

# MINUTE RECORD

No. 729—REDFIELD & COMPANY, INC., OMAHA

## LA VISTA CITY COUNCIL MEETING March 20, 2012

A meeting of the City Council of the City of La Vista, Nebraska was convened in open and public session at 7:00 p.m. on March 20, 2012. Present were Councilmembers: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Absent: Councilmember Sheehan. Also in attendance were City Administrator Gunn, Assistant City Administrator Ramirez, City Attorney McKeon, City Clerk Buethe, Library Director Barcal, Police Chief Lausten, Fire Chief Uhl, Public Works Director Soucie, Finance Director Lindberg, Community Development Director Birch, Recreation Director Stopak and City Engineer Kottmann.

A notice of the meeting was given in advance thereof by publication in the Times on March 7, 2012. Notice was simultaneously given to the Mayor and all members of the City Council and a copy of the acknowledgment of the receipt of notice attached to the minutes. Availability of the agenda was communicated to the Mayor and City Council in the advance notice of the meeting. All proceedings shown were taken while the convened meeting was open to the attendance of the public. Further, all subjects included in said proceedings were contained in the agenda for said meeting which is kept continuously current and available for public inspection at City Hall during normal business hours.

Mayor Kindig called the meeting to order and led the audience in the pledge of allegiance.

Mayor Kindig made an announcement regarding the agenda policy statement providing for an expanded opportunity for public comment on the agenda items.

### SERVICE AWARD – RAY HARROD AND HARALD RAPPOLD - 15 YEARS

Mayor Kindig recognized Ray Harrod and Harald Rappold for 15 years of service to the City.

### APPOINTMENT OF FIRE DEPARTMENT RECRUIT – KENN THOMPSON

Mayor Kindig stated, with the approval of the City Council, he would like to appoint Fire Department recruit: Kenn Thompson. Fire Chief Uhl introduced the new recruit to the Council. Councilmember Sell motioned the approval, seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Gowan and Ellerbeck. Nays: None. Absent: Sheehan. Motion carried.

#### A. CONSENT AGENDA

1. APPROVAL OF THE AGENDA AS PRESENTED
2. APPROVAL OF CITY COUNCIL MINUTES FROM MARCH 6, 2012
3. APPROVAL OF LA VISTA/METROPOLITAN COMMUNITY COLLEGE CONDOMINIUM OWNERS ASSOCIATION, INC. FROM FEBRUARY 21, 2012
4. APPROVAL OF LIBRARY ADVISORY BOARD MINUTES FROM MARCH 8, 2012
5. MONTHLY FINANCIAL REPORT – FEBRUARY 2012
6. PAY REQUEST – THOMPSON, DREESSEN & DORNER, INC. – PROFESSIONAL SERVICES – APPLEWOOD CREEK IMPROVEMENTS PROJECT - \$638.49

AA WHEEL & TRUCK SUPPLY, maint.	325.08
ACI, dues	60.00
ACTION BATTERIES, supplies	116.90
ALAMAR, apparel	181.48
ALEX, M., mileage	159.51
ALFARO, M., travel	254.39
ART FAC GRAPHICS, maint.	96.00
AUSTIN PETERS GROUP, services	1100.00
BAKER & TAYLOR, books	384.38
BCDM, maint.	525.00
BIG RIG TRUCK, maint.	29.00
BKD, services	10300.00
BLACK HILLS ENERGY, utilities	190.24
BOBCAT, supplies	6200.00
BRENTWOOD AUTO WASH, maint.	77.00
BRIDGESTONE GOLF, supplies	813.00
BUILDERS SUPPLY, bld&grnds	12.29
CALENTINE, J., travel	593.68
CARDMEMBER SERVICE, training&supplies	8080.01
CAVLOVIC, P., apparel	120.00

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CDW, supplies	812.70
CENTURY LINK, phone	32.15
CITY OF OMAHA, sewer	65690.56
CJ'S HOME CENTER, maint.	916.53
COMP CHOICE, svrs	334.50
CONSOLIDATED MANAGEMENT, travel	171.25
COX, utilities	148.65
D & D COMM., equip.	726.00
DEMCO INC., supplies	97.67
DHHS REG/LIC-POOL PERMIT	280.00
DHHS REG/LIC-POOL PERMIT	40.00
DIAMOND VOGEL, bld&grnds	21.89
DOUGLAS COUNTY SHERIFF, svrs	125.00
EMBASSY SUITES, svrs	3163.35
EXCHANGE BANK, lease	695.00
FEDEX KINKO'S, printing	22.50
FERGUSON, bld&grnds	156.30
FITZGERALD SCHORR BARMETTLER, svrs	33705.15
FOSTER, T., mileage	64.00
GALLS, postage	8.99
GCR TIRE, maint.	35.21
GENUINE PARTS, maint.	993.41
GREAT PLAINS, dues	200.00
GREAT PLAINS, services	84.23
GUNN, B., travel	64.50
H & H CHEV., maint.	340.30
HANEY SHOE STORE, apparel	120.00
HERITAGE CRYSTAL CLEAN, svrs	123.72
HIGHSMITH, supplies	269.89
HORNADY, supplies	2442.00
HOST COFFEE, concessions	26.85
HUNTEL , services	123.50
HY-VEE, supplies	93.42
INTERSTATE, equip.	24.99
J Q OFFICE EQUIP., svrs	1188.97
JOHN DEERE, maint.	115.20
KAR SIM KENNEL, svrs	24.00
KOCSIS ELECTRIC, refund	75.00
KRIHA FLUID POWER, equip.	823.11
LAUGHLIN, KATHLEEN A, TRUSTEE	474.00
LINCOLN NATIONAL LIFE INS CO	6796.46
LOGAN CONTRACTORS, maint.	12.39
LOU'S SPORTING GOODS, equip.	325.85
LOWE'S, bld&grnds	621.04
MARTIN, A., travel	264.00
MATHESON TRI-GAS, supplies	569.43
MES-MIDAM, equip.	7718.20
MAT, svrs	765.00
MID AMERICAN SIGNAL, equip.	798.00
MIDWEST TAPE, supplies	635.52
MOSS, L., refund	60.00
MSC INDUSTRIAL, equip.	54.84
NE DEPT OF REVENUE, svrs	100.00
NE LIQUOR CONTROL, license	45.00
NE FOREST SERVICE, training	240.00
NEBRASKA IOWA SUPPLY, maint.	7231.40
NEBRASKA NOTARY ASSOCIATION, svrs	98.25
NEW YORK TIMES, books	202.80
NIKE, supplies	913.87

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NMC, maint.	36.80
NUTS AND BOLTS, maint.	458.05
OFFICE DEPOT, supplies	859.82
OMAHA COMPOUND, supplies	56.25
OMAHA ELECTRIC , supplies	12779.82
OPPD, utilities	44361.84
OMAHA WORLD HERALD, adv	420.79
OMAHA WORLD HERALD, adv	213.20
OMNIGRAPHICS, books	163.70
O'REILLY AUTO., maint.	965.24
ORIZON, svrs	15000.00
PAPILLION SANITATION, svrs	304.11
PARAMOUNT, apparel	190.68
PAYLESS OFFICE PRODUCTS, supplies	452.83
PERFORMANCE CHRYSLER JEEP, maint.	784.68
PETTY CASH	64.18
PLAINS EQUIP., maint.	654.00
PLUMBING TODAY, permits	70.00
POSITIVE PROMOTIONS, supplies	58.35
PREMIER-MIDWEST BEV., concessions	123.00
PROJECT HARMONY, svrs	150.00
QUALITY BRANDS, supplies	247.40
QUALITY CONTAINERS, equip.	1300.00
RADIO SHACK, bld&grnds	37.98
RAPPLEY, M., mileage	264.00
RAY ALLEN, equip.	925.00
RETRIEVEX, svrs	84.33
ROY SR, R., mileage	61.00
SAM'S CLUB, supplies	521.38
SARPY COUNTY, bld&grnds	120.00
SARPY COUNTY TREAS., svrs	26974.61
SCHLEGEL, J., mileage	64.00
SIMPLEX GRINNELL, bld&grnds	1318.00
STATE STEEL , maint.	264.58
SUPER SEER CORP., equip.	1788.80
THOMPSON DREESSEN & DORNER, svrs	781.38
TORNADO WASH, svrs	125.00
U S ASPHALT, supplies	171.39
ULTIMATE TRAINING MUNITIONS, equip.	915.00
UPS, postage	10.20
V & V MANUFACTURING, apparel	118.70
WASTE MANAGEMENT NE., bld&grnds	1102.43
WHITE CAP CONSTR, supply	124.98

Councilmember Gowan made a motion to approve the consent agenda. Seconded by Councilmember Carlisle. Councilmember Ellerbeck reviewed the claims for this period and reported that he found everything to be in order. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

City Clerk Buethe reported that the new consent agenda format would begin at the next meeting.

Police Chief Lausten reported that an active traffic signal enforcement has lead to 42 traffic contacts and 21 were red light violations. Lausten stated that Saint Patrick's Day celebrations were quiet and only lead to a few DUI arrests.

Fire Chief Uhl and Police Chief Pokorny reported that a grant was received in the amount of \$72,352.00 for assistance from FEMA in replacing radios.

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Public Works Director Soucie reported that two sewer employees attended the National Convention and that the Golf Superintendent would also be attending a respective National Convention later this year as well. Soucie also reported that a new snow blower had arrived. Soucie also commented that a local company is selling salt at \$20 savings per ton.

Library Director Barcal reported that she attended several great sessions at the National Public Library Association Meeting.

## **B. CITIZENS ADVISORY REVIEW COMMITTEE – EDP REPORT**

### **1. PUBLIC HEARING**

At 07:13 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on the Citizens Advisory Review Committee.

At 7:14 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## **C. ORDINANCE – RIGHT OF WAY VACATION AND CONVEYANCE- SOUTH SIDE OF HARRISON EAST OF 83<sup>RD</sup> STREET**

Councilmember Crawford made a motion to table this agenda item to the April 3, 2012 meeting. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## **D. EXPANSION OF 2-MILE EXTRATERRITORIAL JURISDICTION – WEST OF 144<sup>TH</sup> STREET**

### **1. PUBLIC HEARING**

At 7:15 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Expansion of 2-Mile Extra Territorial Jurisdiction – West of 144<sup>th</sup> Street.

At 7:15 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

### **2. ORDINANCE**

Councilmember Carlisle introduced and moved for adoption of Ordinance 1171 entitled: AN ORDINANCE TO EXTEND AND REVISE BOUNDARIES OF THE EXTRATERRITORIAL JURISDICTION OF THE CITY OF LA VISTA NEBRASKA; TO REPEAL ALL ORDINANCES IN CONFLICT HEREWITH; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

Councilmember Ellerbeck moved that the statutory rule requiring reading on three different days be suspended. Councilmember Gowan seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Carlisle moved for final passage of the ordinance which motion was seconded by Councilmember Ellerbeck. The Mayor then stated the question, "Shall Ordinance No. 1171 be passed and adopted?" Upon roll call vote the following Councilmember voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

## **E. AMENDMENTS TO THE COMPREHENSIVE PLAN**

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## **1. PUBLIC HEARING**

At 7:16 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Amendments to the Comprehensive Plan.

At 7:16 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## **2. RESOLUTION – AMEND COMPREHENSIVE PLAN – FUTURE LAND USE MAP**

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 12-024; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, IN SUPPORT OF AMENDING THE FUTURE LAND USE MAP PORTION OF THE COMPREHENSIVE PLAN.

WHEREAS, after the expansion of the City of La Vista's 2-mile extraterritorial jurisdiction (ETJ), the official Future Land Use Map is required to be amended to include those area incorporated into the ETJ through the expansion; and

WHEREAS, the Planning Commission has recommended approval of a request for the adoption of the new Future Land Use Map; and

WHEREAS, an amendment to the Future Land Use Map is appropriate and consistent with the land use policies of the Comprehensive Plan; and

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of La Vista, Nebraska, hereby directs the City Administrator to prepare the necessary amendment to the Future Land Use Map of the Comprehensive Plan that includes the expansion of the City's 2-mile ETJ as identified in the attached Exhibit A.

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## **3. RESOLUTION – AMEND COMPREHENSIVE PLAN – CHAPTER 9: ANNEXATION PLAN**

Councilmember Carlisle introduced and moved for the adoption of Resolution No. 12-025; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, IN SUPPORT OF AMENDING CHAPTER 9, ANNEXATION PLAN, OF THE COMPREHENSIVE PLAN

WHEREAS, the Comprehensive Plan currently has an Annexation Plan in Chapter 9 which includes a narrative section, a chart and a map; and

WHEREAS, amendments are proposed to update the Plan based on an annual review; and

WHEREAS, the Planning Commission has recommended approval of the amendments to Chapter 9, Annexation Plan; and

NOW THEREFORE, BE IT RESOLVED that the Mayor and City Council of the City of La Vista, Nebraska, hereby directs the City Administrator to have prepared the necessary amendment to Chapter 9, Annexation Plan, of the Comprehensive Plan as identified in the attached Exhibit A.

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## **F. ZONING TEXT AMENDMENT – GATEWAY CORRIDOR OVERLAY DISTRICT**

### **1. PUBLIC HEARING**

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At 7:18 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Zoning Text Amendment – Gateway Corridor Overlay District.

At 7:18 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## 2. ORDINANCE

Councilmember Carlisle introduced and moved for adoption of Ordinance 1172 entitled: AN ORDINANCE TO AMEND SECTION 5.17 OF ORDINANCE NO. 848 (ZONING ORDINANCE); TO REPEAL SECTION 5.17 OF ORDINANCE NO. 848 AS PREVIOUSLY ENACTED; TO PROVIDE FOR SEVERABILITY; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

Councilmember Gowan moved that the statutory rule requiring reading on three different days be suspended. Councilmember Ellerbeck seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Ellerbeck moved for final passage of the ordinance which motion was seconded by Councilmember Gowan. The Mayor then stated the question, "Shall Ordinance No. 1172 be passed and adopted?" Upon roll call vote the following Councilmember voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The passage and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

## G. ZONING MAP AMENDMENTS – WEST OF 144<sup>th</sup> STREET & GATEWAY CORRIDOR OVERLAY DISTRICT

### 1. PUBLIC HEARING

At 7:19 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on Zoning Map Amendment – West of 144<sup>th</sup> Street & Gateway Corridor Overlay District

At 7:20 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## 2. ORDINANCE

Councilmember Carlisle introduced and moved for adoption of Ordinance 1173 entitled: AN ORDINANCE TO AMEND THE OFFICIAL ZONING MAP OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA; AND TO PROVIDE FOR THE EFFECTIVE DATE HEREOF.

BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, SARPY COUNTY, NEBRASKA.

Councilmember Carlisle moved that the statutory rule requiring reading on three different days be suspended. Councilmember Quick seconded the motion to suspend the rules and upon roll call vote on the motion the following Councilmembers voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The motion to suspend the rules was adopted and the statutory rule was declared suspended for consideration of said ordinance.

Said ordinance was then read by title and thereafter Councilmember Carlisle moved for final passage of the ordinance which motion was seconded by Councilmember Quick. The Mayor then stated the question, "Shall Ordinance No. 1173 be passed and adopted?" Upon roll call vote the following Councilmember voted aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. The following voted nay: None. The following were absent: Sheehan. The passage

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and adoption of said ordinance having been concurred on by a majority of all members of the Council, the Mayor declared the ordinance adopted and the Mayor, in the presence of the Council, signed and approved the ordinance and the City Clerk attested the passage/approval of the same and affixed her signature thereto.

## H. RESOLUTION – APPROVE CHANGE ORDER 1 – APPLEWOOD CREEK IMPROVEMENTS

Councilmember Sell introduced and moved for the adoption of Resolution No. 12-026: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING A CHANGE ORDER TO THE CONTRACT WITH MELVIN SUDBECK HOMES, INC., OMAHA, NEBRASKA, TO REDUCE THE CONTRACT PRICE TO \$305,959.68.

WHEREAS, the City has determined it is necessary to reduce the quantity of mitigation trees and to change the species of mitigation trees; and

WHEREAS, this change is necessary to comply with conditions of the Corps of Engineers permit for this project; and

NOW THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the Mayor is authorized to execute the necessary documents for a change order with Melvin Sudbeck Homes, Inc., Omaha, Nebraska, for reduction of the quantity of mitigation trees and to change the species of mitigation trees for a decrease in the contract price from \$311,241.48 to \$305,959.68.

Seconded by Councilmember Ellerbeck. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## I. RESOLUTION – AUTHORIZATION TO PURCHASE – TRUCK MOUNTED SEWER JETTER

Councilmember Crawford introduced and moved for the adoption of Resolution No. 12-027: A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF ONE (1) 2013 INTERNATIONAL MODEL 4300 SBA, 4X2 TRUCK FROM CORNHUSKER INTERNATIONAL TRUCKS, INC., OMAHA NEBRASKA EQUIPPED WITH A FACTORY INSTALLED 2012 SEWER JETTER, MODEL 800H-ECO FROM SEWER EQUIPMENT COMPANY OF AMERICA AND ANCILLARY EQUIPMENT, IN AN AMOUNT NOT TO EXCEED \$208,800.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a truck mounted sewer jettter is necessary; and

WHEREAS, the purchase has been included in the FY 2011/12 Sewer Fund Budget; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska authorizing the purchase of one (1) 2013 International Model 4300 SBA, 4x2 truck from Cornhusker International Trucks, Inc. Omaha Nebraska equipped with a factory installed 2012 Sewer Jetter, Model 800H-ECO from Sewer Equipment Company of America and ancillary equipment, in an amount not to exceed \$208,800.00.

Seconded by Councilmember Carlisle. Councilmember Sell asked why we only received one bid, and questioned if the specifications were too rigid. Public Works Director Soucie stated that there were only two companies in the United States that made the equipment and the more specialized truck must be purchased from a Nebraska dealer. Councilmember Gowan asked the age of the current vehicle and Soucie stated the current vehicle is 25 plus years old. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## J. RESOLUTION - AWARD CONTRACT – BACK STOP REPLACEMENT

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Councilmember Carlisle introduced and moved for the adoption of Resolution No. 12-028; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO ELKHORN FENCE COMPANY, ELKHORN, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$5,296.00

WHEREAS, the City Council of the City of La Vista has determined that the replacement of the backstop on field #3 at the Sports complex is necessary; and

WHEREAS, the FY 2011/12 General Fund Budget will provide funds for this project; and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska award the contract to Elkhorn Fence Company, Elkhorn, Nebraska in an amount not to exceed \$5,296.00

Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

## K. JOB DESCRIPTION UPDATES

Councilmember Carlisle made a motion to receive and file the update job descriptions for Front Office Staff.

Seconded by Councilmember Ellerbeck. Councilmember Sell asked who the main supervisor would be. Assistant City Administrator Ramirez stated that the main supervisor is the Front Office Manager with the Department Head taking care of technical items pertaining directly to their department. Councilmember Sell asked if these changes were enough and Assistant City Administrator Ramirez stated they felt they are and would monitor if any further changes need to be made. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

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## COMMENTS FROM THE FLOOR

Randy Eschelmann, candidate for Ward 4 approached the Council in regards to the current signage law. Mayor Kindig reported that city staff has been reviewing signage requirements and changes will be presented to the Planning Commission on April 19, 2012.

## COMMENTS FROM MAYOR AND COUNCIL

There were no comments from the Mayor and Council.

## STRATEGIC PLANNING WORKSHOP

The Mayor and Council received updates on opportunities for change and growth in the current strategic plan and discussed changes and opportunities for the strategic plan. City Administrator Gunn will update the Strategic Plan and bring it to Council at a future date for review and approval.

