services.

5. INTELLECTUAL PROPERTY. As part of the Services, the Consultant will prepare periodic and final reports including demographic and other research reports that will become the property of the Client upon delivery from the Consultant. Any other reports, memoranda, electronic mail, facsimile transmissions or other written documents prepared or used by the Consultants in connection with the Services will remain the property of the Consultant. With the Consultant's prior permission, the Client may use other information provided by the Consultant, such as specifics related to retailers, developers, site information or other "confidential information" for internal purposes while taking reasonable steps to so limit the use of such materials and maintain its confidentiality. This section is subject to applicable public records laws.

6. TERMINATION.

A. **By the Client At-Will.** The Client may terminate this Agreement at any time for any or no reason upon delivery of 30 days' prior written notice to the Consultant. Any portion of the Consulting Fee paid prior to such termination of this Agreement is earned when paid and nonrefundable.

B. **By the Client Upon the Consultant's Default.** The Client may notify the Consultant within 90 days of the day that the Client knows or should have known that the Consultant breached this Agreement. The Consultant will have 30 days following receipt of such notice to cure any alleged breach. If the Consultant fails to cure any alleged breach within that 30-day period, then the Client may terminate this Agreement. Within 30 days of such termination of this Agreement, the Consultant will refund a pro rata portion of the

installment of the Consulting Fee previously paid for the contract period during which such termination occurs based upon the number of days remaining in such contract period.

C. **By the Consultant At-Will.** The Consultant may terminate this Agreement at any time for any or no reason upon delivery of 30 days' prior written notice to the Client. Within 30 days of such termination of this Agreement, the Consultant will refund a pro rata portion of the installment of the Consulting Fee previously paid for the period during which such termination occurs based upon the number of days remaining in such period.

D. **By the Consultant Upon the Client's Default.** The Consultant may notify the Client within 90 days of the day that the Consultant knows or should have known that the Client breached this Agreement. The Client will have 30 days following receipt of such notice to cure any alleged breach. If the Client fails to cure any alleged breach within that 30-day period, then the Consultant may terminate this Agreement. Any portion of the Consulting Fee paid prior to such termination of this Agreement is earned when paid and nonrefundable.

7. **NOTICES.** Any notice or communication in connection with this Agreement will be in writing and either delivered personally, sent by certified or registered mail, postage prepaid, delivered by a recognized overnight courier service, or transmitted via facsimile or other electronic transmission, addressed as follows:

Client: The City of Norfolk, Nebraska
309 N 5th St.
Norfolk, NE 68701
Email: calder@norfolkne.gov
Phone: 402-844-2000
Attention: Candice Alder

Consultant: Retail Strategies, LLC
2200 Magnolia Ave. S. Ste. 100
Birmingham, AL 35205
Email: Sleara@retailstrategies.com
Fax: 205-901-5212
Attention: Steve Leara

or to such other address as may be furnished in writing by either party in the preceding manner. Notice shall be deemed to have been properly given for all purposes: (i) if sent by a nationally recognized overnight carrier for next business day delivery, on the first business day following deposit of such notice with such carrier, (ii) if personally delivered, on the actual date of delivery, (iii) if sent by certified U.S. Mail, return receipt requested postage prepaid, on the third business day following the date of mailing, or (iv) if sent by facsimile or email of a PDF document (with follow-up confirmation of transmission via phone call to Client Representative), then on the actual date of delivery if sent prior to 5 p.m. Central Time, and on the next business day if sent after such time.

8. **INDEPENDENT CONTRACTOR.** The Consultant, in its capacity as a professional consultant to the Client, is and will be at all times an independent contractor. The Consultant does not have the express, implied or apparent authority either (A) to act as the Client's agent or legal representative or (B) to legally bind the Client, its officers, agents or employees.

9. STANDARD TERMS.

A. **Affiliated Services:** The Client acknowledges that certain affiliates of the Consultant provide real estate brokerage and management services for which they are paid brokerage, development, leasing, management and similar fees. In connection with the Services and with the prior written permission of the Client, such affiliates may be engaged to provide such services in consideration for the payment of such fees.