At 9:30 p.m. Councilmember Ellerbeck made a motion to adjourn the meeting. Seconded by Councilmember Quick. Councilmembers voting aye: Sell, Ronan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: Sheehan. Motion carried.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

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Douglas Kindig  
Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

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## Douglas County

ENGINEERS

Date 09-MAR-12  
1 of 1Remit To: Douglas County Treasurer  
RM H03  
1819 Farnam St.  
Omaha NE 68183

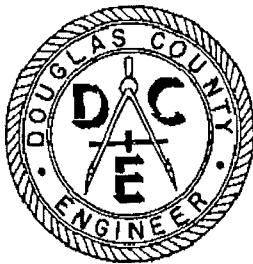
Customer No: 28660

Bill To: CITY OF LAVISTA  
8116 PARK VIEW BLVD  
LAVISTA NE 68128

Ship To:

**Sales Order Number:****Transaction Type:** ENGINEERS**Payment Method:** 12532**Invoice Number:** 23355**Terms:** 30 NET**Total Due:** 21,303.26**PLEASE RETURN TOP PORTION WITH REMITTANCE**

Item No.	DESCRIPTION	QTY	UOM	TAX	UNIT PRICE	EXTENDED PRICE
1	CONSTRUCTION PAY REQUEST #2 FOR THE CITY OF LAVISTA SHARE OF DOUGLAS COUNTY PROJECT C-28(498)A - HELL CREEK	21303.26	21303.3		1.00	21,303.26
<b>SPECIAL INSTRUCTION</b>				<b>DUE DATE</b>	<b>TOTAL DUE</b>	
				08-APR-12	21,303.26	



TOM DOYLE  
**DOUGLAS COUNTY ENGINEER**

15505 West Maple Road  
Omaha, Nebraska 68116-5173  
402-444-6372  
Fax: 402-444-6244  
engineer@douglascounty-ne.gov

March 9, 2012

Joe Soucie, Public Works Director  
City of La Vista  
9900 Portal Road  
LaVista Nebraska 68128-2198

RE: Douglas County Project No. C-28(498)A  
Hell Creek Stream Stabilization Phase I  
Construction Pay Request #2

Dear Joe:

In reference to the Interlocal Agreement for Phase I Construction for the stabilization of the Hell Creek Bridge, the City of LaVista shares 15% of the construction costs for the referenced project.

Douglas County has issued payments as follows:

Daily Record	77.49
Tab Construction	705,205.21
Lamp Rynearson	86,499.05
Utilities Services Group	350.00
Thiele Geotech	540.00
	<hr/>
	792,671.75
LaVista 15% share	118,900.76
Less Previous Payment	97,597.50

Please issue payment for Invoice No. 23355 in the amount of \$21,303.26.

Very truly yours,

Dan Kutilek  
Manager-Engineer  
Design & Planning

DK:mr  
Encl

OK payment  
05,71,0842.03  
JF 3-15-12

## PAYMENT RECOMMENDATION No. 2 ON CONTACT FOR: Applewood Creek Improvement

OWNER: City of La Vista  
8116 Park View Blvd.  
La Vista, NE 68128CONTRACTOR: Melvin Sudbeck Homes, Inc  
16255 Woodland Drive  
Omaha, NE 68136

ORIGINAL CONTRACT AMOUNT: \$ 311,241.48

AMOUNT OF PREVIOUS PAYMENT RECOMMENDATION: \$ 76,711.65

Item	Description	In Place Quantities	Unit Price	Amount Due
1	Clearing and Grubbing (Including Trees less than 9" Diameter)	0.80 L.S.	\$ 16,500.00	\$ 13,200.00
2	Clearing and Grubbing Trees Over 9" to 18" Diameter	26 EA.	\$ 250.00	\$ 6,500.00
3	Clearing and Grubbing Trees Over 18" to 27" Diameter	5 EA.	\$ 450.00	\$ 2,250.00
4	Clearing and Grubbing Trees Over 27" to 36" Diameter	2 EA.	\$ 575.00	\$ 1,150.00
5	Stabilized Construction Entrance, In Place	2 EA.	\$ 2,340.00	\$ 4,680.00
6	Temporary Channel Crossing, In Place	0.80 EA.	\$ 12,496.00	\$ 9,996.80
7	Common Earth Excavation	650 C.Y.	\$ 10.00	\$ 6,500.00
8	Remove and Dispose Existing 36" RCP	32 L.F.	\$ 32.59	\$ 1,042.88
9	Construct 36" Concrete Collar, In Place	1 EA.	\$ 560.00	\$ 560.00
10	Construct Pile Bent Structure, In Place	1 EA.	\$ 3,238.00	\$ 3,238.00
11	36" CMP, In Place	24 L.F.	\$ 70.00	\$ 1,680.00
12	8 x 36 H-Pile, In Place	V.F.	\$ 90.00	\$ -
13	Galvanized Wire Mesh or Stock Panels, In Place	S.F.	\$ 2.65	\$ -
14	Type "A" Rip Rap, In Place	152.41 TONS	\$ 33.00	\$ 5,029.53
15	Type "C" Rip Rap, In Place	180 TONS	\$ 37.00	\$ 6,660.00
16	Type "C" Rip Rap, Grouted In Place	TONS	\$ 45.68	\$ -
17	Vegetated Geoweb Retaining Wall, In Place	50 S.F.	\$ 16.00	\$ 800.00
18	Vegetated Reinforced Earth Section, In Place	S.F.	\$ 9.80	\$ -
19	Root Wads With Anchor System, In Place	40 EA.	\$ 485.00	\$ 19,400.00
20	Turf Reinforcement Mat NAG SC260, In Place	156.5 S.Y.	\$ 4.85	\$ 759.03
21	United Seed "Super Shade" Grass Seed, In Place	150 S.Y.	\$ 2.00	\$ 300.00
22	Straw Wattle, In place	154.00 L.F.	\$ 4.20	\$ 646.80
23	Fabric Silt Fence, In Place	800 L.F.	\$ 2.50	\$ 2,000.00
24	Remove Fabric Silt Fence	L.F.	\$ 1.50	\$ -
25	Remove Stabilized Construction Entrance	EA.	\$ 1,000.00	\$ -
26	3" Caliper Replacement Trees, In Place	EA.	\$ 129.00	\$ -
27	Water Management	L.S.	\$ 15,000.00	\$ -
28	Temporary Seed	S.Y.	\$ 0.25	\$ -
29	Temporary Erosion Control Blanket N.A.G. S75	S.Y.	\$ 1.50	\$ -
30	CAT 225 Backhoe or Equivalent	HR	\$ 115.00	\$ -
31	CAT 977 Loader or Equivalent	HR	\$ 100.00	\$ -
32	CAT D6 Dozer or Equivalent	HR	\$ 110.00	\$ -
33	Tandem Dump Truck			

CONTRACT SUBTOTAL \$ 86,393.04

## Materials Stored On or Near the Site Not Incorporated Into Project

H-Piles			\$ 8,358.40	
Type C Riprap	376.53	TONS	\$ 27.00	\$ 10,139.31
Geoweb Retaining Wall Material				\$ 10,126.62
Root Wad Anchors System				\$ 3,411.94

MATERIALS STORED ON-SITE SUBTOTAL \$ 32,036.27

PAYMENT RECOMMENDATION No. 2 ON CONTACT FOR: Applewood Creek Improvement

Additions:

Total Additions

\$

**TOTAL**

\$ 118,429.31

Less 10% Retainage

\$ 11,842.93

Less Previous Payments

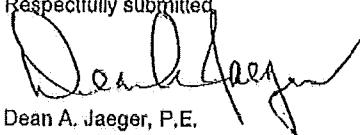
\$ 76,711.65

AMOUNT DUE CONTRACTOR

\$ 29,874.72

We recommend that payment in the amount of \$ 29,874.72 be made to Melvin Sudbeck Homes, Inc

Respectfully submitted,



Dean A. Jaeger, P.E.  
THOMPSON, DREESSEN & DORNER, INC.

DAJ/bam

cc: Melvin Sudbeck Homes, Inc

O.K. to pay  
05.71.0815.03  
8MK  
3/26/2012

Consent  
Agenda

Applewood Creek Improvement  
 Payment Recommendation No. 2  
 Summary of Materials Stored On-site  
 March 22, 2012

Rock Riprap, Type C

Delivery Ticket Summary submitted through 3/22/12

Date	Ticket No.	Tons	Unit Cost*	Amount	Date	Ticket No.	Tons
3/2/2012	300049	25.35			3/8/2012	301158	25.61
3/2/2012	300086	24.3			3/8/2012	301254	25.07
3/5/2012	300099	23.87			3/8/2012	301326	25.31
3/5/2012	300130	25.58			3/13/2012	302189	25.68
3/5/2012	300289	25.17			3/13/2012	302254	25.09
3/5/2012	300350	25.1			3/15/2012	303319	25.65
3/5/2012	300401	25.18					
3/6/2012	300604	25.64					
3/6/2012	300679	24.88					
3/6/2012	300764	24.2					
3/7/2012	301068	26.05					
3/8/2012	301115	25.25					
3/13/2012	302339	24.58					
3/13/2012	302415	25.62					
3/13/2012	302500	25.58					
3/14/2012	302767	25.59					
3/14/2012	302837	26.28					
3/14/2012	302910	26.35					
3/15/2012	303025	25.69					
3/15/2012	303080	25.38					
3/15/2012	303161	25.39					
3/15/2012	303236	24.5					
		555.53					152.41
Riprap In Place		180					152.41
Stored On site		375.53	\$ 27.00	\$ 10,139.31			0

\* Material Cost \$20.25/ton plus \$6.75/ton shipping

8 36 H-Piles % Stored as of 3/22/12  
 3/2/2012 Drake-Williams Steel Inv 56240 \$ 8,358.40 100%

Geoweb Retaining Wall Cells 5% In place as of 3/21/12  
 3/5/2012 ASP Enterprises Order 0105339 Submitted w/Payment Recommendation No. 1  
 30V" depth 5 cells long \$ 10,179.60 95% \$ 9,670.62  
 ATRA Clip \$ 480.00 95% \$ 456.00  
 \$ 10,659.60 \$ 10,126.62

Root Wad Anchors 67% In place as of 3/21/12

3/5/2012	ASP Enterprises	Order 0105339 Submitted w/Payment Recommendation No. 1
MR-1 Anchors	\$ 4,126.20	33% \$ 1,361.65
Threaded Bar	\$ 2,988.00	33% \$ 986.04
Eye Nut	\$ 1,155.00	33% \$ 381.15
1/2" Galv. Cable	\$ 1,350.00	33% \$ 445.50
1/2" Galv Cable Clamps	\$ 720.00	33% \$ 237.60
	\$ 10,339.20	\$ 3,411.94

A.S

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
1	Bank of Nebraska (600-873)								
106910	4/03/2012	2892	AA WHEEL & TRUCK SUPPLY INC			54.13			
106911	4/03/2012	762	ACTION BATTERIES UNLTD INC			131.16			
106912	4/03/2012	4437	ALFARO, MICHELLE			1,500.00			
106913	4/03/2012	2241	ALS AFFILIATES			200.00			
106914	4/03/2012	536	ARAMARK UNIFORM SERVICES INC			632.26			
106915	4/03/2012	2554	BARCAL, ROSE			214.98			
106916	4/03/2012	793	BENNETT REFRIGERATION			178.25			
106917	4/03/2012	196	BLACK HILLS ENERGY			7,029.11			
106918	4/03/2012	4229	BLACKHAWK			75.96			
106919	4/03/2012	3760	BUETHE, PAM			195.92			
106920	4/03/2012	76	BUILDERS SUPPLY CO INC			13.12			
106921	4/03/2012	2285	CENTER POINT PUBLISHING			214.50			
106922	4/03/2012	219	CENTURY LINK			1,167.73			
106923	4/03/2012	2540	CENTURY LINK BUSN SVCS			34.69			
106924	4/03/2012	152	CITY OF OMAHA			87,135.19			
106925	4/03/2012	4615	CONSOLIDATED MANAGEMENT			311.75			
106926	4/03/2012	2158	COX COMMUNICATIONS			58.65			
106927	4/03/2012	3136	D & D COMMUNICATIONS			175.00			
106928	4/03/2012	3295	DAYMARK SOLUTIONS			240.00			
106929	4/03/2012	270	DECOSTA SPORTING GOODS			83.94			
106930	4/03/2012	3793	DEIML, KEITH			1,210.00			
106931	4/03/2012	77	DIAMOND VOGEL PAINTS			75.79			
106932	4/03/2012	2149	DOUGLAS COUNTY SHERIFF'S OFC			87.50			
106933	4/03/2012	3776	ELECTRIC SPECIALTIES CO INC			127.50			
106934	4/03/2012	4110	EMERGENCY SERVICES MARKETING			97.83			
106935	4/03/2012	3159	FASTENAL COMPANY			164.06			
106936	4/03/2012	1042	FELD FIRE			590.25			
106937	4/03/2012	3739	FELSBURG HOLT & ULLEVIG			656.51			
106938	4/03/2012	2061	FERGUSON ENTERPRISES INC #226			40.54			
106939	4/03/2012	439	FIREGUARD INC			394.33			
106940	4/03/2012	142	FITZGERALD SCHORR BARMETTLER			33,842.22			
106941	4/03/2012	4690	FLATWATER FOOLS			350.00			
106942	4/03/2012	3132	FORT DEARBORN LIFE INSURANCE			1,342.00			
106943	4/03/2012	3756	FROEHLICH, RORY			196.00			
106944	4/03/2012	4644	GARROD, MANDY			204.24			
106945	4/03/2012	4487	GIBSON, JOHN			125.00			
106946	4/03/2012	4686	GLENRIDGE INC			1,265.00			
106947	4/03/2012	2224	FRED PETERSON			819.00			
106948	4/03/2012	1044	H & H CHEVROLET LLC			224.94			
106949	4/03/2012	4683	HANNER, SEASON R			75.00			
106950	4/03/2012	1403	HELGET GAS PRODUCTS INC			140.50			
106951	4/03/2012	433	HIGHSMITH			205.59			
106952	4/03/2012	136	HUNTEL COMMUNICATIONS, INC			.00	**CLEARED**	**VOIDED**	
106953	4/03/2012	136	HUNTEL COMMUNICATIONS, INC			250.00			
106954	4/03/2012	1612	HY-VEE INC			402.88			
106955	4/03/2012	162	INLAND TRUCK PARTS			107.93			
106956	4/03/2012	100	JOHNSTONE SUPPLY CO			42.32			
106957	4/03/2012	4330	LARSEN SUPPLY COMPANY			33.16			
106958	4/03/2012	4671	LAW S COMMUNICATIONS			295.00			
106959	4/03/2012	3198	LEAGUE OF NEBR MUNICIPALITIES			825.00			
106960	4/03/2012	4254	LINCOLN NATIONAL LIFE INS CO			.00	**CLEARED**	**VOIDED**	

BANK NO CHECK NO	BANK NAME DATE	VENDOR NO VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
106961	4/03/2012	4254 LINCOLN NATIONAL LIFE INS CO	10,654.74			
106962	4/03/2012	3674 LOCATE	30.00			
106963	4/03/2012	544 MAPA-METRO AREA PLANNING AGNCY	45.00			
106964	4/03/2012	877 MATHESON TRI-GAS INC	274.70			
106965	4/03/2012	153 METRO AREA TRANSIT	577.00			
106966	4/03/2012	872 METROPOLITAN COMMUNITY COLLEGE	13,824.66			
106967	4/03/2012	553 METROPOLITAN UTILITIES DIST.	.00	**CLEARED**	**VOIDED**	
106968	4/03/2012	553 METROPOLITAN UTILITIES DIST.	1,810.11			
106969	4/03/2012	2497 MID AMERICA PAY PHONES	50.00			
106970	4/03/2012	3921 MID-STATES UTILITY TRAILER	399.00			
106971	4/03/2012	1526 MIDLANDS LIGHTING & ELECTRIC	62.12			
106972	4/03/2012	3286 MINUTE MAN PRINTING	28.66			
106973	4/03/2012	4052 MONROE TRUCK EQUIPMENT INC	868.42			
106974	4/03/2012	1028 NATIONAL PAPER COMPANY INC	583.71			
106975	4/03/2012	4693 NAVIGATE WELLNESS LLC	480.00			
106976	4/03/2012	372 NE LIQUOR CONTROL COMMISSION	80.00			
106977	4/03/2012	911 NEBRASKA AIR FILTER INC	122.04			
106978	4/03/2012	555 NEBRASKA FIRE ADMIN ASSISTANTS	15.00			
106979	4/03/2012	719 NEBRASKA FOREST SERVICE	50.00			
106980	4/03/2012	31 NEBRASKA STATE VOLUNTEER	400.00			
106981	4/03/2012	653 NEUMAN EQUIPMENT COMPANY	1,023.10			
106982	4/03/2012	808 NEWMAN TRAFFIC SIGNS INC	.00	**CLEARED**	**VOIDED**	
106983	4/03/2012	808 NEWMAN TRAFFIC SIGNS INC	2,401.80			
106984	4/03/2012	2631 NEXTEL SPRINT COMMUNICATIONS	387.77			
106985	4/03/2012	2631 NEXTEL SPRINT COMMUNICATIONS	206.24			
106986	4/03/2012	3973 NIKE USA INC	225.00			
106987	4/03/2012	408 NOBBIES INC	22.74			
106988	4/03/2012	128 NSFSI-NE SOC/FIRE SVC INSTRS	2,813.40			
106989	4/03/2012	179 NUTS AND BOLTS INCORPORATED	136.42			
106990	4/03/2012	1468 NWEA-NE WATER ENVIRONMENT ASSN	375.00			
106991	4/03/2012	1968 O'KEEFE ELEVATOR COMPANY INC	400.93			
106992	4/03/2012	1808 OCLC INC	31.94			
106993	4/03/2012	1014 OFFICE DEPOT INC	.00	**CLEARED**	**VOIDED**	
106994	4/03/2012	1014 OFFICE DEPOT INC	1,032.21			
106995	4/03/2012	195 OMAHA PUBLIC POWER DISTRICT	405.61			
106996	4/03/2012	319 OMAHA WINNELSON	205.07			
106997	4/03/2012	4514 ON THE SPOT PRODUCTIONS	3,300.00			
106998	4/03/2012	976 PAPILLION TIRE INCORPORATED	128.94			
106999	4/03/2012	2686 PARAMOUNT LINEN & UNIFORM	329.21			
107000	4/03/2012	4654 PAYFLEX SYSTEMS USA INC	250.00			
107001	4/03/2012	4694 PDMB INC	.00	**CLEARED**	**VOIDED**	
107002	4/03/2012	4694 PDMB INC	.00	**CLEARED**	**VOIDED**	
107003	4/03/2012	4694 PDMB INC	.00	**CLEARED**	**VOIDED**	
107004	4/03/2012	4694 PDMB INC	3,396.00			
107005	4/03/2012	3058 PERFORMANCE CHRYSLER JEEP	425.40			
107006	4/03/2012	1821 PETTY CASH-PAM BUETHE	.00	**CLEARED**	**VOIDED**	
107007	4/03/2012	1821 PETTY CASH-PAM BUETHE	361.81			
107008	4/03/2012	74 PITNEY BOWES INC-PA	.00	**CLEARED**	**VOIDED**	
107009	4/03/2012	74 PITNEY BOWES INC-PA	204.00			
107010	4/03/2012	1784 PLAINS EQUIPMENT GROUP	1,744.44			
107011	4/03/2012	58 RAINBOW GLASS & SUPPLY	371.00			
107012	4/03/2012	4653 RDG PLANNING & DESIGN	8,078.00			
107013	4/03/2012	191 READY MIXED CONCRETE COMPANY	891.58			

## BANK NO BANK NAME

CHECK NO

DATE VENDOR NO VENDOR NAME

CHECK AMOUNT

CLEARED

VOIDED

MANUAL

107014	4/03/2012	3090 REGAL AWARDS OF DISTINCTION	185.95	APPROVED BY COUNCIL MEMBERS
107015	4/03/2012	3660 ROY SR, RICK	73.00	<u>4/3/12</u>
107016	4/03/2012	487 SAPP BROS PETROLEUM INC	644.00	
107017	4/03/2012	1335 SARPY COUNTY CHAMBER OF	120.00	
107018	4/03/2012	4691 SARPY COUNTY SOCCER ASSN	1,887.18	
107019	4/03/2012	150 SARPY COUNTY TREASURER	9,646.87	
107020	4/03/2012	115 SIRCHIE FINGER PRINT LABS	73.85	
107021	4/03/2012	4688 SPRINKLER COMPANY	500.00	
107022	4/03/2012	3838 SPRINT	119.97	
107023	4/03/2012	3838 SPRINT	62.28	COUNCIL MEMBER
107024	4/03/2012	3069 STATE STEEL OF OMAHA	72.38	
107025	4/03/2012	2634 STERIL MANUFACTURING CO	50.00	
107026	4/03/2012	910 STEVENS, MARK	201.47	
107027	4/03/2012	47 SUBURBAN NEWSPAPERS INC	39.50	
107028	4/03/2012	4646 SUPERCO SPECIALTY PRODUCTS	259.37	
107029	4/03/2012	4276 SUPERIOR VISION SVCS INC	400.56	
107030	4/03/2012	4539 SWANK MOTION PICTURES INC	1,293.00	COUNCIL MEMBER
107031	4/03/2012	4426 TEAM SIDELINE	499.00	
107032	4/03/2012	4373 THOMAS E STEVENS & ASSOCS	650.00	
107033	4/03/2012	2765 TRADE WELL PALLET INC	300.00	
107034	4/03/2012	2426 UNITED PARCEL SERVICE	18.78	
107035	4/03/2012	3729 UNIVERSITY OF NEBRASKA LINCOLN	100.00	
107036	4/03/2012	3849 VAIL, ADAM	196.00	
107037	4/03/2012	809 VERIZON WIRELESS	200.23	COUNCIL MEMBER
107038	4/03/2012	1174 WAL-MART COMMUNITY BRC	389.09	
107039	4/03/2012	78 WASTE MANAGEMENT NEBRASKA	1,097.65	
107040	4/03/2012	984 ZIMCO SUPPLY COMPANY	60.00	

BANK TOTAL	222,479.33
OUTSTANDING	222,479.33
CLEARED	.00
VOIDED	.00

COUNCIL MEMBER

FUND	TOTAL	OUTSTANDING	CLEARED	VOIDED
01 GENERAL FUND	105,101.37	105,101.37	.00	.00
02 SEWER FUND	100,698.91	100,698.91	.00	.00
05 CONSTRUCTION	8,121.20	8,121.20	.00	.00
08 LOTTERY FUND	4,673.00	4,673.00	.00	.00
09 GOLF COURSE FUND	2,861.79	2,861.79	.00	.00
15 OFF-STREET PARKING	1,023.06	1,023.06	.00	.00

REPORT TOTAL	222,479.33
OUTSTANDING	222,479.33
CLEARED	.00
VOIDED	.00

+ Gross Payroll 3/30/12 237,102.70

GRAND TOTAL \$459,582.03 COUNCIL MEMBER

ITEM A.6

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
APPOINTMENT OF SAFETY COMMITTEE MEMBERS	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JEFF SINNETT CHIEF BLDG OFFICIAL/SAFETY COMMITTEE CHAIRMAN

**SYNOPSIS**

A resolution has been prepared in reference to the appointment of selected personnel to the La Vista Safety Committee.

**FISCAL IMPACT**

N/A

**RECOMMENDATION**

Approval

**BACKGROUND**

In accordance with the provision of state law 48-443, the Safety Committee is comprised of an equal member of representatives for the Employer and the Employees. It is intended that the committee represent a diverse cross-section of all city departments and employees. There are eight (8) employees on the Committee. Four terms of office expired on April 1. As a result, I am recommending the Mayor and City Council appoint and re-appoint the following to serve a term of two years.

Mike Keyes	Employee Representative	2 year term	(new-appointment)
Rich Carstensen	Employee Representative	2 year term	(re-appointment)
Kevin Pokorny	Employer Representative	2 year term	(new-appointment)
Jeff Siebels	Employer Representative	2 year term	(re-appointment)

Other member of the Safety Committee Include:

Jeff Sinnett	Employee Representative
Bryan Waugh	Employee Representative (FOP)
Rich Uhl	Employer Representative
Pam Buethe	Employer Representative
Mary Alex	Ex-Officio (Non-Voting)

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA PROVIDING FOR THE APPOINTMENT OF SAFETY COMMITTEE MEMBERS.

WHEREAS, THE City Council of the City of La Vista has determined that the appointments to the La Vista Safety Committee are necessary; and

WHEREAS, a recommendation by the City Administrator, in consultation with the staff, has been made regarding appointments; and

WHEREAS, the recommended appointments comply with N.R.S. 48-443:

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby appoint the following city employees to the La Vista Safety Committee for the term specified:

Mike Keyes – Employee Representative	2 year term
Rich Carstensen – Employee Representative	2 year term
Kevin Pokorny – Employer Representative	2 year term
Jeff Siebels – Employer Representative	2 year term

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

---

Douglas Kindig, Mayor

ATTEST:

---

Pamela A. Buethe, CMC  
City Clerk

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
FIREWORKS DISPLAY- LA VISTA DAZE TEMPORARY USE OF HWY. 85 (84 <sup>TH</sup> ST) ACCEPTANCE OF DUTIES	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOHN KOTTMANN CITY ENGINEER/ASSISTANT PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared which acknowledges that the City of La Vista accepts the duties set forth in LB 589 and agrees to hold the State of Nebraska harmless from claims in order to make temporary use of State Highway 85 (84<sup>th</sup> Street). This requirement is applicable to all events being held after July 10, 2011. This resolution pertains to closing 84<sup>th</sup> Street on the evening of Friday, May 25, 2012 from 9:00pm to 10:30pm for traffic control during the fireworks display.

**FISCAL IMPACT**

No impact.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Section 39-1359 R.R.S. Neb. 2008 was amended on May 24, 2011, by Legislative Bill 589 to provide that a temporary use of a state highway system, including full and partial lane restrictions, can be made for a special event where the roadway is located in the corporate limits of a city, if such city through formal action of its governing body acknowledges and accepts the duties set forth in subsection (2) of Section 39-1359 and indemnifies and holds the State of Nebraska harmless against claims made arising out of the special event and provides thirty (30) days advance notice to the State of Nebraska.

**RESOLUTION NO.\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA,  
NEBRASKA ACCEPTING DUTIES AND LIABILITIES FOR TEMPORARY USE OF STATE  
HIGHWAY 85**

WHEREAS, the City of La Vista desires to conduct a fireworks display on property adjacent to State Highway No. 85 in conjunction with the La Vista Daze celebration, and;

WHEREAS, the City of La Vista desires to make temporary use of State Highway No. 85 between Brentwood Drive and Harrison Street, and;

WHEREAS, the temporary use shall consist of the total closure of State Highway No. 85 to vehicular traffic, and;

WHEREAS, State Highway No. 85 between Brentwood Drive and Harrison Street is within the corporate limits of the City of La Vista, and;

WHEREAS, Section 39-1359 R.R.S. Neb. 2008 was amended on May 24, 2011, by Legislative Bill 589 to provide that a temporary use of a state highway system, including full and partial lane restrictions, can be made for a special event where the roadway is located in the corporate limits of a city, if such city through formal action of its governing body acknowledges and accepts the duties set forth in subsection (2) of Section 39-1359 and indemnifies and holds the State of Nebraska harmless against claims made arising out of the special event and provides thirty (30) days advance notice to the State of Nebraska.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, that pursuant to Section 39-1359 R.R.S. Neb. 2008, as amended by Legislative Bill 589 on May 24, 2011, the City of La Vista officially designates the La Vista Daze Fireworks Display as a special event under LB 589 and hereby notifies the State of Nebraska that it accepts the duties imposed by such law, and, if a claim is made against the state, shall indemnify, defend, and hold harmless the State of Nebraska from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event and the temporary use of State Highway No. 85 (aka 84<sup>th</sup> Street) from Brentwood Drive to Harrison Street between the hours of 9:00 pm and 10:30 pm on May 25, 2012 for traffic control during the fireworks display.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

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## LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 589**

Final Reading

Introduced by Smith, 14; Cook, 13.

Read first time January 19, 2011

Committee: Transportation and Telecommunications

## A BILL

1 FOR AN ACT relating to state highways; to amend sections 13-901,  
2 13-910, 39-1359, and 81-8,219, Reissue Revised Statutes  
3 of Nebraska; to allow for temporary use of the state  
4 highway system for special events held by a county, city,  
5 or village as prescribed; to provide liability and duties  
6 for the county, city, or village; to provide for  
7 applicability of the Political Subdivisions Tort Claims  
8 Act and the State Tort Claims Act; to harmonize  
9 provisions; to repeal the original sections; and to  
10 declare an emergency.

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

6 Sec. 2. Section 13-910, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

1 had reasonable notice of such hazard or the failure to inspect or  
2 inadequate or negligent inspection constitutes a reckless disregard  
3 for public health or safety;

4 (4) Any claim based upon the issuance, denial,  
5 suspension, or revocation of or failure or refusal to issue, deny,  
6 suspend, or revoke any permit, license, certificate, or order.  
7 Nothing in this subdivision shall be construed to limit a political  
8 subdivision's liability for any claim based upon the negligent  
9 execution by an employee of the political subdivision in the issuance  
10 of a certificate of title under the Motor Vehicle Certificate of  
11 Title Act and the State Boat Act;

12 (5) Any claim arising with respect to the assessment or  
13 collection of any tax or fee or the detention of any goods or  
14 merchandise by any law enforcement officer;

15 (6) Any claim caused by the imposition or establishment  
16 of a quarantine by the state or a political subdivision, whether such  
17 quarantine relates to persons or property;

18 (7) Any claim arising out of assault, battery, false  
19 arrest, false imprisonment, malicious prosecution, abuse of process,  
20 libel, slander, misrepresentation, deceit, or interference with  
21 contract rights;

22 (8) Any claim by an employee of the political subdivision  
23 which is covered by the Nebraska Workers' Compensation Act;

24 (9) Any claim arising out of the malfunction,  
25 destruction, or unauthorized removal of any traffic or road sign,

1 signal, or warning device unless it is not corrected by the political  
2 subdivision responsible within a reasonable time after actual or  
3 constructive notice of such malfunction, destruction, or removal.  
4 Nothing in this subdivision shall give rise to liability arising from  
5 an act or omission of any political subdivision in placing or  
6 removing any traffic or road signs, signals, or warning devices when  
7 such placement or removal is the result of a discretionary act of the  
8 political subdivision;

9 (10) Any claim arising out of snow or ice conditions or  
10 other temporary conditions caused by nature on any highway as defined  
11 in section 60-624, bridge, public thoroughfare, or other public place  
12 due to weather conditions. Nothing in this subdivision shall be  
13 construed to limit a political subdivision's liability for any claim  
14 arising out of the operation of a motor vehicle by an employee of the  
15 political subdivision while acting within the course and scope of his  
16 or her employment by the political subdivision;

17 (11) Any claim arising out of the plan or design for the  
18 construction of or an improvement to any highway as defined in such  
19 section or bridge, either in original construction or any improvement  
20 thereto, if the plan or design is approved in advance of the  
21 construction or improvement by the governing body of the political  
22 subdivision or some other body or employee exercising discretionary  
23 authority to give such approval;

24 (12) Any claim arising out of the alleged insufficiency  
25 or want of repair of any highway as defined in such section, bridge,

1 or other public thoroughfare. Insufficiency or want of repair shall  
2 be construed to refer to the general or overall condition and shall  
3 not refer to a spot or localized defect. A political subdivision  
4 shall be deemed to waive its immunity for a claim due to a spot or  
5 localized defect only if (a) the political subdivision has had actual  
6 or constructive notice of the defect within a reasonable time to  
7 allow repair prior to the incident giving rise to the claim or (b)  
8 the claim arose during the time specified in a notice provided by the  
9 political subdivision pursuant to subsection (3) of section 39-1359  
10 and the state or political subdivision had actual or constructive  
11 notice; or

12 (13) (a) Any claim relating to recreational activities for  
13 which no fee is charged (i) resulting from the inherent risk of the  
14 recreational activity, (ii) arising out of a spot or localized defect  
15 of the premises unless the spot or localized defect is not corrected  
16 by the political subdivision leasing, owning, or in control of the  
17 premises within a reasonable time after actual or constructive notice  
18 of the spot or localized defect, or (iii) arising out of the design  
19 of a skatepark or bicycle motocross park constructed for purposes of  
20 skateboarding, inline skating, bicycling, or scootering that was  
21 constructed or reconstructed, reasonably and in good faith, in  
22 accordance with generally recognized engineering or safety standards  
23 or design theories in existence at the time of the construction or  
24 reconstruction. For purposes of this subdivision, a political  
25 subdivision shall be charged with constructive notice only when the

1 failure to discover the spot or localized defect of the premises is  
2 the result of gross negligence.

3 (b) For purposes of this subdivision:

4 (i) Recreational activities include, but are not limited  
5 to, whether as a participant or spectator: Hunting, fishing,  
6 swimming, boating, camping, picnicking, hiking, walking, running,  
7 horseback riding, use of trails, nature study, waterskiing, winter  
8 sports, use of playground equipment, biking, roller blading,  
9 skateboarding, golfing, athletic contests; visiting, viewing, or  
10 enjoying entertainment events, festivals, or historical,  
11 archaeological, scenic, or scientific sites; and similar leisure  
12 activities;

13 (ii) Inherent risk of recreational activities means those  
14 risks that are characteristic of, intrinsic to, or an integral part  
15 of the activity;

16 (iii) Gross negligence means the absence of even slight  
17 care in the performance of a duty involving an unreasonable risk of  
18 harm; and

19 (iv) Fee means a fee to participate in or be a spectator  
20 at a recreational activity. A fee shall include payment by the  
21 claimant to any person or organization other than the political  
22 subdivision only to the extent the political subdivision retains  
23 control over the premises or the activity. A fee shall not include  
24 payment of a fee or charge for parking or vehicle entry.

25 (c) This subdivision, and not subdivision (3) of this

1 section, shall apply to any claim arising from the inspection or  
2 failure to make an inspection or negligent inspection of premises  
3 owned or leased by the political subdivision and used for  
4 recreational activities.

5                   Sec. 3. The Political Subdivisions Tort Claims Act shall  
6 apply to any claim arising during the time specified in a notice  
7 provided by a political subdivision pursuant to subsection (3) of  
8 section 39-1359.

9                   Sec. 4. Section 39-1359, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11                   39-1359 (1) The rights-of-way acquired by the department  
12 shall be held inviolate for state highway and departmental purposes  
13 and no physical or functional encroachments, structures, or uses  
14 shall be permitted within such right-of-way limits, except by written  
15 consent of the department or as otherwise provided in subsections (2)  
16 and (3) of this section.

17                   (2) A temporary use of the state highway system, other  
18 than a freeway, by a county, city, or village, including full and  
19 partial lane closures, shall be allowed for special events, as  
20 designated by a county, city, or village, under the following  
21 conditions:

22                   (a) The roadway is located within the official corporate  
23 limits or zoning jurisdiction of the county, city, or village;

24                   (b) A county, city, or village making use of the state  
25 highway system for a special event shall have the legal duty to

1     protect the highway property from any damage that may occur arising  
2     out of the special event and the state shall not have any such duty  
3     during the time the county, city, or village is in control of the  
4     property as specified in the notice provided pursuant to subsection  
5     (3) of this section;

6             (c) Any existing statutory or common law duty of the  
7     state to protect the public from damage, injury, or death shall  
8     become the duty of the county, city, or village making use of the  
9     state highway system for the special event, and the state shall not  
10    have such statutory or common law duty during the time the county,  
11    city, or village is in control of the property as specified in the  
12    notice provided pursuant to subsection (3) of this section; and

13             (d) The county, city, or village using the state highway  
14    system for a special event shall formally, by official governing body  
15    action, acknowledge that it accepts the duties set out in this  
16    subsection and, if a claim is made against the state, shall  
17    indemnify, defend, and hold harmless the state from all claims,  
18    demands, actions, damages, and liability, including reasonable  
19    attorney's fees, that may arise as a result of the special event.

20             (3) If a county, city, or village has met the  
21    requirements of subsection (2) of this section for holding a special  
22    event and has provided thirty days' advance written notice of the  
23    special event to the department, the county, city, or village may  
24    proceed with its temporary use of the state highway system. The  
25    notice shall specify the date and time the county, city, or village

1     will assume control of the state highway property and relinquish  
2     control of such state highway property to the state.

3                 (4) The Political Subdivisions Tort Claims Act shall  
4     apply to any claim arising during the time specified in a notice  
5     provided by a political subdivision pursuant to subsection (3) of  
6     this section.

7                 Sec. 5. Section 81-8,219, Reissue Revised Statutes of  
8     Nebraska, is amended to read:

9                 81-8,219 The State Tort Claims Act shall not apply to:

10                 (1) Any claim based upon an act or omission of an  
11     employee of the state, exercising due care, in the execution of a  
12     statute, rule, or regulation, whether or not such statute, rule, or  
13     regulation is valid, or based upon the exercise or performance or the  
14     failure to exercise or perform a discretionary function or duty on  
15     the part of a state agency or an employee of the state, whether or  
16     not the discretion is abused;

17                 (2) Any claim arising with respect to the assessment or  
18     collection of any tax or fee, or the detention of any goods or  
19     merchandise by any law enforcement officer;

20                 (3) Any claim for damages caused by the imposition or  
21     establishment of a quarantine by the state whether such quarantine  
22     relates to persons or property;

23                 (4) Any claim arising out of assault, battery, false  
24     imprisonment, false arrest, malicious prosecution, abuse of process,  
25     libel, slander, misrepresentation, deceit, or interference with

1 contract rights;

2 (5) Any claim by an employee of the state which is  
3 covered by the Nebraska Workers' Compensation Act;

4 (6) Any claim based on activities of the Nebraska  
5 National Guard when such claim is cognizable under the Federal Tort  
6 Claims Act, 28 U.S.C. 2674, or the National Guard Tort Claims Act of  
7 the United States, 32 U.S.C. 715, or when such claim accrues as a  
8 result of active federal service or state service at the call of the  
9 Governor for quelling riots and civil disturbances;

10 (7) Any claim based upon the failure to make an  
11 inspection or making an inadequate or negligent inspection of any  
12 property other than property owned by or leased to the state to  
13 determine whether the property complies with or violates any statute,  
14 ordinance, rule, or regulation or contains a hazard to public health  
15 or safety unless the state had reasonable notice of such hazard or  
16 the failure to inspect or inadequate or negligent inspection  
17 constitutes a reckless disregard for public health or safety;

18 (8) Any claim based upon the issuance, denial,  
19 suspension, or revocation of or failure or refusal to issue, deny,  
20 suspend, or revoke any permit, license, certificate, or order. Such  
21 claim shall also not be filed against a state employee acting within  
22 the scope of his or her office. Nothing in this subdivision shall be  
23 construed to limit the state's liability for any claim based upon the  
24 negligent execution by a state employee in the issuance of a  
25 certificate of title under the Motor Vehicle Certificate of Title Act

1 and the State Boat Act;

2 (9) Any claim arising out of the malfunction,  
3 destruction, or unauthorized removal of any traffic or road sign,  
4 signal, or warning device unless it is not corrected by the  
5 governmental entity responsible within a reasonable time after actual  
6 or constructive notice of such malfunction, destruction, or removal.  
7 Nothing in this subdivision shall give rise to liability arising from  
8 an act or omission of any governmental entity in placing or removing  
9 any traffic or road signs, signals, or warning devices when such  
10 placement or removal is the result of a discretionary act of the  
11 governmental entity;

12 (10) Any claim arising out of snow or ice conditions or  
13 other temporary conditions caused by nature on any highway as defined  
14 in section 60-624, bridge, public thoroughfare, or other state-owned  
15 public place due to weather conditions. Nothing in this subdivision  
16 shall be construed to limit the state's liability for any claim  
17 arising out of the operation of a motor vehicle by an employee of the  
18 state while acting within the course and scope of his or her  
19 employment by the state;

20 (11) Any claim arising out of the plan or design for the  
21 construction of or an improvement to any highway as defined in such  
22 section or bridge, either in original construction or any improvement  
23 thereto, if the plan or design is approved in advance of the  
24 construction or improvement by the governing body of the governmental  
25 entity or some other body or employee exercising discretionary

1 authority to give such approval;

2 (12) Any claim arising out of the alleged insufficiency  
3 or want of repair of any highway as defined in such section, bridge,  
4 or other public thoroughfare. Insufficiency or want of repair shall  
5 be construed to refer to the general or overall condition and shall  
6 not refer to a spot or localized defect. The state shall be deemed to  
7 waive its immunity for a claim due to a spot or localized defect only  
8 if the state has had actual or constructive notice of the defect  
9 within a reasonable time to allow repair prior to the incident giving  
10 rise to the claim; or

11 (13) (a) Any claim relating to recreational activities on  
12 property leased, owned, or controlled by the state for which no fee  
13 is charged (i) resulting from the inherent risk of the recreational  
14 activity, (ii) arising out of a spot or localized defect of the  
15 premises unless the spot or localized defect is not corrected within  
16 a reasonable time after actual or constructive notice of the spot or  
17 localized defect, or (iii) arising out of the design of a skatepark  
18 or bicycle motocross park constructed for purposes of skateboarding,  
19 inline skating, bicycling, or scootering that was constructed or  
20 reconstructed, reasonably and in good faith, in accordance with  
21 generally recognized engineering or safety standards or design  
22 theories in existence at the time of the construction or  
23 reconstruction. For purposes of this subdivision, the state shall be  
24 charged with constructive notice only when the failure to discover  
25 the spot or localized defect of the premises is the result of gross

1 negligence.