B. **Applicable Laws:** The Consultant will abide by all laws, rules and regulations applicable to the provision of the Services. This Agreement will be governed by the laws of the State of Nebraska.

C. **Insurance:** The Consultant will carry all employee insurance necessary to comply with Client's insurance requirements, as reflected by Exhibit C, and Consultant will submit an insurance certificate to the Client Representative within 30 days of the Execution Date.

D. **Third Party Beneficiaries:** This Agreement is for the sole benefit of the parties to this Agreement and their permitted successors and assigns. Nothing in this Agreement, whether express or implied, is intended to or will confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

E. **Publicity:** The Client agrees that the Consultant may, from time-to-time, use the Client's name, logo and other identifying information on the Consultant's website and in marketing and sales materials.

F. **Entire Agreement:** This Agreement, together with any exhibits or amendments hereto, constitutes the entire agreement of the parties, as a complete and final integration thereof with respect to its subject matter. Any prior written or oral understandings and agreements between the parties are merged into this Agreement, which alone fully and completely expresses their understanding. No representation, warranty, or covenant made by any party which is not contained in this Agreement or expressly referred to herein has been relied on by any party in entering into this Agreement.

G. **Further Assurances**: Each party hereby agrees to perform any further acts and to execute and deliver any documents which may be reasonably necessary to carry out the provisions of this Agreement.

H. **Force Majeure:** Neither party to this Agreement will hold the other party responsible for damages or delay in performance caused by acts of God, strikes, lockouts or other circumstances beyond the reasonable control of the other or the other party's employees, agents or contractors.

I. **Limitation on Liability; Sole Remedy**: Each party's liability to the other party arising out of or related to this Agreement or the Services will not exceed the aggregate amount of the Consulting Fee. The Client's sole remedy in the event of any alleged breach of this Agreement by the Consultant will be the notice, cure and refund provisions of Section 6(B) of this Agreement.

J. **Amendment in Writing**: This Agreement may not be amended, modified, altered, changed, terminated, or waived in any respect whatsoever, except by a further agreement in writing, properly executed by a duly authorized officer of the Consultant and the Client Representative, acting for and on behalf of the Client.

K. **Binding Effect**: This Agreement will bind the parties and their respective successors and assigns. If any provision in this Agreement will be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not in any way be affected or impaired thereby.

L. **Captions**: The captions of this Agreement are for convenience and reference only, are not a part of this Agreement and in no way define, describe, extend, or limit the scope or intent of this Agreement.

M. **Construction:** This Agreement will be construed in its entirety according to its plain meaning.

N. **Prohibition on Assignment:** No party to this Agreement may assign its interests or obligations hereunder without the written consent of the other party obtained in advance of any such assignment. No such assignment will in any manner whatsoever relieve any party from its obligations and duties hereunder and such assigning party will in all respects remain liable hereunder irrespective of such assignment.

O. **Waiver:** Non-enforcement of any provision of this Agreement by either party will not constitute a waiver of that provision, nor will it affect the enforceability of that provision or of the remaining terms and conditions of this Agreement.

P. **Survival:** Section 5 and Section 9(H) will survive termination of this Agreement.

Q. **Counterparts; Electronic Transmission:** This Agreement may be executed in counterparts, each of which will be deemed to be an original, and such counterparts will, together, constitute and be one and the same instrument. A signed copy of this Agreement delivered by telecopy, electronic transmission or other similar means will be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

R. **Hold Harmless and Indemnification**: To the fullest extent permitted by law the Consultant shall indemnify, defend, and hold harmless the Client, its elected officials, officers, employees, agents, consultants, and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorney fees, arising out of or resulting from performance of the Services, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible or intangible property, including the Services themselves, but only to the extent caused by the negligent, wrongful, or intentional acts or omissions of the Consultant, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder. In the event the claim, damage, loss or expense is caused in part by the negligence of a party indemnified hereunder, the indemnification by the Consultant shall be prorated based on the extent of the liability of the party indemnified hereunder. Such obligation

shall not be construed to negate, abridge, or reduce obligations of indemnity which would otherwise exist as to a party or person described in this section.