2 (b) For purposes of this subdivision:

3 (i) Recreational activities include, but are not limited  
4 to, whether as a participant or spectator: Hunting, fishing,  
5 swimming, boating, camping, picnicking, hiking, walking, running,  
6 horseback riding, use of trails, nature study, waterskiing, winter  
7 sports, use of playground equipment, biking, roller blading,  
8 skateboarding, golfing, athletic contests; visiting, viewing, or  
9 enjoying entertainment events, festivals, or historical,  
10 archaeological, scenic, or scientific sites; and similar leisure  
11 activities;

12 (ii) Inherent risk of recreational activities means those  
13 risks that are characteristic of, intrinsic to, or an integral part  
14 of the activity;

15 (iii) Gross negligence means the absence of even slight  
16 care in the performance of a duty involving an unreasonable risk of  
17 harm; and

18 (iv) Fee means a fee to participate in or be a spectator  
19 at a recreational activity. A fee shall include payment by the  
20 claimant to any person or organization other than the state only to  
21 the extent the state retains control over the premises or the  
22 activity. A fee shall not include payment of a fee or charge for  
23 parking or vehicle entry.

24 (c) This subdivision, and not subdivision (7) of this  
25 section, shall apply to any claim arising from the inspection or

1 failure to make an inspection or negligent inspection of premises  
2 owned or leased by the state and used for recreational activities;  
3 or -

4                   (14) Any claim arising as a result of a special event  
5                   during a period of time specified in a notice provided by a political  
6                   subdivision pursuant to subsection (3) of section 39-1359.

7                   Sec. 6. Original sections 13-901, 13-910, 39-1359, and  
8 81-8,219, Reissue Revised Statutes of Nebraska, are repealed.

9                   Sec. 7. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
PARADE- LA VISTA DAZE TEMPORARY USE OF HWY. 85 (84 <sup>TH</sup> ST) ACCEPTANCE OF DUTIES	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOHN KOTTMANN CITY ENGINEER/ASSISTANT PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared which acknowledges that the City of La Vista accepts the duties set forth in LB 589 and agrees to hold the State of Nebraska harmless from claims in order to make temporary use of State Highway 85 (84<sup>th</sup> Street). This requirement is applicable to all events being held after July 10, 2011. This resolution pertains to closing 84<sup>th</sup> Street on Saturday, May 26, 2012 from 12:30pm to 4:30pm to allow for the parade to cross State Highway 85 (84<sup>th</sup> Street).

**FISCAL IMPACT**

No impact.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Section 39-1359 R.R.S. Neb. 2008 was amended on May 24, 2011, by Legislative Bill 589 to provide that a temporary use of a state highway system, including full and partial lane restrictions, can be made for a special event where the roadway is located in the corporate limits of a city, if such city through formal action of its governing body acknowledges and accepts the duties set forth in subsection (2) of Section 39-1359 and indemnifies and holds the State of Nebraska harmless against claims made arising out of the special event and provides thirty (30) days advance notice to the State of Nebraska.

**RESOLUTION NO.\_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA,  
NEBRASKA ACCEPTING DUTIES AND LIABILITIES FOR TEMPORARY USE OF STATE  
HIGHWAY 85**

WHEREAS, the City of La Vista desires to conduct a parade that will cross State Highway No. 85 in conjunction with the La Vista Daze celebration, and;

WHEREAS, the City of La Vista desires to make temporary use of State Highway No. 85 between Brentwood Drive and Harrison Street, and;

WHEREAS, the temporary use shall consist of the total closure of State Highway No. 85 to vehicular traffic, and;

WHEREAS, State Highway No. 85 between Brentwood Drive and Harrison Street is within the corporate limits of the City of La Vista, and;

WHEREAS, Section 39-1359 R.R.S. Neb. 2008 was amended on May 24, 2011, by Legislative Bill 589 to provide that a temporary use of a state highway system, including full and partial lane restrictions, can be made for a special event where the roadway is located in the corporate limits of a city, if such city through formal action of its governing body acknowledges and accepts the duties set forth in subsection (2) of Section 39-1359 and indemnifies and holds the State of Nebraska harmless against claims made arising out of the special event and provides thirty (30) days advance notice to the State of Nebraska.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, that pursuant to Section 39-1359 R.R.S. Neb. 2008, as amended by Legislative Bill 589 on May 24, 2011, the City of La Vista officially designates the La Vista Daze Parade as a special event under LB 589 and hereby notifies the State of Nebraska that it accepts the duties imposed by such law, and, if a claim is made against the state, shall indemnify, defend, and hold harmless the State of Nebraska from all claims, demands, actions, damages, and liability, including reasonable attorney's fees, that may arise as a result of the special event and the temporary use of State Highway No. 85 (aka 84<sup>th</sup> Street) from Brentwood Drive to Harrison Street between the hours of 12:30 pm and 4:30 pm on May 26, 2012 for traffic control during the fireworks display.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012

CITY OF LA VISTA

---

Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

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## LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 589**

Final Reading

Introduced by Smith, 14; Cook, 13.

Read first time January 19, 2011

Committee: Transportation and Telecommunications

## A BILL

1 FOR AN ACT relating to state highways; to amend sections 13-901,  
2 13-910, 39-1359, and 81-8,219, Reissue Revised Statutes  
3 of Nebraska; to allow for temporary use of the state  
4 highway system for special events held by a county, city,  
5 or village as prescribed; to provide liability and duties  
6 for the county, city, or village; to provide for  
7 applicability of the Political Subdivisions Tort Claims  
8 Act and the State Tort Claims Act; to harmonize  
9 provisions; to repeal the original sections; and to  
10 declare an emergency.

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

6 Sec. 2. Section 13-910, Reissue Revised Statutes of  
7 Nebraska, is amended to read:

20 (3) Any claim based upon the failure to make an  
21 inspection or making an inadequate or negligent inspection of any  
22 property other than property owned by or leased to such political  
23 subdivision to determine whether the property complies with or  
24 violates any statute, ordinance, rule, or regulation or contains a  
25 hazard to public health or safety unless the political subdivision

1 had reasonable notice of such hazard or the failure to inspect or  
2 inadequate or negligent inspection constitutes a reckless disregard  
3 for public health or safety;

4 (4) Any claim based upon the issuance, denial,  
5 suspension, or revocation of or failure or refusal to issue, deny,  
6 suspend, or revoke any permit, license, certificate, or order.  
7 Nothing in this subdivision shall be construed to limit a political  
8 subdivision's liability for any claim based upon the negligent  
9 execution by an employee of the political subdivision in the issuance  
10 of a certificate of title under the Motor Vehicle Certificate of  
11 Title Act and the State Boat Act;

12 (5) Any claim arising with respect to the assessment or  
13 collection of any tax or fee or the detention of any goods or  
14 merchandise by any law enforcement officer;

15 (6) Any claim caused by the imposition or establishment  
16 of a quarantine by the state or a political subdivision, whether such  
17 quarantine relates to persons or property;

18 (7) Any claim arising out of assault, battery, false  
19 arrest, false imprisonment, malicious prosecution, abuse of process,  
20 libel, slander, misrepresentation, deceit, or interference with  
21 contract rights;

22 (8) Any claim by an employee of the political subdivision  
23 which is covered by the Nebraska Workers' Compensation Act;

24 (9) Any claim arising out of the malfunction,  
25 destruction, or unauthorized removal of any traffic or road sign,

1 signal, or warning device unless it is not corrected by the political  
2 subdivision responsible within a reasonable time after actual or  
3 constructive notice of such malfunction, destruction, or removal.  
4 Nothing in this subdivision shall give rise to liability arising from  
5 an act or omission of any political subdivision in placing or  
6 removing any traffic or road signs, signals, or warning devices when  
7 such placement or removal is the result of a discretionary act of the  
8 political subdivision;

9 (10) Any claim arising out of snow or ice conditions or  
10 other temporary conditions caused by nature on any highway as defined  
11 in section 60-624, bridge, public thoroughfare, or other public place  
12 due to weather conditions. Nothing in this subdivision shall be  
13 construed to limit a political subdivision's liability for any claim  
14 arising out of the operation of a motor vehicle by an employee of the  
15 political subdivision while acting within the course and scope of his  
16 or her employment by the political subdivision;

17 (11) Any claim arising out of the plan or design for the  
18 construction of or an improvement to any highway as defined in such  
19 section or bridge, either in original construction or any improvement  
20 thereto, if the plan or design is approved in advance of the  
21 construction or improvement by the governing body of the political  
22 subdivision or some other body or employee exercising discretionary  
23 authority to give such approval;

24 (12) Any claim arising out of the alleged insufficiency  
25 or want of repair of any highway as defined in such section, bridge,

1 or other public thoroughfare. Insufficiency or want of repair shall  
2 be construed to refer to the general or overall condition and shall  
3 not refer to a spot or localized defect. A political subdivision  
4 shall be deemed to waive its immunity for a claim due to a spot or  
5 localized defect only if (a) the political subdivision has had actual  
6 or constructive notice of the defect within a reasonable time to  
7 allow repair prior to the incident giving rise to the claim or (b)  
8 the claim arose during the time specified in a notice provided by the  
9 political subdivision pursuant to subsection (3) of section 39-1359  
10 and the state or political subdivision had actual or constructive  
11 notice; or

12 (13) (a) Any claim relating to recreational activities for  
13 which no fee is charged (i) resulting from the inherent risk of the  
14 recreational activity, (ii) arising out of a spot or localized defect  
15 of the premises unless the spot or localized defect is not corrected  
16 by the political subdivision leasing, owning, or in control of the  
17 premises within a reasonable time after actual or constructive notice  
18 of the spot or localized defect, or (iii) arising out of the design  
19 of a skatepark or bicycle motocross park constructed for purposes of  
20 skateboarding, inline skating, bicycling, or scootering that was  
21 constructed or reconstructed, reasonably and in good faith, in  
22 accordance with generally recognized engineering or safety standards  
23 or design theories in existence at the time of the construction or  
24 reconstruction. For purposes of this subdivision, a political  
25 subdivision shall be charged with constructive notice only when the

1 failure to discover the spot or localized defect of the premises is  
2 the result of gross negligence.

3 (b) For purposes of this subdivision:

4 (i) Recreational activities include, but are not limited  
5 to, whether as a participant or spectator: Hunting, fishing,  
6 swimming, boating, camping, picnicking, hiking, walking, running,  
7 horseback riding, use of trails, nature study, waterskiing, winter  
8 sports, use of playground equipment, biking, roller blading,  
9 skateboarding, golfing, athletic contests; visiting, viewing, or  
10 enjoying entertainment events, festivals, or historical,  
11 archaeological, scenic, or scientific sites; and similar leisure  
12 activities;

13 (ii) Inherent risk of recreational activities means those  
14 risks that are characteristic of, intrinsic to, or an integral part  
15 of the activity;

16 (iii) Gross negligence means the absence of even slight  
17 care in the performance of a duty involving an unreasonable risk of  
18 harm; and

19 (iv) Fee means a fee to participate in or be a spectator  
20 at a recreational activity. A fee shall include payment by the  
21 claimant to any person or organization other than the political  
22 subdivision only to the extent the political subdivision retains  
23 control over the premises or the activity. A fee shall not include  
24 payment of a fee or charge for parking or vehicle entry.

25 (c) This subdivision, and not subdivision (3) of this

1 section, shall apply to any claim arising from the inspection or  
2 failure to make an inspection or negligent inspection of premises  
3 owned or leased by the political subdivision and used for  
4 recreational activities.

5                   Sec. 3. The Political Subdivisions Tort Claims Act shall  
6 apply to any claim arising during the time specified in a notice  
7 provided by a political subdivision pursuant to subsection (3) of  
8 section 39-1359.

9                   Sec. 4. Section 39-1359, Reissue Revised Statutes of  
10 Nebraska, is amended to read:

11                   39-1359 (1) The rights-of-way acquired by the department  
12 shall be held inviolate for state highway and departmental purposes  
13 and no physical or functional encroachments, structures, or uses  
14 shall be permitted within such right-of-way limits, except by written  
15 consent of the department or as otherwise provided in subsections (2)  
16 and (3) of this section.

17                   (2) A temporary use of the state highway system, other  
18 than a freeway, by a county, city, or village, including full and  
19 partial lane closures, shall be allowed for special events, as  
20 designated by a county, city, or village, under the following  
21 conditions:

22                   (a) The roadway is located within the official corporate  
23 limits or zoning jurisdiction of the county, city, or village;  
24                   (b) A county, city, or village making use of the state  
25 highway system for a special event shall have the legal duty to

1     protect the highway property from any damage that may occur arising  
2     out of the special event and the state shall not have any such duty  
3     during the time the county, city, or village is in control of the  
4     property as specified in the notice provided pursuant to subsection  
5     (3) of this section;

6             (c) Any existing statutory or common law duty of the  
7     state to protect the public from damage, injury, or death shall  
8     become the duty of the county, city, or village making use of the  
9     state highway system for the special event, and the state shall not  
10    have such statutory or common law duty during the time the county,  
11    city, or village is in control of the property as specified in the  
12    notice provided pursuant to subsection (3) of this section; and

13             (d) The county, city, or village using the state highway  
14    system for a special event shall formally, by official governing body  
15    action, acknowledge that it accepts the duties set out in this  
16    subsection and, if a claim is made against the state, shall  
17    indemnify, defend, and hold harmless the state from all claims,  
18    demands, actions, damages, and liability, including reasonable  
19    attorney's fees, that may arise as a result of the special event.

20             (3) If a county, city, or village has met the  
21    requirements of subsection (2) of this section for holding a special  
22    event and has provided thirty days' advance written notice of the  
23    special event to the department, the county, city, or village may  
24    proceed with its temporary use of the state highway system. The  
25    notice shall specify the date and time the county, city, or village

1    will assume control of the state highway property and relinquish  
2    control of such state highway property to the state.

3            (4) The Political Subdivisions Tort Claims Act shall  
4    apply to any claim arising during the time specified in a notice  
5    provided by a political subdivision pursuant to subsection (3) of  
6    this section.

7            Sec. 5. Section 81-8,219, Reissue Revised Statutes of  
8    Nebraska, is amended to read:

9            81-8,219 The State Tort Claims Act shall not apply to:

10           (1) Any claim based upon an act or omission of an  
11    employee of the state, exercising due care, in the execution of a  
12    statute, rule, or regulation, whether or not such statute, rule, or  
13    regulation is valid, or based upon the exercise or performance or the  
14    failure to exercise or perform a discretionary function or duty on  
15    the part of a state agency or an employee of the state, whether or  
16    not the discretion is abused;

17           (2) Any claim arising with respect to the assessment or  
18    collection of any tax or fee, or the detention of any goods or  
19    merchandise by any law enforcement officer;

20           (3) Any claim for damages caused by the imposition or  
21    establishment of a quarantine by the state whether such quarantine  
22    relates to persons or property;

23           (4) Any claim arising out of assault, battery, false  
24    imprisonment, false arrest, malicious prosecution, abuse of process,  
25    libel, slander, misrepresentation, deceit, or interference with

1 contract rights;

2 (5) Any claim by an employee of the state which is  
3 covered by the Nebraska Workers' Compensation Act;

4 (6) Any claim based on activities of the Nebraska  
5 National Guard when such claim is cognizable under the Federal Tort  
6 Claims Act, 28 U.S.C. 2674, or the National Guard Tort Claims Act of  
7 the United States, 32 U.S.C. 715, or when such claim accrues as a  
8 result of active federal service or state service at the call of the  
9 Governor for quelling riots and civil disturbances;

10 (7) Any claim based upon the failure to make an  
11 inspection or making an inadequate or negligent inspection of any  
12 property other than property owned by or leased to the state to  
13 determine whether the property complies with or violates any statute,  
14 ordinance, rule, or regulation or contains a hazard to public health  
15 or safety unless the state had reasonable notice of such hazard or  
16 the failure to inspect or inadequate or negligent inspection  
17 constitutes a reckless disregard for public health or safety;

18 (8) Any claim based upon the issuance, denial,  
19 suspension, or revocation of or failure or refusal to issue, deny,  
20 suspend, or revoke any permit, license, certificate, or order. Such  
21 claim shall also not be filed against a state employee acting within  
22 the scope of his or her office. Nothing in this subdivision shall be  
23 construed to limit the state's liability for any claim based upon the  
24 negligent execution by a state employee in the issuance of a  
25 certificate of title under the Motor Vehicle Certificate of Title Act

1 and the State Boat Act;

2 (9) Any claim arising out of the malfunction,  
3 destruction, or unauthorized removal of any traffic or road sign,  
4 signal, or warning device unless it is not corrected by the  
5 governmental entity responsible within a reasonable time after actual  
6 or constructive notice of such malfunction, destruction, or removal.  
7 Nothing in this subdivision shall give rise to liability arising from  
8 an act or omission of any governmental entity in placing or removing  
9 any traffic or road signs, signals, or warning devices when such  
10 placement or removal is the result of a discretionary act of the  
11 governmental entity;

12 (10) Any claim arising out of snow or ice conditions or  
13 other temporary conditions caused by nature on any highway as defined  
14 in section 60-624, bridge, public thoroughfare, or other state-owned  
15 public place due to weather conditions. Nothing in this subdivision  
16 shall be construed to limit the state's liability for any claim  
17 arising out of the operation of a motor vehicle by an employee of the  
18 state while acting within the course and scope of his or her  
19 employment by the state;

20 (11) Any claim arising out of the plan or design for the  
21 construction of or an improvement to any highway as defined in such  
22 section or bridge, either in original construction or any improvement  
23 thereto, if the plan or design is approved in advance of the  
24 construction or improvement by the governing body of the governmental  
25 entity or some other body or employee exercising discretionary

1 authority to give such approval;

2 (12) Any claim arising out of the alleged insufficiency  
3 or want of repair of any highway as defined in such section, bridge,  
4 or other public thoroughfare. Insufficiency or want of repair shall  
5 be construed to refer to the general or overall condition and shall  
6 not refer to a spot or localized defect. The state shall be deemed to  
7 waive its immunity for a claim due to a spot or localized defect only  
8 if the state has had actual or constructive notice of the defect  
9 within a reasonable time to allow repair prior to the incident giving  
10 rise to the claim; ~~or~~

11 (13) (a) Any claim relating to recreational activities on  
12 property leased, owned, or controlled by the state for which no fee  
13 is charged (i) resulting from the inherent risk of the recreational  
14 activity, (ii) arising out of a spot or localized defect of the  
15 premises unless the spot or localized defect is not corrected within  
16 a reasonable time after actual or constructive notice of the spot or  
17 localized defect, or (iii) arising out of the design of a skatepark  
18 or bicycle motocross park constructed for purposes of skateboarding,  
19 inline skating, bicycling, or scootering that was constructed or  
20 reconstructed, reasonably and in good faith, in accordance with  
21 generally recognized engineering or safety standards or design  
22 theories in existence at the time of the construction or  
23 reconstruction. For purposes of this subdivision, the state shall be  
24 charged with constructive notice only when the failure to discover  
25 the spot or localized defect of the premises is the result of gross

1 negligence.

2 (b) For purposes of this subdivision:

3 (i) Recreational activities include, but are not limited  
4 to, whether as a participant or spectator: Hunting, fishing,  
5 swimming, boating, camping, picnicking, hiking, walking, running,  
6 horseback riding, use of trails, nature study, waterskiing, winter  
7 sports, use of playground equipment, biking, roller blading,  
8 skateboarding, golfing, athletic contests; visiting, viewing, or  
9 enjoying entertainment events, festivals, or historical,  
10 archaeological, scenic, or scientific sites; and similar leisure  
11 activities;

12 (ii) Inherent risk of recreational activities means those  
13 risks that are characteristic of, intrinsic to, or an integral part  
14 of the activity;

15 (iii) Gross negligence means the absence of even slight  
16 care in the performance of a duty involving an unreasonable risk of  
17 harm; and

18 (iv) Fee means a fee to participate in or be a spectator  
19 at a recreational activity. A fee shall include payment by the  
20 claimant to any person or organization other than the state only to  
21 the extent the state retains control over the premises or the  
22 activity. A fee shall not include payment of a fee or charge for  
23 parking or vehicle entry.