S. **E-Verify**: Consultant is required and hereby agrees to use a federal immigration verification system to determine the work eligibility status of new employees physically performing services within the State of Nebraska. A federal immigration verification system means the electronic verification of the work authorization program authorized by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, 8 U.S.C. 1324a, known as the E-Verify Program, or an equivalent federal program designated by the United States Department of Homeland Security or other federal agency authorized to verify the work eligibility status of a newly hired employee.

T. **Title VI Non Discrimination Program**: Pursuant to the Title VI Non-Discrimination Program of the City of Norfolk, Consultant agrees to comply with the provisions set forth in Appendix A to Client's Title VI Non-discrimination Program, if applicable. A copy of said provisions are attached hereto as Exhibit B. Any reference to "contractor" in Exhibit B shall mean "Consultant" for purposes of this Agreement.

[SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, the Client and the Consultant have caused this Agreement to be executed by their duly authorized officers to be effective as of the Execution Date.

CLIENT:
THE CITY OF NORFOLK, NEBRASKA

By: _____
Name: Josh Moenning
Title: Mayor
Date:

CONSULTANT:
RETAIL STRATEGIES, LLC

By: _____
Name: Robert R. Jolly, Jr.
Title: CEO
Date 2/11/20

EXHIBIT A

I. CONSULTANT AGREEMENT

This section outlines what Retail Strategies (the "consultant") will provide to The City of Norfolk, Nebraska (the "client").

A. Research

1. Identify market retail trade area using political boundaries, drive times and radii and custom boundary geographies for the City of Norfolk and the County of Madison
2. Perform market and retail GAP analysis for trade area (i.e. leakage and surplus)
3. Conduct retail peer market analysis
4. Competition analysis of identified target zones trade area(s)
5. Tapestry lifestyles – psychographic profile of trade area / market segmentation analysis
6. Aerial imagery by trade area
7. Retail competitor mapping/analysis
8. Analysis of future retail space requirements in relation to the retail market analysis, the market's growth potential and trends in the retail industry
9. Identification of at minimum 45 retail prospects to be targeted for recruitment over three-year engagement
10. Retailer recruitment and execution of the retail strategy
11. Monthly updates provided on retail industry trends
12. Custom on-demand demographic research – historical, current, and projected demographics – to include market trade areas by radius/drive time, and custom trade area

B. Boots on the Ground Analysis

1. Identify/Evaluate/Catalog priority commercial properties for development, re-development and higher and best use opportunities
2. Identification of priority business categories for recruitment and/or local expansion
3. Perform competitive analysis of existing shopping centers and retail corridors
4. Active outreach to local brokers and land owners

C. Retail Recruitment

1. Pro-active retail recruitment for targeted zones
2. Will contact a minimum of 45 retailers, restaurants, brokers and/or developers
3. Updates on new activity will be provided to Client's designated primary point of contact (Sec. II-A) via Basecamp, telephone, or email on a monthly and/or as needed basis
4. Two market visits per calendar year included in agreement, any travel outside of the agreement shall be approved and paid for by the contracting entity
5. ICSC conference representation- updates provided according to the yearly conference schedule

EXHIBIT B

Title VI Non-Discrimination Program

Non-Discrimination Provisions

During the performance of this contract, the contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

(1) **Compliance with Regulations:** The contractor shall comply with the Regulation relative to non-discrimination in Federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, and the Federal Highway Administration (hereinafter "FHWA") Title 23, Code of Federal Regulations, Part 200 as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.

(2) **Non-discrimination:** The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin, sex, age, and disability/handicap in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by 49 CFR, section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

(3) **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin, sex, age, and disability/handicap.

(4) **Information and Reports:** The contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the (Recipient) or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information the contractor shall so certify to the (Recipient), or the FHWA as appropriate, and shall set forth what efforts it has made to obtain the information.

(5) **Sanctions for Noncompliance:** In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the (Recipient) shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

(a.) withholding of payments to the contractor under the contract until the contractor complies, and/or
(b.) cancellation, termination or suspension of the contract, in whole or in part.

(6) **Incorporation of Provisions:** The contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The contractor shall take such action with respect to any subcontract or procurement as the (Recipient) or the FHWA may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the (Recipient) to enter into such litigation to protect the interests of the (Recipient), and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

Exhibit C

Change Order No. 1

Date of Issuance:		Effective Date:	**February 18, 2020**
Owner:	**City of Norfolk**	Owner's Contract No.:	
Contractor:	**Penro Construction, Co.**	Contractor's Project No.:	
Engineer:	**City of Norfolk, Engineering**	Engineer's Project No.:	**130002**
Project:	**Braasch Avenue 5th to 1st Street**	Contract Name:	

The Contract is modified as follows upon execution of this Change Order:

Description: **This change order eliminates storm sewer infrastructure in the intersection of 1st Street and Braasch Avenue. Paving removal and replacement is also removed. The eliminated storm sewer is replaced with a junction box connection to the existing storm sewer system and an outlet pipe bored to the river.**

CHANGE IN CONTRACT PRICE	CHANGE IN CONTRACT TIMES *[note changes in Milestones if applicable]*
Original Contract Price: $ **3,993,373.10**	Original Contract Times: Substantial Completion: **November 1, 2020** Ready for Final Payment: **December 15, 2020** days or dates
[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: $ **0.00**	[Increase] [Decrease] from previously approved Change Orders No. ___ to No. ___: Substantial Completion: **0 days** Ready for Final Payment: **0 days** days
Contract Price prior to this Change Order: $ **3,993,373.10**	Contract Times prior to this Change Order: Substantial Completion: **November 1, 2020** Ready for Final Payment: **December 15, 2020** days or dates
[Increase] [Decrease] of this Change Order: $ **(142,962.35)**	[Increase] [Decrease] of this Change Order: Substantial Completion: **0 days** Ready for Final Payment: **0 days** 0 days or dates
Contract Price incorporating this Change Order: $ **3,850,410.75**	Contract Times with all approved Change Orders: Substantial Completion: **November 1, 2020** Ready for Final Payment: **December 15, 2020** days or dates

RECOMMENDED:	ACCEPTED:	ACCEPTED:
By:	By:	By:
Engineer (if required)	Owner (Authorized Signature)	Contractor (Authorized Signature)
Title: City Engineer	Title: Mayor	Title: Vice President
Date: 2-11-20	Date:	Date: 2-6-20

Approved by Funding Agency (if applicable)

By: _____ Date: _____

Title: _____

Change Order Estimate

JEO Project Name:	**Braasch Avenue 5th to 1st Street**	Project Number:	**130002**
Owner:	**City of Norfolk**	Change Order Number:	**1**
Contractor:	**Penro Construction, Co.**	Effective Date:	**February 18, 2020**

Item		Change Order Information			
Bid Item No.	Description	Item Quantity	Units	Unit Price	Total Value of Item ($)
A2	Remove Pavement	-660	SY	$10.50	($6,930.00)
A3	Sawing Pavement	-125	LF	$5.35	($668.75)
A4	Remove Concrete Sidewalk	-780	SF	$1.60	($1,248.00)
A6	8" Concrete Pavement	-676	SY	$66.95	($45,258.20)
A8	5" Concrete Sidewalk	-1500	SF	$7.50	($11,250.00)
A9	Subgrade Preparation	-676	SY	$3.20	($2,163.20)
A10	6" Foundation Course	-676	SY	$22.20	($15,007.20)
B5	15" RCP, Class III	-41	LF	$54.25	($2,224.25)
B8	36" RCP, Class III	-107	LF	$130.00	($13,910.00)
B9	48" RCP, Class III	-293	LF	$208.75	($61,163.75)
B14	72" Dia. Concrete Manhole	-1	EA	$5,900.00	($5,900.00)
B16	96" Dia. Concrete Manhole	-1	EA	$12,145.00	($12,145.00)
B17	120" Dia. Concrete Manhole	-1	EA	$16,190.00	($16,190.00)
B19	Storm Sewer Inlet, Type D	-2	EA	$4,235.00	($8,470.00)
B21	Concrete Collar	-1	EA	$850.00	($850.00)
D5	10" VCP Sanitary Sewer Main	-95	LF	$66.90	($6,355.50)
D16	48" Dia. Concrete Manhole	-7.3	VF	$545.00	($3,978.50)
CO 1	10" HDPE Storm Sewer, Bored	300	LF	$214.00	$64,200.00
CO 2	10" 45 Bend, VCP	2	EA	$275.00	$550.00
CO 3	Junction Box	1	EA	$6,000.00	$6,000.00
		Total			**($142,962.35)**