24 (c) This subdivision, and not subdivision (7) of this  
25 section, shall apply to any claim arising from the inspection or

1 failure to make an inspection or negligent inspection of premises  
2 owned or leased by the state and used for recreational activities;  
3 or -

4                   (14) Any claim arising as a result of a special event  
5 during a period of time specified in a notice provided by a political  
6 subdivision pursuant to subsection (3) of section 39-1359.

7                   Sec. 6. Original sections 13-901, 13-910, 39-1359, and  
8 81-8,219, Reissue Revised Statutes of Nebraska, are repealed.

9                   Sec. 7. Since an emergency exists, this act takes effect  
10 when passed and approved according to law.

# Memorandum



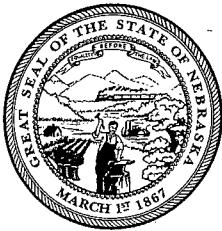
**To:** Mayor and Council  
**CC:** Brenda Gunn, Rita Ramirez  
**From:** Pam Buethe *LB*  
**Date:** 3/29/2012  
**Re:** Consent Agenda Item A9 – Application for manager – Island Bar & Grill

---

This is the manager application for Larry Fields, who is a corporate officer of Fields, Inc. dba Island Bar & Grill.

All this agenda item would require is a motion to approve the manager application for Larry Fields and therefore it has been placed on the Consent Agenda.

Please contact me with any questions.



**Dave Heineman**  
Governor

March 12, 2012

LA VISTA CITY CLERK  
8116 PARK VIEW BLVD  
LA VISTA NE 68128 2198

RE: Island Bar & Grill

LICENSE #C-79069

Dear Clerk:

Enclosed is a copy of a manager application for Larry Fields in connection with the Island Bar & Grill located in LaVista.

Please present this application for manager to your City/Village Council or County Commissioners and send us the results of their action.

Sincerely,

A handwritten signature in cursive script that appears to read "Jacqueline Rodriguez".

Jacqueline Rodriguez  
Licensing Division  
NEBRASKA LIQUOR CONTROL COMMISSION  
402-471-2572

encl.

**Janice M. Wiebusch**  
Commissioner

**Robert Batt**  
Chairman

**William F. Austin**  
Commissioner

**MANAGER APPLICATION  
INSERT - FORM 3c**

NEBRASKA LIQUOR CONTROL COMMISSION  
301 CENTENNIAL MALL SOUTH  
PO BOX 95046  
LINCOLN, NE 68509-5046  
PHONE: (402) 471-2571  
FAX: (402) 471-2814  
Website: [www.lec.ne.gov](http://www.lec.ne.gov)

Office Use

**RECEIVED**

JAN 26 2012

**NEBRASKA LIQUOR  
CONTROL COMMISSION**

Corporate manager, including spouse, are required to adhere to the following requirements  
If spouse filed affidavit of non-participation fingerprints and proof of citizenship not required

- 1) Must be a citizen of the United States
- 2) Must be a Nebraska resident (Chapter 2 – 006)
- 3) Must provide a copy of birth certificate, naturalization paper or US passport
- 4) Must submit their fingerprints (2 cards per person)
- 5) Must be 21 years of age or older
- 6) Applicant may be required to take a training course

JR

Corporation/Limited Liability Corporation (LLC) information

Name of Corporation/LLC: Fields, Inc

Premise information

Premise License Number: 79069

(if new application leave blank)

Premise Trade Name/DBA: Island Bar & Grill

Premise Street Address: 7826 S. 123rd Plz STE E&F

City: La Vista State: NE Zip Code: 68128

Premise Phone Number: 402-933-7931

The individual whose name is listed in the president or contact member category on either insert form 3a or 3b  
must sign their name below.

Larry E. Fields

**CORPORATE OFFICER SIGNATURE  
(Faxed signatures are acceptable)**



Manager's information must be completed below. PLEASE PRINT CLEARLY

Gender:  MALE  FEMALE

Last Name: fields First Name: Larry MI: F

Home Address (include PO Box if applicable): 7407 S. 77th Ave

City: LaVista State: NE Zip Code: 68128

Home Phone Number: 402-339-7897 Business Phone Number: 402-933-7330

Social Security Number: \_\_\_\_\_ Drivers License Number & State: \_\_\_\_\_

Date Of Birth: 12-28-51 Place Of Birth: KS

Are you married? If yes, complete spouses information (Even if no spousal affidavit has been submitted)

YES

NO

Spouse's Information

Spouses Last Name: fields First Name: Lyette MI: S

Social Security Number: \_\_\_\_\_ Drivers License Number & State: 21-0-3601

Date Of Birth: 3-29-36 Place Of Birth: NE

APPLICANT AND SPOUSE MUST LIST RESIDENCES FOR THE PAST 10 YEARS

APPLICANT

SPOUSE

CITY & STATE	YEAR FROM	TO	CITY & STATE	YEAR FROM	TO
<u>LaVista, NE</u>	<u>1974</u>	<u>2011</u>			

MANAGER'S LAST TWO EMPLOYERS

YEAR FROM	TO	NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
<u>2002</u>	<u>2007</u>	<u>Logan Contractor Supply</u>	<u>Mike Bruckner</u>	<u>402-939-3900</u>

Manager and spouse must review and answer the questions below.

PLEASE PRINT CLEARLY

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

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

YES  NO If yes, please explain below or attach a separate page.

DUI 7/92 LaVista, NE

2. Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state? **IF YES, list the name of the premise.**

YES  NO Island Bar & Grill

3. Do you, as a manager, have all the qualifications required to hold a Nebraska Liquor License? Nebraska Liquor Control Act (§53-131.01)

YES  NO

4. Have you filed the required fingerprint cards and **PROPER FEES** with this application? (The check or money order must be made out to the Nebraska State Patrol for \$38.00 per person)

YES  NO Enclosed  
Previously filed with Liquor license

5. List the training and/or experience (when and where)

Date:	Where:
02/08	Island Bar & Grill

**PERSONAL OATH AND CONSENT FOR INVESTIGATION**

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

The undersigned applicant hereby consents to an investigation of his/her background including all records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant and spouse waive any rights or causes of action that said applicant or spouse may have against the Nebraska Liquor Control Commission and any other individual disclosing or releasing said information to the Nebraska Liquor Control Commission.

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

Larry E. Fields  
Signature of Manager Applicant

Lylith S. Fields  
Signature of Spouse

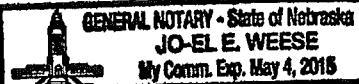
State of Nebraska

County of Douglas

The foregoing instrument was acknowledged before  
me this 13<sup>th</sup> of Jan 2012 by

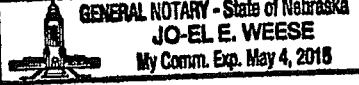
JO-EL E. WEENE  
Notary Public signature

Affix Seal Here



GENERAL NOTARY - State of Nebraska  
JO-EL E. WEENE  
My Comm. Exp. May 4, 2015

Affix Seal Here



GENERAL NOTARY - State of Nebraska  
JO-EL E. WEENE  
My Comm. Exp. May 4, 2015

In compliance with the ADA, this manager insert form 3c is available in other formats for persons with disabilities.  
A ten day advance period is required in writing to produce the alternate format.

Revised 9/2008

RECEIVED

JAN 26 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

CERTIFICATE OF		LIVE BIRTH		BIRTH NUMBER	
KANSAS STATE BOARD OF HEALTH Division of Vital Statistics		FEB 14 1952		DO NOT WRITE IN THIS SPACE 52-045009	
1. PLACE OF BIRTH a. COUNTY Gardner		2. USUAL RESIDENCE OF MOTHER (Where does mother live) b. STATE Mo TOWN Gardner		3. CITY (If outside corporate limits, write RURAL and give township) c. CITY (If outside corporate limits, write RURAL and give township) TOWN Kansas City	
4. FULL NAME OF (If NOT Hospital or institution, give street and city) 1. HOSPITAL OR INSTITUTION 5. CHILD'S NAME (Type or print) 6. (First) Daisy		5. SIBLING 7. FULL NAME a. (First) b. (Middle) c. (Last) Male		6. DATE (Month) (Year) OF BIRTH 2nd <input type="checkbox"/> 3rd <input type="checkbox"/> Dec 28 (Year)	
7. FULL NAME 8. THIS BIRTH Single <input type="checkbox"/> Twin <input type="checkbox"/> Triplets <input type="checkbox"/>		9. AGE (at time of birth) 26 YEARS		10. BIRTH PLACE (State or foreign country) Gardner	
11. MOTHER'S NAME Dorothy Fields		12. FULL MAIDEN NAME Dorothy Fields		13. COLOR OR RACE White	
14. DATE (time of the birth) 1952		15. ADDRESS Gardner		16. ATTENDANT M. D. <input type="checkbox"/> Midwife <input type="checkbox"/> Other <input type="checkbox"/>	
17. DATE REC'D BY LOCAL REG.		18. REGISTRAR'S ACKNOWLEDGMENT Daisy		19. DATE ON WHICH GIVEN NAME ADDED By (Signature)	

C E R T I F I E D C O P Y

Topeka, Kansas, September 5, 1957

I hereby certify that the above is a true and exact photographic reproduction of the original certificate on file with the Division of Vital Statistics and Records of the Kansas State Board of Health.

(SEAL)

Division of Vital Statistics and Records

*M. M. K.*  
(State Registrar)

E N° 4518 B

H-6 A

FEDERAL SECURITY AGENCY  
PUBLIC HEALTH SERVICE

CITY OF OMAHA, NEBRASKA  
DEPARTMENT OF HEALTH  
Division of Vital Statistics  
CERTIFICATE OF LIVE BIRTH

165021

1. PLACE OF BIRTH a. COUNTY Douglas		2. USUAL RESIDENCE OF MOTHER: a. STATE Nebraska		b. COUNTY Douglas	
b. CITY (If outside corporate limits, write RURAL) OR TOWN Omaha		c. CITY (If outside corporate limits, write RURAL) OR TOWN Omaha-rural			
c. FULL NAME OF (If NOT in hospital or institution, give street HOSPITAL OR INSTITUTION Lutheran Hospital		d. STREET ADDRESS 7158 Rogers Road			
3. CHILD'S NAME (Type or print) Lylette		e. (First) Sue		c. (Last) Armstrong	
4. SEX female	5a. THIS BIRTH Single <input checked="" type="checkbox"/> Twin <input type="checkbox"/> Triplet <input type="checkbox"/>	5b. If TWIN OR TRIPLET (This child born) 1st <input type="checkbox"/> 2nd <input type="checkbox"/> 3rd <input type="checkbox"/>	6. DATE OF BIRTH March 29, 1956		
FATHER OF CHILD					
7. FULL NAME a. (First) Lyle		b. (Middle) William		c. (Last) Armstrong	
8. AGE (At time of this birth) 32 Yrs.		10. BIRTHPLACE (City, town or county) (State or foreign country) GRISWOLD, IOWA		11a. USUAL OCCUPATION Truck Driver	
11b. KIND OF BUSINESS OR INDUSTRY Watson Brothers Company					
MOTHER OF CHILD					
12. FULL MAIDEN NAME a. (First) Maurene		b. (Middle) Clover		c. (Last) Mills	
13. COLOR OR RACE white					
14. AGE (At time of this birth) 35 Yrs.		15. BIRTHPLACE (City, town or county) (State or foreign country) Oakland, IOWA		16. Children Previously Born to This Mother (Do NOT include this child) a. How many OTHER children are now living? b. How many OTHER children were born alive but are now dead? c. How many children were stillborn (born dead after 20 weeks pregnancy)?	
17. INFORMANT'S SIGNATURE OR NAME-Relationship Mrs. Maurene Armstrong-mother		3		0 0	
18a. SIGNATURE A. Greenberg, M.D.		18b. M. D. <input type="checkbox"/> Midwife <input type="checkbox"/> Other (Specify)			
18c. ADDRESS 320 Medical Arts Bldg.		19. MOTHER'S MAILING ADDRESS same as Item #2			
20. DATE REC'D BY LOCAL REG. 4/3/1956		21. REGISTRAR'S SIGNATURE E.D. Lyman, M.D.			

I hereby certify that the above is a true and correct copy of the certificate of birth recorded in the City of Omaha, County of Douglas, State of Nebraska.

Dated this 17th day of August, 1956.

*D. Hyman M.D.*  
Registrar

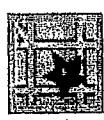
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FEB 8 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION



Search Your Voter  
Registration  
Information



Search Your  
Polling  
Place



Search Your  
Provisional Ballot



Search Your  
Absentee Ballot

#### Registrant Detail

Name	Lylette Fields
Party	Nonpartisan
Polling Place	La Vista City Hall - Community Center 34 8116 Park View Blvd. La Vista, NE 68128

#### Districts

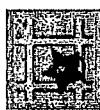
District Name	District Type
Papillion-La Vista Public Schs	School District
Metro Com College Dist 5	Community College District
U.S. Congressional District 2	U.S. Congressional District
Appeals Court Judge Dist 4	Judge of Appeals Court Dist.
County Judge Dist 2	Judge of County Court Dist.
District Judge, Dist 2	Judge of District Court Dist.
Juv Crt Judge, Sarpy Co.	Judge of Juvenile Court
Supreme Court Judge Dist 4	Judge of Supreme Court Dist.
Legislative District 14	Legislative District
Papio NRD SubD 8	Natural Resources District
Omaha PPD SubD Suburban	Public Power District
PSC District 3	Public Service Comm District
Board of Regents District 4	Board of Regents
ESU 3 District 4	ESU District
La Vista City Council Ward 2	City Council (Ward)
County Commissioner District 4	County Board (Commiss./Superv)
Mayor of La Vista	Mayor
Metropolitan Utilities Distr	Utilities District
State Board of Education Dist4	State Board of Education
Learning Community 1 - Dist 6	Learning Community Coordinating Council

Información en español

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Search Your Voter  
Registration  
Information



Search Your Polling  
Place



Search Your  
Provisional Ballot



Search Your  
Absentee Ballot

#### Registrant Detail

Name	Larry Fields
Party	Nonpartisan
Polling Place	La Vista City Hall - Community Center 34 8116 Park View Blvd. La Vista, NE 68128

#### Districts

District Name	District Type
Papillion-La Vista Public Schs	School District
Metro Com College Dist 5	Community College District
U.S. Congressional District 2	U.S. Congressional District
Appeals Court Judge Dist 4	Judge of Appeals Court Dist.
County Judge Dist 2	Judge of County Court Dist.
District Judge, Dist 2	Judge of District Court Dist.
Juv Crt Judge, Sarpy Co.	Judge of Juvenile Court
Supreme Court Judge Dist 4	Judge of Supreme Court Dist.
Legislative District 14	Legislative District
Papio NRD SubD 8	Natural Resources District
Omaha PPD SubD Suburban	Public Power District
PSC District 3	Public Service Comm District
Board of Regents District 4	Board of Regents
ESU 3 District 4	ESU District
La Vista City Council Ward 2	City Council (Ward)
County Commissioner District 4	County Board (Commiss./Superv)
Mayor of La Vista	Mayor
Metropolitan Utilities Distr	Utilities District
State Board of Education Dist4	State Board of Education
Learning Community 1 - Dist 6	Learning Community Coordinating Council

[Información en español](#)

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**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

Subject:	Type:	Submitted By:
RIGHT-OF-WAY VACATION & CONVEYANCE — SOUTH SIDE OF HARRISON, EAST OF 83 <sup>RD</sup> STREET	RESOLUTION ◆ ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIR.

#### **SYNOPSIS**

On March 20, 2012, the Council tabled an ordinance for the vacation and conveyance of a portion of unused public right-of-way on the south side of Harrison Street, adjacent to Lot 1282-D1, La Vista, located east of 83<sup>rd</sup> Street. The applicant, CVS, had been asked to contact the abutting business, Bethany Funeral Home, to discuss signage issues. **Amendments to the ordinance have been made to include restrictions related to the signage and maintenance of the property by CVS.**

#### **FISCAL IMPACT**

Harrison Street was constructed using 80% Federal Highway Administration funding and 20% local match. Any proceeds from the sale of the right-of-way must be split with 80% being refunded to the State. The City will keep the other 20%, estimated to be \$5,314.60.

#### **RECOMMENDATION**

Approval.

#### **BACKGROUND**

The City of La Vista received a request by Nebraska CVS Pharmacies, LLC, to vacate a portion of the Harrison Street right-of-way (approximately 4,599 square feet) which is adjacent to Lot 1282-D1, La Vista. The developers of CVS/Parsley Place (Nebraska CVS Pharmacies, LLC) have also requested the ability to purchase the parcel, and intend to construct a multi-tenant project directory sign on the property. If approved, the vacation and conveyance of this part of the Harrison Street right-of-way would be subject to compliance with the following (see attached redline of ordinance for changes):

1. Easements to all existing utilities shall remain;
2. The pavement subsurface pipes that were constructed and terminate at about the proposed right-of-way acquisition line shall remain in place;
3. Reimbursement to the Federal Highway Administration for monies expended in acquiring the right-of-way;
4. CVS shall use the property for the sole purpose of constructing and maintaining a project directory sign and such sign shall be approved by the City. Specifically, subparagraph "b" identifies the project directory sign and gives the City Administrator authority to define the number of businesses to be colocated on the sign with CVS, with the actual businesses ultimately listed determined by negotiation

of CVS and the businesses. The provision will provide area businesses an opportunity to negotiate for space on the sign. (Note: The City may also require as a condition of closing on the parcel an updated signage plan from CVS regarding its intentions with respect to other businesses to be listed on the sign, including evidence of binding agreements between CVS and area businesses that have been identified to colocate on the sign); and

5. CVS shall grant an easement to Professional Mortuary Services, Inc. (Bethany Funeral Home) to maintain their irrigation system and CVS shall maintain the lawn at the current level.

An appraisal and a review appraisal of the property was completed and submitted to the Right-of-Way Division of the Nebraska Department of Roads for approval. Their approval has been received subject to splitting the proceeds of the sale, with 80% being refunded to the State and 20% to be retained by the City. Attached is a letter from John Kottmann, City Engineer, summarizing the value of the parcel based on the appraisals and adjusting for expenses incurred by the applicant and the City.

An ordinance has been prepared to vacate and convey that portion of the Harrison Street right-of-way as shown on Exhibit A. A notice of the sale and the terms of the sale, Exhibit B, will then be published for three consecutive weeks in the newspaper. A remonstrance can be filed against the sale of the property if at least 30% of the electors voting in the last City election sign the remonstrance. A remonstrance against the sale must be filed within 30 days after the passage and publication of the ordinance. If a remonstrance is not filed, the City will prepare a deed in which the City quitclaims its interest in the vacated right-of-way to Nebraska CVS Pharmacy, LLC.

The property owner adjoining this portion of right-of-way, Professional Mortuary Services, Inc., dba Bethany Funeral Home at 8201 Harrison Street, had been notified by staff on two previous occasions of this proposed right-of-way vacation and sale. At the March 6<sup>th</sup> Council meeting, a representative of the applicant, CVS Pharmacies, was asked to contact the funeral home and discuss signage issues. A representative for CVS has been in contact with Paul Matukewicz at Bethany Funeral Home and did provide a drawing (see Exhibit C) showing the proposed sign location in relationship to the funeral home monument sign. The irrigation system and maintenance of the property was also discussed. An amended ordinance which addresses these issues is attached.

## ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE VACATING, AND RESERVING AND RETAINING TITLE IN THE CITY TO, AND DIRECTING THE SALE AND CONVEYANCE OF, A PART OF HARRISON STREET RIGHT-OF-WAY LOCATED IN THE NW ¼ OF SECTION 14, TOWNSHIP 14 NORTH, RANGE 12 EAST OF THE 6<sup>TH</sup> P.M., SARPY COUNTY, NEBRASKA; AND TO PROVIDE AN EFFECTIVE DATE HEREOF.