LETTER AGREEMENT
AMENDMENT #1

Date: February 17, 2020

This AMENDMENT ("Amendment") shall amend and become a part of the Letter Agreement for Professional Services dated December 16, 2019 between City of Norfolk, NE ("Client") and Olsson, Inc. ("Olsson") providing for professional services for the following Project (the "Agreement"):

PROJECT DESCRIPTION AND LOCATION

The project generally consists of the extension of a 12" water main from the current end point which is just south of the Elkhorn River on the east side of Highway 81 south along the east side of Highway 81 to Sherwood Drive. An 8" water main will be extended to Airport Port and ran north approximately 1200 feet on the frontage road. An 8" water main will be extended along Bonita Drive approximately 1,900 feet. See attached exhibit.

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: PROJECT MANAGEMENT

Olsson shall coordinate meetings and establish schedules with the Client to ensure timely Project advancement. Tasks performed under this phase of the work shall include the following:

Task 101: **Project Initiation Meeting** - Meet with the Client, conduct a site visit, and discuss project specifics and prerequisites. Specific project personnel will be identified, and channels of communication will be established. Contractual matters will be addressed as required.

Task 102: **Project Design Coordination** – Day to day coordination and correspondence with parties of interest to insure timely project advancement and progress updates.

Task 103: **Meetings with Owner** – Olsson will meet with the Client to discuss the development of the plans and specifications. A total of two meetings are anticipated. The anticipated meetings are a 30% review meeting and a 90% review meeting.

Task 104: **City Council Meeting** – Olsson anticipates one meeting to present the project to City Council or Sub-committee.

PHASE 510: GEOTECHNICAL INVESTIGATION

Olsson shall perform engineering services including exploratory work, laboratory and field testing, and professional guidance in tests to be made at test locations based on preliminary drawings and designs including professional interpretations of exploratory and test data. The services will include:

Task 511: **Geotechnical Borings** – Olsson shall perform geotechnical exploratory work, such as soil borings, penetration tests, soundings, subsurface explorations, laboratory tests of soils, rock formations, and other geophysical phenomena which may be

required to provide information for design, and field and laboratory tests and analyses which are required to provide design information for the water main installation and trenchless crossing of Hwy. 81. Anticipated geotechnical borings are five borings (two – 25 foot borings, one- 20 foot boring, one - 15 foot boring, and one - 10 foot boring).

Task 512: **Laboratory Testing & Geotechnical Report** – Olsson shall perform soil testing on the samples collected from the boring and shall prepare a geotechnical report interpreting the data on the exploratory work. Included will be recommendations for:

a. Recommendations regarding the thickness, moisture, and compaction criteria for backfill or structural fill. Soil excavation criteria in accordance with OSHA Standards will be included.
b. Discussion of anticipated groundwater concerns, along with recommendations for addressing these concerns during construction, if required.
c. Analysis of the on-site soils encountered regarding shrink/swell characteristics and the potential for reuse as structural fill.
d. Analysis of the on-site soils for corrosivity to buried utilities.
e. Lateral earth pressure values for buried pipe design.
f. Recommendations, if necessary, regarding subgrade stabilization criteria for installation of water main.

PHASE 520 – DESIGN

Olsson shall prepare a set of plans and specifications that can be used as bid and construction documents that will allow the project to be competitively bid and constructed. The tasks performed shall include:

Task 521: **Design Water System Improvements** – Olsson shall finalize the alignment of the water main, valve locations, hydrant locations, and locations for trenchless installation of the water main. Traffic control plans will be provided for the trenchless crossing of Highway 81.