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

Section 1. It is hereby declared necessary, expedient, proper and for the public good to vacate, and for the City to reserve and retain title to (for sale and conveyance of), a part of Harrison Street right-of-way located in the NW ¼ of Section 14, Township 14 North, Range 12 East of the 6<sup>th</sup> P.M., Sarpy County, Nebraska, more particularly described in Exhibit A, attached hereto and incorporated herein by this reference, ("Property"); and said Property is hereby vacated and the City reserves and retains title thereto for sale and conveyance thereof as directed in Section 2 below.

Section 2. Upon request and payment of adequate consideration and such administrative costs and fees incurred by the City in connection with the vacation, sale and conveyance of the Property, the City shall provide a quitclaim deed selling and conveying the Property to Nebraska CVS Pharmacy, L.L.C. ("CVS"), subject to the rights, conditions and limitations set forth in this Section 2 below, and in accordance with the manner and terms of conveyance specified in Exhibit B attached hereto and incorporated herein by this reference, which rights, conditions, limitations, manner and terms are hereby deemed to be in the best interests of the City; and all of which rights, conditions, limitations, manner and terms shall continue in perpetuity and be binding on CVS and all successors or assigns of CVS or the Property. Such conveyance shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action.

a. In addition to any reserved rights provided the City of La Vista elsewhere in this Ordinance or in any document or instrument of conveyance or under applicable law, the following rights, conditions and limitations shall be reserved in perpetuity to the City of La Vista with respect to the Property:

ia. the right to maintain, operate, repair, replace, extend and renew sewers and other improvements now existing in, on, over, under or across the Property and in the future to construct, maintain, repair, replace, extend and renew additional or other sewers and improvements;

- | iiib. the right to authorize public utilities, cable television companies and other persons, systems or services to construct, maintain, repair, replace, renew, extend and operate now or hereafter installed water mains and gas mains, poles, lines, conduits, equipment and appurtenances above, in, on, over, across or below the surface of the ground for the purpose of serving the general public or abutting property;
- | iiie. the right to authorize such connections or branch lines as may be ordered, desired or permitted by the City or such other utility, person, system or service; and
- | ivd. the right to enter upon the Property to accomplish the above and any related or similar purposes at any and all times.

~~All or any vegetation now or hereafter upon the Property, including, but not limited to, trees, shrubs and crops, and all or any improvements and structures now or hereafter upon the Property, including, but not limited to, buildings, walls, fences, drives, paving and walks, may be damaged or removed by or as authorized by the City as necessary or appropriate in the exercise of the rights herein reserved without any requirement of restoration or compensation to any person.~~

- b. Due to unique dimensions of the Property and its proximity adjacent to public right of way, and CVS's representation of a desire to acquire the Property for the sole purpose of locating and maintaining a Project Directory Sign (as defined in the City of La Vista Zoning Ordinance), CVS and the City are in agreement that the Property shall be conveyed to CVS for the following purposes:
  - i. CVS shall construct, maintain and use a Project Directory Sign on the Property at the location specified in Exhibit C attached hereto and incorporated herein by reference;
  - ii. The sign shall be designed, constructed and used in accordance with all applicable laws, rules and regulations;
  - iii. The design and layout of the sign, vicinity covered by the sign, and the number of businesses within the vicinity to be colocated and listed on the sign with CVS, shall be subject to approval of the City Administrator, and the actual businesses ultimately listed on the sign shall be determined by reasonable, good faith negotiations between CVS and said businesses; and

iv. The remainder of the Property that is not used for the Project Directory Sign shall continue to be maintained as a lawn, as existing at closing, and for no other purposes.

(“Permitted Purposes”).

CVS shall take title to the Property subject to the Permitted Purposes, and after closing on the Property, CVS shall use the Property exclusively for the Permitted Purposes and for no other purposes. In addition to, and not in limitation of the foregoing, CVS at all times shall maintain or contract for the maintenance of the lawn on the Property in a healthy, clean, neat and trim manner, condition and appearance that is at or above the level, manner, condition and appearance in effect upon closing.

- c. An irrigation system serves a tract of land owned by Professional Mortuary Services, Inc. adjacent to the east of the Property, which irrigation system is partly located in, on, over, under, across or below the surface of the Property (“Irrigation System”). Professional Mortuary Services, Inc., its successors and assigns shall have an easement for the present and future location, maintenance, operation, replacement, repair and renewal of said Irrigation System in, on, over, under, across or below the surface of the Property, and to enter upon the Property from time to time to exercise the rights granted by said easement. In addition, if any part of the Irrigation System is damaged, destroyed or rendered inoperable by any negligence, act or omission of CVS, CVS agrees to immediately repair, replace and restore said part and the Irrigation System to good and working condition and repair.
- d. All or any vegetation now or hereafter upon the Property, including, but not limited to, lawns, trees, shrubs and crops, and all or any improvements and structures now or hereafter upon the Property, including, but not limited to, buildings, walls, fences, drives, paving, signs and walks, may be damaged or removed by or as authorized by the City as necessary or appropriate in the exercise of the rights herein reserved without any requirement of restoration or compensation to any person.

Such conveyance shall be executed by the Mayor and City Clerk, who are hereby authorized to take such action.

Section 3. The City Clerk is hereby authorized and directed to publish notice of the sale of the Property specified in Exhibit A and the terms of such sale in accordance with the requirements of Section 16-202 of the Revised Statutes of Nebraska.

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

| PASSED AND APPROVED THIS 6<sup>TH</sup> - <sup>TH</sup> DAY OF MARCH, 2012.

CITY OF LA VISTA

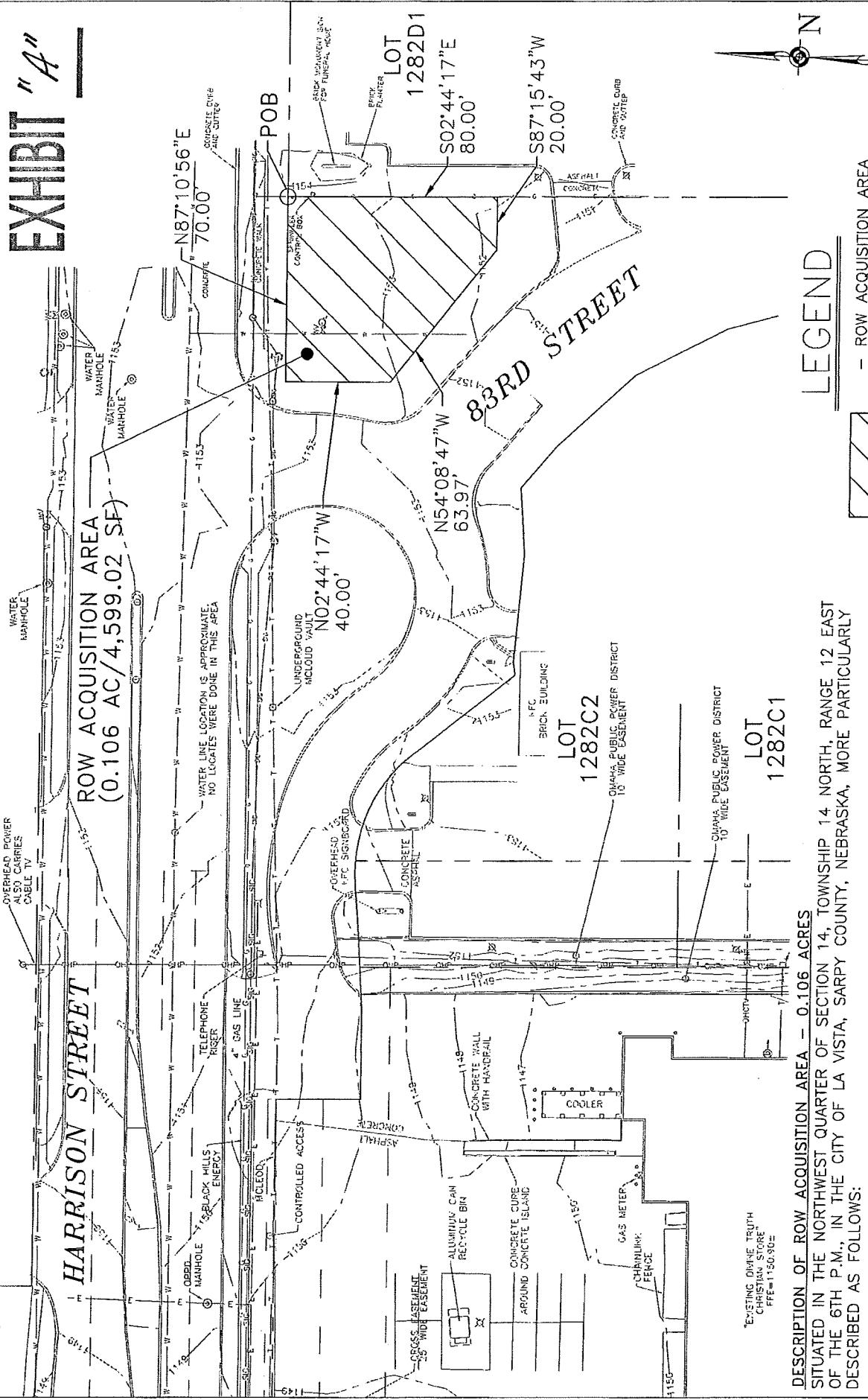
ATTEST:

\_\_\_\_\_  
Douglas Kindig, Mayor

\_\_\_\_\_  
Pamela A. Buethe, CMC  
City Clerk

\\Lvdclf01\\Users\\Administration\\BRENDA\\COUNCIL\\ORDINANCE\\Vacate Harrison ST ROW.Doc

EXHIBIT "A"



DESCRIPTION OF ROW ACQUISITION AREA - 0.106 ACRES

EXISTING DIVINE TRUTH  
CHRISTIAN STORE  
FEE=1150.90

BEGINNING AT THE NORTHWEST CORNER OF LOT 1282D1, LA VISTA, SARPY COUNTY, NEBRASKA, AND A POINT IN THE SOUTH RIGHT OF WAY LINE OF HARRISON STREET, THENCE ALONG THE WEST LINE OF SAID LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83RD STREET, S02°44'17"E FOR 80.00 FEET; THENCE LEAVING SAID WEST LINE OF LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83RD STREET, S87°15'43" FOR 20.00; THENCE N54°08'47"W FOR 63.97 FEET; THENCE N02°44'17"W FOR 40.00 FEET; THENCE N87°10'56"E FOR 70.00 FEET TO THE POINT OF BEGINNING CONTAINING 4,599.02 SQUARE FEET OR 0.106 ACRES MORE OR LESS.

SEC - HARRISON ST & 83RD ST 1"=50'

# LA VISTA. NEBRASKA

.QUISITION  
JUNE 1, 2011

## LEGEND

#### - ROW ACQUISITION AREA

1"=50'

1

## EXHIBIT "B"

### MANNER AND TERMS OF SALE

**Manner of Sale:** Quitclaim Deed from City to Nebraska CVS Pharmacy, L.L.C. vacated right-of-way, with reservation of easements and other rights.

**Terms of Sale:**

- 1) Legal Description: BEGINNING AT THE NORTHWEST CORNER OF LOT 1282D1, LA VISTA, SARPY COUNTY, NEBRASKA, AND A POINT IN THE SOUTH RIGHT OF WAY LINE OF HARRISON STREET, THENCE ALONG THE WEST LINE OF SAID LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83<sup>RD</sup> STREET, S02°44'17"E FOR 80.00 FEET; THENCE LEAVING SAID WEST LINE OF LOT 1282D1 AND THE EAST RIGHT OF WAY LINE OF 83<sup>RD</sup> STREET, S87°15'43" FOR 20.00'; THENCE N54°08'47"W FOR 63.97 FEET; THENCE N02°44'17"W FOR 40.00 FEET; THENCE N87°10'56"E FOR 70.00 FEET TO THE POINT OF BEGINNING CONTAINING 4,599.02 SQUARE FEET OR 0.106 ACRES MORE OR LESS.
- 2) Consideration to be paid to City: \$26,573 (Appraised at \$36,972 less \$1,800 paid to City for cost of appraisal, \$900 paid to City of cost or review appraisal, \$2,000 for platting expense, and \$5,519 paid to City for administrative fees), plus legal and advertising fees.
- 3) Method of Payment: Cash at closing.
- 4) Closing Date: As parties may agree.
- 5) Purchaser: Nebraska CVS Pharmacy, L.L.C.



**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
AWARD CONTRACT BROAD LEAF WEED SPRAYING	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared to approve a contract with Alexander Lawn & Landscape, Gretna, Nebraska, for Broad Leaf Weed Spraying in an amount not to exceed \$5,596.60.

**FISCAL IMPACT**

The FY 11/12 General Fund Budget provides funding for the proposed project.

**RECOMMENDATION**

Approval

**BACKGROUND**

This contract is for weed spraying in all city parks, several out lots and Off Street Parking District. Park Superintendent Brian Lukasiewicz solicited bids and recommends Alexander Lawn & Landscape as the low compliant bidder.

Alexander Lawn & Landscape	\$5,596.60
Chem Lawn	\$6,372.89
Custom Lawns of Omaha	\$15,000.00

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AWARDING A CONTRACT TO ALEXANDER LAWN & LANDSCAPE, GRETNA, NEBRASKA IN AN AMOUNT NOT TO EXCEED \$5,596.60

WHEREAS, the City Council of the City of La Vista has determined that the spraying for weeds in all city parks, several out lots and the Off Street Parking District is necessary; and

WHEREAS, the FY 2011/12 General Fund Budget will provide funds for this project; and

WHEREAS Subsection (C) (9) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secures Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska award the contract to Alexander Lawn & Landscape, Gretna, Nebraska in an amount not to exceed \$5,596.60

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

ITEM D

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
AUTHORIZATION TO PURCHASE ASPHALT HOT BOX	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared authorizing the purchase of one (1) 2009 Demo Unit - Falcon RME Trailer Hot Box, from Nebraska Environmental Products, Lincoln, Nebraska, for the Public Works Department in an amount not to exceed \$22,900.

**FISCAL IMPACT**

The FY 2011/12 Street Operating Fund Budget provides funding for the proposed purchase.

**RECOMMENDATION**

Approval

**BACKGROUND**

The purchase of this unit is to replace equipment #1184, a 1993 Chausse Trailer Asphalt Hot Box. The Street Superintendent and his staff developed bid specifications for the unit and sealed bids were opened on March 22, 2012. Street Superintendent Greg Goldman recommends Nebraska Environmental Products as the low compliant bidder.

Nebraska Environmental Products	Falcon RME Trailer Hot Box (Demo)	\$22,900.00
Nebraska Environmental Products	Falcon RME Trailer Hot Box (New)	\$30,441.00
Rose Equipment	KM4000TEXP	\$33,288.00
Logan Contractors Supply Inc.	HMT40000T Marathon	\$41,125.00
Logan Contractors Supply Inc.	HMT8000 Marathon	\$47,142.00

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF ONE (1) 2009 DEMO UNIT – FALCON RME TRAILER HOT BOX FROM NEBRASKA ENVIRONMENTAL PRODUCTS, LINCOLN, NE, IN AN AMOUNT NOT TO EXCEED \$22,900.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a Trailer hot box is necessary; and

WHEREAS, the FY 2011/12 General Fund Budget provides funding for the purchase; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska authorizing the purchase of one (1) 2009 Demo Unit – Falcon RME trailer hot box from Nebraska Environmental Products, Lincoln, NE, in an amount not to exceed \$22,900.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

**CITY OF LA VISTA**  
**MAYOR AND CITY COUNCIL REPORT**  
**APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
PURCHASE - FIRE EXTINGUISHER TRAINER	◆ RESOLUTION ORDINANCE RECEIVE/FILE	RICH UHL FIRE CHIEF

**SYNOPSIS**

A resolution has been prepared authorizing the purchase of one (1) BullEx Magnum Hose Line and Fire Extinguisher Training System from BullEx Inc., Albany, NY in an amount not to exceed \$16,571.67.

**FISCAL IMPACT**

The FY 11/12 General Fund budget provides funding for the proposed purchase. \$8,500.00 of this purchase will be paid for by local grants.

**RECOMMENDATION**

Approval

**BACKGROUND**

Funding was included in the current year's budget for the purchase of a fire extinguisher training system. This purchase will enhance not only our internal departmental training program, but will also allow for the delivery of fire extinguisher training to businesses in our community whose employees may need this type of training.

Department members have researched this piece of equipment and have concluded that the Bullex Magnum Hose Line and Fire Extinguisher Training System will provide the most complete training system available.

BullEx, Inc. is the sole source provider for the Intelligent Training System™, which cannot be purchased through any other manufacturer and there are no other similar products available.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF ONE (1) BULLEX MAGNUM HOSE LINE AND FIRE EXTINGUISHER TRAINING SYSTEM FROM BULLEX, INC., ALBANY, NY IN AN AMOUNT NOT TO EXCEED \$16,571.67.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a Fire Extinguisher Trainer is necessary; and

WHEREAS, the FY 2011/12 General Fund Budget provides funding for the purchase; and

WHEREAS, Subsection (C) (9) of Section 31.23 of the La Vista Municipal code requires that the City Administrator secure council approval prior to authorizing any purchases over \$5,000.

NOW, THEREFORE BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska authorizing the purchase of one (1) Bullex Magnum hose line and fire extinguisher training system from Bullex, Inc., Albany, NY in an amount not to exceed \$16,571.67.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

ITEM F

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
APRIL 3, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
PURCHASE UNMARKED POLICE CAR	◆ RESOLUTION ORDINANCE RECEIVE/FILE	BOB LAUSTEN POLICE CHIEF

**SYNOPSIS**

A resolution has been prepared to approve the purchase one (1) 2012 Chevrolet Impala vehicle from Sid Dillon Chevrolet, Wahoo, NE in an amount not to exceed \$18,100.

**FISCAL IMPACT**

The FY 11/12 General Fund budget provides funding for the proposed purchase.

**RECOMMENDATION**

Approval

**BACKGROUND**

The purchase is being made off of the Nebraska State Contract #31117OC. Funding was provided in the FY 12 General Fund budget for the purchase of one (1) unmarked police car. Expected delivery of the vehicle will be July 1, 2012.

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AWARDING A CONTRACT TO SID DILLON CHEVROLET, WAHOO, NEBRASKA FOR THE PURCHASE OF ONE (1) 2012 CHEVROLET IMPALA IN AN AMOUNT NOT TO EXCEED \$18, 100.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a new un-marked police vehicle is necessary, and

WHEREAS, the FY11/12 General Fund budget includes funding for the purchase of said vehicle, and

WHEREAS, Sid Dillon Chevrolet, Wahoo, Nebraska, was awarded the state bid for Nebraska for the 2012 Intermediate 4 door sedan vehicles and will extend that price to the City of La Vista, and

WHEREAS, Subsection (c) of Section 31.23 of the La Vista Municipal Code requires that the City Administrator secure Council approval prior to authorizing any purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby accept the Nebraska state bid of Sid Dillon Chevrolet, Wahoo, Nebraska and authorize the purchase of one (1) 2012 Chevrolet Impala vehicle in an amount not to exceed \$18,100.

PASSED AND APPROVED THIS 3RD DAY OF APRIL, 2012.

CITY OF LA VISTA

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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk

G

**RESOLUTION NO. \_\_\_\_\_**

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA RECOMMENDING TO THE NEBRASKA LIQUOR CONTROL COMMISSION, APPROVAL OF THE CLASS I LIQUOR LICENSE APPLICATION FOR THAI ORCHIDS LLC DBA THAI ORCHIDS RESTAURANT, LA VISTA, NEBRASKA.

WHEREAS, Thai Orchids LLC dba Thai Orchids Restaurant, 8058 S 84<sup>th</sup> Street, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for a Class I Liquor License, and

WHEREAS, the Nebraska Liquor Control Commission has notified the City of said application, and

WHEREAS, the City has adopted local licensing standards to be considered in making recommendations to the Nebraska Liquor Control Commission, and

WHEREAS, said licensing standards have been considered by the City Council in making its decision.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, hereby recommend to the Nebraska Liquor Control Commission approval of the Class I Liquor License application submitted by Thai Orchids LLC dba Thai Orchids Restaurant, 8058 S 84<sup>th</sup> Street, La Vista, Sarpy County, Nebraska.

PASSED AND APPROVED THIS 3RD DAY OF APRIL 2012.