Task 522: **Prepare Plans & Specifications** – Olsson shall prepare plan sheets, technical specifications, and front-end documents for the proposed project. Based on the project components outlined in the approved design memorandum. The main plan sheets that will be prepared are:

- General sheets
- Water main plan and profile sheets
- Erosion control sheets
- Traffic control plans

Task 523: **QA/QC Review** – A review of the Plans and Specifications will be conducted internally for Quality Assurance at the 30% design and 90% design levels.

Task 524: **Prepare Cost Opinion** - A final opinion of probable construction cost shall be prepared, based upon the information in the plans and specifications and presented to the Client.

PHASE 530 – PROJECT PERMITTING

Olsson shall work with the City on obtaining the necessary permits that will be required to construct the project. The tasks performed shall include:

Task 531: **SWPPP** – Olsson shall prepare Erosion Control Documents containing the following:

- Plan Sheet(s) showing the location of BMP's.

- Details & Standard Plans of BMP's to be used.
- 3-ring binder complete with permit and supporting documents
- Fill out Notice of Intent (NOI).

Task 532: **NDOT Permits** - Olsson will prepare the NDOT permit to Occupy State ROW (two permits) and the NDOT permit to Cross State ROW (two permits) and will assist the owner in submitting the permits. The Client is responsible for any review or permit fees.

Task 533: **NHHS Construction Permit** - Olsson will submit the approved plan and specifications to NHHS for review and shall respond to NHHS comments. The Client shall be responsible for any review fees.

PHASE 605. BID PHASE SERVICES
Olsson shall assist the Client in bidding the project. The tasks shall include:

Task 606: **Prepare and Distribute Bid Documents** - Olsson shall arrange for preparation and distribution of bid documents to prospective bidders. Olsson shall maintain a list of current holders of bid documents. Client to be responsible for advertising costs.

Task 607: **Answer Bidder Questions -** Olsson shall answer bidder's questions regarding the construction documents.

Task 608: **Prepare Addenda** - Olsson shall prepare and distribute addenda to the bidders that may be needed during the bid phase.

Task 609: **Attend Bid Opening –** Olsson shall attend bid opening to assist Client in opening bids.

Task 610: **Evaluate Bids / Recommend Award** - Olsson shall evaluate the bids and qualifications of the bidders and provide a recommendation of award to the Client.

PHASE 620 – CONSTRUCTION ADMINISTRATION SERVICES
(Scope and fees for this phase shall be negotiated with Client after award of the construction contract and shall be established via a "Contract Amendment" to this contract.)

PHASE 640. CONSTRUCTION OBSERVATION SERVICES
(Scope and fees for this phase shall be negotiated with Client after award of the construction contract and shall be established via a "Contract Amendment" to this contract.)

PHASE 660. PROJECT CLOSE-OUT
(Scope and fees for this phase shall be negotiated with Client after award of the construction contract and shall be established via a "Contract Amendment" to this contract.)

SCHEDULE FOR OLSSON'S SERVICES

Unless otherwise agreed, Olsson expects to perform its services covered by this Amendment as follows:

Anticipated Start Date:	February 24, 2020
Anticipated Design Completion Date:	June 1, 2020

Olsson will endeavor to start its services on the Anticipated Start Date and to complete its services on the Anticipated Completion Date. However, the Anticipated Start Date, the Anticipated Completion Date, and any milestone dates are approximate only, and Olsson reserves the right to

adjust its schedule and any or all of those dates at its sole discretion, for any reason, including, but not limited to, delays caused by Client or delays caused by third parties.

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:

Client shall pay to Olsson for the performance of the Scope of Services, the actual time of personnel performing such services on an hourly cost basis times a factor of 3.085 for services rendered by our principals and employees engaged directly on the Project, and all actual reimbursable expenses in accordance with Reimbursable Expense Schedule attached to this Agreement. Olsson shall submit invoices on a monthly basis and payment is due within 30 calendar days of invoice date.

Olsson's Scope of Services will be provided on a time and expense basis not to exceed $60,801.00.

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 30 days from the date set forth above, unless changed by us in writing.

OLSSON ASSOCIATES, INC.