CITY OF LA VISTA

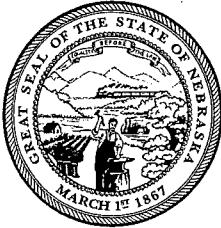
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Douglas Kindig, Mayor

ATTEST:

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Pamela A. Buethe, CMC  
City Clerk



**Dave Heineman**  
Governor

City Clerk of La Vista  
8116 Park View Boulevard  
La Vista, NE 68128

RE: Thai Orchids Restaurant

Dear Local Governing Body:

Attached is the form to be used on all retail liquor license applications. Local clerks must collect proper license fees and occupation tax per ordinance, if any, before delivering the license at time of issuance.

**TWO KEY TIME FRAMES TO KEEP IN MIND ARE:**

- 1) Publicize one time not less than 7 days not more than 14 days prior to date of hearing.
- 2) You have 45 days to conduct a hearing after the date of receipt of the notice from this Commission (§53-134). You may choose **NOT** to make a recommendation of approval or denial to our Commission.

PER §53-133, THE LIQUOR CONTROL COMMISSION SHALL SET FOR HEARING ANY APPLICATION WHEREIN:

- 1) There is a recommendation of denial from the local governing body,
- 2) A citizens protest; or
- 3) Statutory problems that the Commission discovers.

PLEASE NOTE A LICENSEE MUST BE "PROPERLY" LICENSED IN ORDER TO PURCHASE FROM WHOLESALERS, AND A LICENSE IS EFFECTIVE:

- 1) Upon payment of the license fees;
- 2) Physical possession of the license;
- 3) Effective date on the license.

Sincerely,

NEBRASKA LIQUOR CONTROL COMMISSION  
Jackie B. Matulka  
Licensing Division

Enclosures

**Janice M. Wiebusch**  
Commissioner

**Robert Batt**  
Chairman

**William F. Austin**  
Commissioner

# RECOMMENDATION OF THE NEBRASKA LIQUOR CONTROL COMMISSION

April 2, 2012 JBM

Date Mailed from Commission Office: March 2, 2012

I, \_\_\_\_\_ Clerk of \_\_\_\_\_  
(City, Village or County)

Nebraska, hereby report to the Nebraska Liquor Control Commission in accordance with Revised Statutes of Nebraska, Chapter 53, Section 134 (7) the recommendation of said city, village or county, as the case may be relative to the application for a license under the provisions of the Nebraska Liquor Control Act as applied for by:

**Thai Orchids LLC DBA Thai Orchids Restaurant**  
**8058 S 84 Street, La Vista, NE 68128 (Sarpy County)**

**NEW APPLICATION for Class I 97845**

**45 days – April 16, 2012**

1. Notice of local hearing was published in a legal newspaper in or of general circulation in city, village or county, one time not less than 7 nor more than 14 days before time of hearing.

**Check one:** Yes \_\_\_\_\_ No \_\_\_\_\_

The Statutes require that such hearing shall be held not more than 45 days after the date of receipt of this notice from the Commission.

2. Local hearing was held not more than 45 days after receipt of notice from the Nebraska Liquor Control Commission.

**Check one:** Yes \_\_\_\_\_ No \_\_\_\_\_

3. Date of hearing of Governing Body: \_\_\_\_\_

4. Type or write the Motion as voted upon by the Governing Body. If additional Motions are made by the Governing Body, then use an additional page and follow same format.

\_\_\_\_\_

\_\_\_\_\_

5. Motion was made by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

6. Roll Call Vote: \_\_\_\_\_

7. **Check one:** Motion Passed: \_\_\_\_\_ Motion Failed: \_\_\_\_\_

8. If the motion is for recommendation of denial of the applicant, then list the reasons of the governing body upon which the motion was made.

\_\_\_\_\_

\_\_\_\_\_

(Attached additional page(s) if necessary)

**SIGN HERE** \_\_\_\_\_ **DATE** \_\_\_\_\_  
(Clerks Signature)

PLICATION FOR LIQUOR LICENSE  
CHECKLIST - RETAIL

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

Effective 5-1-2013

RECEIVED

MAR 01 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

Applicant Name

THAI ORCHIDS LLC

Trade Name

THAI ORCHIDS RESTAURANT

Previous Trade Name

NONE

E-Mail Address:

THAIORCHIDSNE@YAHOO.COM

I

97845

Provide all the items requested. Failure to provide any item will cause this application to be returned or placed on hold. All documents must be legible. Any false statement or omission may result in the denial, suspension, cancellation or revocation of your license. If your operation depends on receiving a liquor license, the Nebraska Liquor Control Commission cautions you that if you purchase, remodel, start construction, spend or commit money that you do so at your own risk. Prior to submitting your application review the application carefully to ensure that all sections are complete, and that any omissions or errors have not been made. You may want to check with the city/village or county clerk, where you are making application, to see if any additional requirements must be met before submitting application to the state.

*Jim's secretary will  
email me info* → ① voter reg for pat  
② L & W of building

REQUIRED ATTACHMENTS

Each item must be checked and included with application or marked N/A (not applicable)

1. Fingerprint cards for each person (two cards per person) must be enclosed with a check payable to the Nebraska State Patrol for processing in the amount of \$38.00 per person. All areas must be completed on cards as per brochure. To prevent the delay in issuing your license, we strongly suggest you go to any Nebraska State Patrol office or law enforcement agency listed in the enclosed fingerprint brochure.

2. Enclose application fee of \$400, check made payable to the Nebraska Liquor Control Commission.

3) Enclose the appropriate application forms;

Individual License (requires insert form 1)

Partnership License (requires insert form 2)

Corporate License (requires insert form 3a & 3c)

Limited Liability Company (LLC) (requires form 3b & 3c)

4. If building is being leased send a copy of signed lease. Be sure the lease reads in the name of the individual(s), corporation or Limited Liability Company making application. Lease term must run through the license year being applied for.

5. If building is owned or being purchased send a copy of the deed or purchase agreement in the name of the applicant.

6. If buying the business of a current liquor license holder:

a) Provide a copy of the purchase agreement from the seller (must read applicants name)

K 1004 - 400 - jbm

Ref 167093

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b) Provide a copy of alcohol inventory being purchased (must include brand names and container size)  
c) Enclose a list of the assets being purchased (furniture, fixtures and equipment)

7. If planning to operate on current liquor license; enclose Temporary Operating Permit (T.O.P.)(form 125).

NONE 8. Enclose a list of any inventory or property owned by other parties that are on the premise.

X 9. For citizenship, residency and voter registration requirements see enclosed brochure.

X 10. Corporation or Limited Liability Company must enclose a copy of articles of incorporation; as filed with the Secretary of State's Office. This document must show barcode.

X 11. Submit a copy of your business plan.

I acknowledge that this application is not a guarantee that a liquor license will be issued to me, and that the average processing period is 60 days. Furthermore, I understand that all the information is truthful and I accept all responsibility for any false documents.

Signature

2/29/2012

Date

RECEIPT

DATE	3-1-12	NO.	167093
FROM	THAI Orchids LLC		
FOR	New App		
		<input type="checkbox"/> CASH	
		<input checked="" type="checkbox"/> CHECK #	1004
		<input type="checkbox"/> MONEY#	
		<input type="checkbox"/> ORDER	
Received by <u>Jackie B Matulka</u>			

# APPLICATION FOR LIQUOR LICENSE RETAIL

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

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MAR 01 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

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

### RETAIL LICENSE(S)

Application Fee \$400 (non refundable)

A BEER, ON SALE ONLY  
 B BEER, OFF SALE ONLY  
 C BEER, WINE, DISTILLED SPIRITS, ON AND OFF SALE  
 D BEER, WINE, DISTILLED SPIRITS, OFF SALE ONLY  
 I BEER, WINE, DISTILLED SPIRITS, ON SALE ONLY  
 AB BEER, ON AND OFF SALE  
 AD BEER ON SALE ONLY, BEER, WINE, DISTILLED SPIRITS OFF SALE  
 IB BEER, WINE, DISTILLED SPIRITS ON SALE, BEER OFF SALE ONLY  
 ID BEER, WINE, DISTILLED SPIRITS ON AND OFF SALE

Class K Catering license (requires catering application form 106) \$100.00

Additional fees will be assessed at city/village or county level when license is issued

Class C license term runs from November 1 – October 31

All other licenses run from May 1 – April 30

Catering license (K) expires same as underlying retail license

## CHECK TYPE OF LICENSE FOR WHICH YOU ARE APPLYING

Individual License (requires insert form 1)  
 Partnership License (requires insert form 2)  
 Corporate License (requires insert form 3a & 3c)  
 Limited Liability Company (LLC) (requires form 3b & 3c)

## NAME OF ATTORNEY OR FIRM ASSISTING WITH APPLICATION (if applicable)

Commission will call this person with any questions we may have on this application

Name JAMES H. MOYLAN

Phone number: 402-397-0203

Firm Name MOYLAN LAW OFFICE - 8424 W. CENTER RD., STE 207, OMAHA, NE 68124

**PREMISE INFORMATION**Trade Name (doing business as) **THAI ORCHIDS RESTAURANT**Street Address #1 **8058 S 84th STREET**

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

City **LAVISTA**

County \_\_\_\_\_

**SARPY****#59**Zip Code **68128**Premise Telephone number **402-592-6877**Is this location inside the city/village corporate limits:  YES  NO*city*

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

Name **THAI ORCHIDS RESTAURANT**Street Address #1 **8058 S 84th STREET**

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

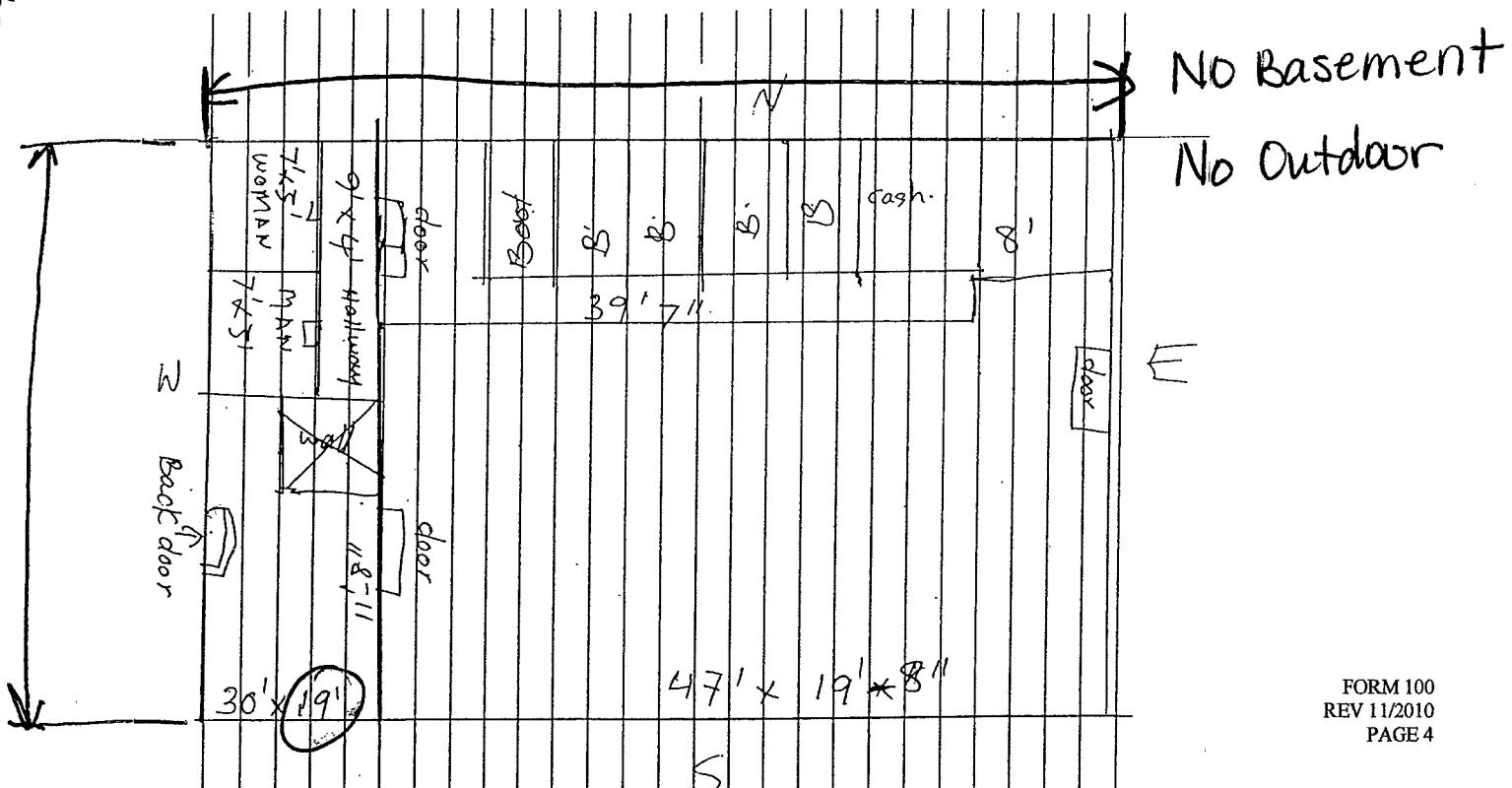
City **LAVISTA**State **NE**Zip Code **68128****DESCRIPTION AND DIAGRAM OF THE STRUCTURE TO BE LICENSED****READ CAREFULLY**

In the space provided or on an attachment draw the area to be licensed. This should include storage areas, basement, outdoor area, sales areas and areas where consumption or sales of alcohol will take place. If only a portion of the building is to be covered by the license, you must still include dimensions (length x width) of the licensed area as well as the dimensions of the entire building. No blue prints please. Be sure to indicate the direction north and **number of floors** of the building.

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

Length \_\_\_\_\_ feet **one story building 20 X 71**  
Width \_\_\_\_\_ feet

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



## APPLICANT INFORMATION

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

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

YES  NO

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

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted (city & state)	Description of Charge	Disposition
KATE KOUNNAVONG			MINOR TRAFFIC VIOLATIONS YEARS AGO	FINES
PAT KOUNNAVONG			MINOR TRAFFIC VIOLATIONS YEARS AGO	FINES

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

YES  NO

If yes, give name of business and liquor license number \_\_\_\_\_

a) Submit a copy of the sales agreement - NA

b) Include a list of alcohol being purchased, list the name brand, container size and how many - None

c) Submit a list of the furniture, fixtures and equipment - see # Agreement

### 3. Was this premise licensed as liquor licensed business within the last two (2) years?

YES  NO

If yes, give name and license number LUCKY YAMA INC #86137

expired in  
december  
2011

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

YES  NO

If yes:

a) Attach temporary operating permit (T.O.P.) (form 125)

b) T.O.P. will only be accepted at a location that currently holds a valid liquor license.

### 5. Are you borrowing any money from any source, include family or friends, to establish and/or operate the business?

YES  NO

If yes, list the lender(s) \_\_\_\_\_

6. Will any person or entity, other than applicant, be entitled to a share of the profits of this business?

YES  NO

If yes, explain. (All involved persons must be disclosed on application)

---

**No silent partners**

7. Will any of the furniture, fixtures and equipment to be used in this business be owned by others?

YES  NO

If yes, list such item(s) and the owner. \_\_\_\_\_

8. Is premise to be licensed within 150 feet of a church, school, hospital, home for the aged or indigent persons or for veterans, their wives, and children, or within 300 feet of a college or university campus?

YES  NO

If yes, provide name and address of such institution and where it is located in relation to the premises (Neb. Rev. Stat. 53-177)(1)

---

9. Is anyone listed on this application a law enforcement officer?

YES  NO

If yes, list the person, the law enforcement agency involved and the person's exact duties

10. List the primary bank and/or financial institution (branch if applicable) to be utilized by the business

a) List the individual(s) who will be authorized to write checks and/or withdrawals on accounts at this institution.

**US BANK - KATE K. KOUNNAVONG**

---

11. List all past and present liquor licenses held in Nebraska or any other state by any person named in this application.

Include license holder name, location of license and license number. Also list reason for termination of any license(s) previously held.

**NONE**

---

12. List the alcohol related training and/or experience (when and where) of the person(s) making application. Those persons required are listed as followed:

- a) Individual, applicant only (no spouse)
- b) Partnership, all partners (no spouses)
- c) Corporation, manager only (no spouse) as listed on form 3c
- d) Limited Liability Company, manager only (no spouse) as listed on form 3c

*Training Required  
will be taking RBST*

Applicant Name	Date Trained (mm/yyyy)	Name of program where trained (name, city)
KATE KOUNNAVONG		WILL TAKE BEFORE OPENING

13. If the property for which this license is sought is owned, submit a copy of the deed, or proof of ownership. If leased, submit a copy of the lease covering the entire license year. **Documents must show title or lease held in name of applicant as owner or lessee in the individual(s) or corporate name for which the application is being filed.**

Lease: expiration date APRIL 30, 2015

Deed

Purchase Agreement

14. When do you intend to open for business? MAY 1, 2012

15. What will be the main nature of business? THAI RESTAURANT

16. What are the anticipated hours of operation? 11AM - 1AM

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

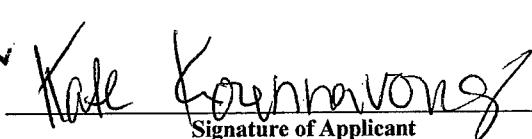
RESIDENCES FOR THE PAST 10 YEARS, APPLICANT AND SPOUSE MUST COMPLETE					
APPLICANT: CITY & STATE	YEAR FROM      TO		SPOUSE: CITY & STATE	YEAR FROM      TO	
6230 S 42nd STREET, OMAHA, NE	1986	PRESENT	6230 S 42nd STREET, OMAHA, NE	1986	present

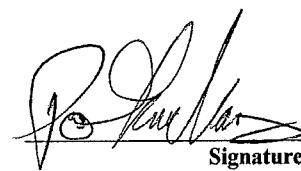
If necessary attach a separate sheet.

The undersigned applicant(s) hereby consent(s) to an investigation of his/her background and release present and future records of every kind and description including police records, tax records (State and Federal), and bank or lending institution records, and said applicant(s) and spouse(s) waive(s) any right or causes of action that said applicant(s) or spouse(s) may have against the Nebraska Liquor Control Commission, the Nebraska State Patrol, and any other individual disclosing or releasing said information. Any documents or records for the proposed business or for any partner or stockholder that are needed in furtherance of the application investigation of any other investigation shall be supplied immediately upon demand to the Nebraska Liquor Control Commission or the Nebraska State Patrol. The undersigned understand and acknowledge that any license issued, based on the information submitted in this application, is subject to cancellation if the information contained herein is incomplete, inaccurate or fraudulent.

Individual applicants agree to supervise in person the management and operation of the business and that they will operate the business authorized by the license for themselves and not as an agent for any other person or entity. Corporate applicants agree the approved manager will superintend in person the management and operation of the business. Partnership applicants agree one partner shall superintend the management and operation of the business. All applicants agree to operate the licensed business within all applicable laws, rules, regulations, and ordinances and to cooperate fully with any authorized agent of the Nebraska Liquor Control Commission.

Must be signed in the presence of a notary public by applicant(s) and spouse(s). If partnership or LLC (Limited Liability Company), all partners, members and spouses must sign. If corporation all officers, directors, stockholders (holding over 25% of stock) and spouses. Full (birth) names only, no initials.

  
Signature of Applicant

  
Signature of Spouse

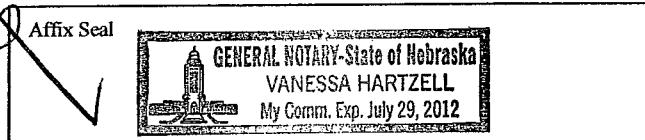
Signature of Applicant

Signature of Spouse

#### ACKNOWLEDGEMENT

State of Nebraska  
County of Douglas  
2-29-12 by Vanessa Hartzell  
date  
Notary Public signature

The foregoing instrument was acknowledged before me this  
name of person acknowledged



In compliance with the ADA, this application is available in other formats for persons with disabilities.  
A ten day advance period is required in writing to produce the alternate format.