By _____ By _____

Matt Rief Joe Baxter

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:

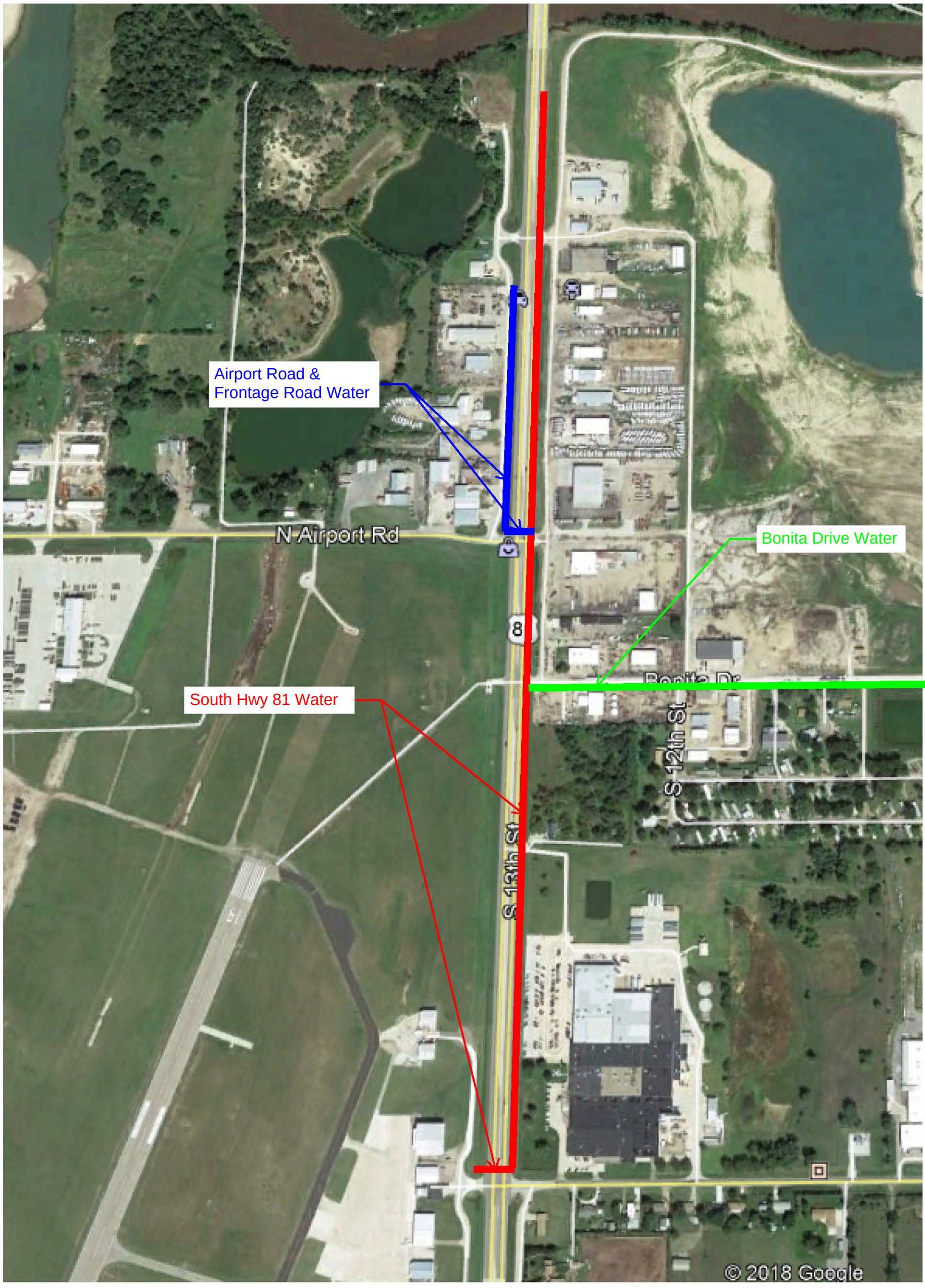
CITY OF NORFOLK, NE

By _____
Signature

Printed Name _____

Title _____ Dated: _____

Attachments
None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South Hwy 81 Water
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