**MANAGER APPLICATION  
INSERT - FORM 3c**

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

Office Use

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NEBRASKA LIQUOR  
CONTROL COMMISSION

Corporate manager, including their spouse, are required to adhere to the following requirements

- 1) Must be a citizen of the United States
- 2) Must be a Nebraska resident (Chapter 2 – 006) and must provide proof of voter registration in the State of Nebraska
- 3) Must provide a copy of one of the following: state issued US birth certificate, naturalization paper or US passport
- 4) Must submit fingerprints (unless a non-participating spouse) (2 cards per person) and fees of \$38 per person, made payable to Nebraska State Patrol
- 5) Must be 21 years of age or older
- 6) May be required to take a training course

**Corporation/LLC information**

Name of Corporation/LLC: THAI ORCHIDS LLC

**Premise information**

Premise License Number: \_\_\_\_\_ (if new application leave blank)

Premise Trade Name/DBA: THAI ORCHIDS RESTAURANT

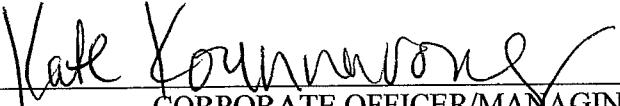
Premise Street Address: 8058 S 84th STREET

City: LAVISTA State: NE Zip Code: 68128

Premise Phone Number: 402-592-6877

The individual whose name is listed as a corporate officer or managing member as reported on insert form 3a or 3b or listed with the Commission. Click on this link to see authorized individuals.

[http://www.lcc.ne.gov/license\\_search/licsearch.cgi](http://www.lcc.ne.gov/license_search/licsearch.cgi)

  
CORPORATE OFFICER/MANAGING MEMBER SIGNATURE  
(Faxed signatures are acceptable)

**Manager's information must be completed below PLEASE PRINT CLEARLY**

Gender:  MALE  FEMALE

Last Name: **KOUNNAVONG** First Name: **KATE** MI: **K**

Home Address (include PO Box if applicable): **6230 S 42 STREET**

City: **OMAHA** County: **DOUGLAS** Zip Code: **68107**

Home Phone Number: **402-680-6762** Business Phone Number: **402-592-6877**

Social Security Number: \_\_\_\_\_ Drivers License Number & State: \_\_\_\_\_

Date Of Birth: **9-4-1967** Place Of Birth: **VIENTIANE, LAOS**

**Are you married? If yes, complete spouse's information (Even if a spousal affidavit has been submitted)**

YES

NO

**Spouse's information**

Spouses Last Name: **KOUNNAVONG** First Name: **PAT** MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Drivers License Number & State: \_\_\_\_\_

Date Of Birth: **1-1-1967** Place Of Birth: **VIENTIANE, LAOS**

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

**APPLICANT**

**SPOUSE**

CITY & STATE	YEAR FROM	YEAR TO	CITY & STATE	YEAR FROM	YEAR TO
OMAHA, NE	1986	PRESENT	OMAHA, NE	1986	PRESENT

**MANAGER'S LAST TWO EMPLOYERS**

YEAR FROM TO		NAME OF EMPLOYER	NAME OF SUPERVISOR	TELEPHONE NUMBER
2004	2010	AIM INSTITUTE	CARLETT GREGORY	402-345-5025
1999	2002	CONSOLIDATED CONTAINERS	DEAN HINZ	402-934-2400

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

Has anyone who is a party to this application, or their spouse, EVER been convicted of or plead guilty to any charge. Charge means any charge alleging a felony, misdemeanor, violation of a federal or state law; a violation of a local law, ordinance or resolution. List the nature of the charge, where the charge occurred and the year and month of the conviction or plea. Also list any charges pending at the time of this application. If more than one party, please list charges by each individual's name.

YES  NO

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

Name of Applicant	Date of Conviction (mm/yyyy)	Where Convicted ( city & state)	Description of Charge	Disposition
KATE K. KOUNNAVONG			MINOR TRAFFIC VIOLATIONS YEARS AGO	FINES
PAT <del>K</del> . KOUNNAVONG			MINOR TRAFFIC VIOLATIONS YEARS AGO	FINES

2. Have you or your spouse ever been approved or made application for a liquor license in Nebraska or any other state?  YES  NO  
IF YES, list the name of the premise.

3. Do you, as a manager, qualify under Nebraska Liquor Control Act (§53-131.01) and do you intend to supervise, in person, the management of the business?  YES  NO

4. Have you enclosed the required fingerprint cards and **PROPER FEES** with this application?  
(Check or money order made payable to the **Nebraska State Patrol** for **\$38.00 per person**)

YES

NO

*prints enclosed*

5. List any alcohol related training and/or experience (when and where).

NONE YET - WILL TAKE ONE BEFORE OPENING

*plans on taking RBST program*

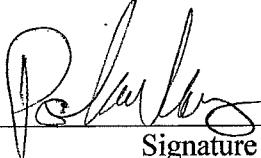
## PERSONAL OATH AND CONSENT OF INVESTIGATION

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

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

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

  
Signature of Manager Applicant

  
Signature of Spouse

### ACKNOWLEDGEMENT

State of Nebraska

County of Douglas

2-29-12

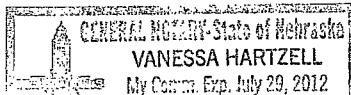
date

by

Kate Kounhavong name of person acknowledged  
Pot Kounhavong

Vanessa Hartzell  
Notary Public Signature

Affix Seal


GENERAL NOTARY STATE OF NEBRASKA
VANESSA HARTZELL
My Comm. Exp. July 29, 2012

In compliance with the ADA, this application is available in other formats for persons with disabilities. A ten day advance period is required in writing to produce the alternate format.



Search Your Voter  
Registration  
Information



Search Your Polling  
Place



Search Your  
Provisional Ballot



Search Your  
Absentee Ballot

#### Registrant Detail

Name	Mrs. Kate Kounnavong
Party	Republican
Polling Place	St. Peter & Paul School 3623 "X" Street School Gymnasium : ::::: HNDCP. USE NORTH OR SOUTH ENTRANCE Omaha, NE 68107

#### Districts

District Name	District Type
Omaha Public Schools	School District
Metro Com College Dist 4	Community College District
U.S. Congressional District 2	U.S. Congressional District
Appeals Court Judge Dist 4	Judge of Appeals Court Dist.
County Judge Dist 4	Judge of County Court Dist.
District Judge, Dist 4	Judge of District Court Dist.
Juv Crt Judge, Douglas Co.	Judge of Juvenile Court
Supreme Court Judge Dist 4	Judge of Supreme Court Dist.
Legislative District 5	Legislative District
Papio NRD SubD 6	Natural Resources District
Omaha PPD SubD Metro	Public Power District
PSC District 2	Public Service Comm District
Board of Regents District 4	Board of Regents
Omaha City Council Ward 4	City Council (Ward)
County Commissioner Dist 01	County Board (Commiss./Superv)
Metropolitan Utilities Dist	Utilities District
Omaha Public School Subdist 7	School Board Ward
Mayor of Omaha	Mayor
State Board of Education Dist4	State Board of Education
Learning Community 1 - Dist 5	Learning Community Coordinating Council

Información en español

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VoterView 2.2.961.1

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**NEBRASKA LIQUOR  
CONTROL COMMISSION**

DEPARTMENT OF JUSTICE

IMMIGRATION AND



No. 1274890

Refugee No. 15598

• ORIGINAL. When Registration No. 1274890

Personal description of holder of this certificate. Date of birth September 4, 1967 Sex F  
Nationality Medium Brown Color of hair Black Height 5 feet 0 inches  
Weight 110 pounds, male, thin, thin, emaciated. None  
Marital status Married Country of former nationality Laos  
I certify that the description above given is true and that the photograph hereto attached is a true picture of me.



UNITED STATES OF AMERICA  
DISTRICT OF NEBRASKA ss:  
Reykjavik, Iceland U.S. District Court of  
Nebraska  
February 20, 1986  
KATE KETSAMONE KOUNNAVONG

Having read and understood the United States Circular required by the  
Immigration and Naturalization Laws of the United States, having taken the same and being  
satisfactorily furnished of such information thereon, and was enabled to be  
admitted to residence in the United States of America, and was admitted to be  
admitted as a citizen of the United States of America, on the 20th  
day of February, in the year of our Lord nineteen hundred and  
eighty-six.

WILLIAM L. OLSON

Clerk of the U.S. District Court.

By James Mc Cain Deputy Clerk.

NEBRASKA ATTORNEY GENERAL

MAR 01 2012

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# Douglas County Election Commission

225 North 115th Street • Omaha, Nebraska 68154

DAVE PHIPPS, ELECTION COMMISSIONER

STATE OF NEBRASKA      }  
COUNTY OF DOUGLAS      }      SS

I, DAVE PHIPPS, Election Commissioner of Douglas County, Nebraska, do certify that Pat Koumavong now residing at 6230 South 42nd Street, Omaha, Nebraska 68107 registered for voting in this office on March 2, 2012 stating under oath that he was born in Vientiane, Laos and giving his birth date as January 1, 1963.

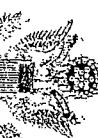
In testimony whereof, I have hereunto set my hand and caused to be affixed hereto, the seal of this office, in the City of Omaha, County of Douglas, State of Nebraska, this 2nd day of March, 2012.

DAVE PHIPPS  
Election Commissioner of  
Douglas County, Nebraska  
(Seal)

By S. L. Joffr  
Deputy



U.S. CITIZENSHIP AND IMMIGRATION SERVICES



No. 520493744

U.S. CITIZENSHIP AND IMMIGRATION SERVICES

Personal description of holder  
as of date of naturalization:

Date of birth: January 1, 1963

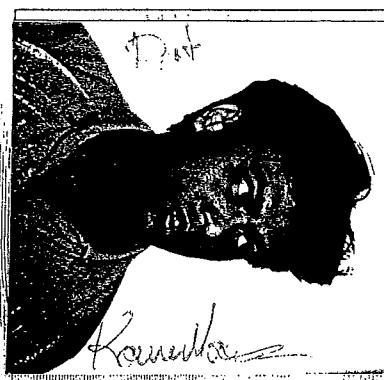
Sex: Male

Height: 5 feet 7 inches

Marital status: Married

Country of former nationality:

Laos



I certify that the description given is true, and that the photograph affixed hereto is a likeness of me.

Pat KOUNNAVONG

(Complete and true signature of holder)

I, the undersigned, presented my application filed with the Attorney General

at:

Omaha, Nebraska

The Attorney General having found that:

the aforesaid in the United States intends to reside in the United States when so required by the Naturalization Laws of the United States and had in all other respects complied with the applicable provisions of such naturalization laws and was entitled to be admitted to citizenship, such person having taken the oath of allegiance in a ceremony conducted by the United States District Court for the District of Nebraska.

at:

Omaha, Nebraska

on: MAR 01 2012

that such person is admitted as a citizen of the United States of America.

IT IS PUNISHABLE BY U.S. LAW TO COPY,  
PRINT OR PHOTOGRAPH THIS CERTIFICATE.  
WITHOUT LAWFUL AUTHORITY.

Commissioner of Immigration and Naturalization

Chris Sale

MAR 01 2012

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**APPLICATION FOR LIQUOR LICENSE  
LIMITED LIABILITY COMPANY (LLC)  
INSERT - FORM 3b**

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

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MAR 01 2012

**NEBRASKA LIQUOR  
CONTROL COMMISSION**

All members including spouse(s), are required to adhere to the following requirements:

- 1) All members spouse(s) must be listed
- 2) Managing/Contact member and all members holding over 25% interest and their spouse(s) (if applicable) must submit fingerprints (2 cards per person)
- 3) Managing/Contact member and all members holding over 25 % shares of stock and their spouse (if applicable) must sign the signature page of the Application for License form 100 (even if a spousal affidavit has been submitted)

Attach copy of Articles of Organization (Articles must show barcode receipt by Secretary of States office)

**KATE K. KOUNNAVONG**

Name of Registered Agent:

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

**THAI ORCHIDS LLC**

LLC Address: 8058 S 84th STREET

City: LAVISTA

State: NE

Zip Code: 68128

LLC Phone Number: 402-680-6762

LLC Fax Number

Name of Managing/Contact Member

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

Last Name: KOUNNAVONG

First Name: KATE

MI: K

Home Address: 6230 S 42 STREET

City: OMAHA

State: NE

Zip Code: 68107

Home Phone Number: 402-680-6762

*Kate Kounnavong*

Signature of Managing/Contact Member

**ACKNOWLEDGEMENT**

State of Nebraska  
County of Douglas

The foregoing instrument was acknowledged before me this

2-29-12

by

*Kate Kounnavong*

name of person acknowledge

Affix Seal	GENERAL NOTARY-State of Nebraska VANESSA HARTZELL My Comm. Exp. July 29, 2012
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List names of all members and their spouses (even if a spousal affidavit has been submitted)

Last Name: KOUMMAVONG First Name: KATE MI: K

Social Security Number: \_\_\_\_\_ Date of Birth: 9-4-1967

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: 1-1-1963

Percentage of member ownership 100%

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Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Percentage of member ownership \_\_\_\_\_

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Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Percentage of member ownership \_\_\_\_\_

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Last Name: \_\_\_\_\_ First Name: \_\_\_\_\_ MI: \_\_\_\_\_

Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

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

Spouse Social Security Number: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Percentage of member ownership \_\_\_\_\_

*signed  
TNS  
Prints  
Voter  
reg*

Is the applying Limited Liability Company controlled by another corporation/company?

YES       NO

If yes, provide the following:

- 1) Name of corporation \_\_\_\_\_
- 2) Supply an organizational chart of the controlling corporation named above
- 3) Controlling corporation **MUST** be registered with the Nebraska Secretary of State, copy of articles must be submitted with application §53-126

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Indicate the company's tax year with the IRS (Example January through December)

Starting Date: **JANUARY 1**      Ending Date: **DECEMBER 31**

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Is this a Non Profit Corporation?

YES       NO

If yes, provide the Federal ID #. \_\_\_\_\_

In compliance with the ADA, this corporation insert form 3a is available in other formats for persons with disabilities.  
A ten day advance period is requested in writing to produce the alternate format.



## CERTIFICATE OF ORGANIZATION

TO THE SECRETARY OF STATE OF THE STATE OF NEBRASKA:

Pursuant to Nebraska Revised Statute 21-117 the Certificate of Organization of Limited Liability Company shall set forth:

**RECEIVED**

MAR 01 2012

### ARTICLE I

The name of the Limited Liability Company is **THAI ORCHIDS LLC** **NEBRASKA LIQUOR CONTROL COMMISSION**

### ARTICLE II

The street and mailing address of the initial designated office is:

8058 South 84th Street  
La Vista, NE 68128

### ARTICLE III

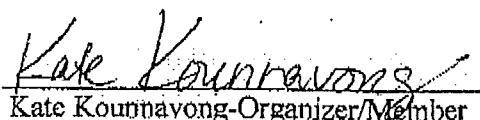
The name and address of its current registered agent is:

Kate Kounnavong  
6230 South 42nd Street  
Omaha, NE 68107

### ARTICLE IV

A limited liability company is formed when the Secretary of State has filed the certificate of organization.

IN WITNESS WHEREOF, this certificate has been subscribed to this 28<sup>th</sup> day of December, 2011 by the undersigned who affirms that the statement made herein is true under the penalties of perjury.

  
Kate Kounnavong  
Kate Kounnavong-Organizer/Member

# Business Plan

## Thai Orchids LLC Business Plan

The business plan is to operate primarily as a restaurant for Laotian food with alcohol being incidental to the operation.

**RECEIVED**

MAR 01 2012

**NEBRASKA LIQUOR  
CONTROL COMMISSION**

# Asset Purchase RECEIVED

MAR 01 2012

#2

## AGREEMENT (Purchase and Sale of a Business)

NEBRASKA LIQUOR  
CONTROL COMMISSION

Agreement made between, Qishen Zhang hereinafter referred to as the "SELLER" AND  
Kate Kounnavong, the owner of the Thai Orchids, LLC  
hereinafter referred to as "PURCHASER".

Seller is the owner and operator of a Restaurant business called Lucky Yama Inc and  
Located at 8058 S. 84<sup>th</sup> Street, Lavista, NE 68128

The Purchaser desires to purchase the assets of the Seller, including the following  
equipments, inventory on hand, furniture, goodwill, and customer list as more fully set  
forth in the Agreement:

Walk-in cooler with shelving, Ice machine (Manitowoc 600), True 3 door reach-in  
cooler, Steam table, 3 gas fryers, Sushi cases, 3 chest freezers, 2 refrigerators, 1 Hotpoint  
Refrigerator, Beverage cooler, All high-top booths with hanging high fixtures, tables with  
chairs, CMA dishwasher with hot water heater, Six burner restaurant range with oven and  
grill, 36-inch Panasonic flat screen TV with stand, All pots, pans glassware, dishware  
cooking utensils, Samsung ER4940 cash register.

The Seller agrees to sell and transfer and the Purchaser agrees to buy the following  
described Restaurant business, owned by Qishen Zhang, now located at 8058 S. 84<sup>th</sup>  
Street Lavista, NE 68128, including the use of the name "Sushi Yama", client list,  
mailing list, furniture, fixtures, equipment, and phone number.

The seller warrants to buyer it has good and marketable title to said property, full  
authority to sell and transfer said property and, that said property is sold free of all liens  
encumbrances, liabilities, and adverse claims if every nature and description whatsoever.

The seller further warrants to buyer that it will fully defend, protect, indemnity and hold  
harmless the buyer and its lawful successors and assigns from any adverse claim made  
thereto by all persons whomsoever

### PURCHASE PRICE.

The purchase price shall be Thirty one thousand and 00/100 cents (\$31,000 ) DOLLARS  
to be paid

(Name of corporate Seller)

BY Qishen Zhang, Owner of Lucky Yama Inc QISHEN ZHANG 1/16/2012

(Name of corporate Purchaser)

BY Kate Kounnavong, Owner of  
Thai Orchids LLC 1/16/2012

Items left  
on premise from  
last owner

# BRENTWOOD SQUARE SHOPPING CENTER LEASE

#13

THIS LEASE, made this 14<sup>th</sup> day of December, 2011, by and between F & J REALTY, hereinafter referred to as "Landlord", and THAI ORCHIDS, L.L.C., hereinafter referred to as "Tenant".

## WITNESSETH:

1. PURPOSE: Landlord hereby demises and leases to Tenant that certain space in Landlord's building located at Brentwood Square Shopping Center, and having the address of 8058 South 84th Street, LaVista, Nebraska 68128, which space is described as follows: an area consisting of approximately 1,600 square feet, and said space so leased shall be use as a Thai restaurant for the sale to the public of Thai food, soft drinks and related food items, and for no other use or purpose whatsoever without the express written consent of the Landlord.

2. COMMENCEMENT: The term of this lease shall be for a period of forty (40) months beginning January 1, 2012.

3. RENTS: Tenant shall pay to Landlord as rent for said leased premises during the initial Lease Term the total sum of Forty-eight Thousand two hundred sixty-six and 66/100 Dollars (\$48,266.66) per the rent schedule below. Tenant shall pay rent and assessments on the first day of each and every month of said term, in advance, at the office of the Landlord or its duly appointed agent.

RECEIVED

MAR 01 2012

## RENT SCHEDULE:

## NEBRASKA LIQUOR CONTROL COMMISSION

From	<u>January 1, 2012</u>	to	<u>February 29, 2012</u>	\$	<u>0</u>	per month.
From	<u>March 1, 2012</u>	to	<u>February 28, 2013</u>	\$	<u>1,200.00</u>	per month.
From	<u>March 1, 2013</u>	to	<u>February 28, 2014</u>	\$	<u>1,266.67</u>	per month
From	<u>March 1, 2014</u>	to	<u>April 30, 2015</u>	\$	<u>1,333.33</u>	per month.
From		to		\$		per month.
From		to		\$		per month.

Rent representing 20 (\$1,200.00) is hereby acknowledged upon the execution of this Lease.

4. COMMON AREA MAINTENANCE CHARGES: Tenant shall pay Landlord additional annual rental equal to the sum of the amounts:

(i) by which taxes, assessments, and governmental charges whether Federal, State, County or Municipal, which are levied on or charged against the real estate of which the leased premises are part and any other taxes and assessments attributable to said real estate or its operation by multiplying the following percentage (2.443% for taxes/1.736% for CAM), representing the relationship of the net rentable square feet of floor area occupied by the Tenant as it relates to the total net rentable square feet on the site of which the leased premises form a part, however, Tenant shall be responsible for all such taxes per square foot of space; and shall pay its prorated amount in monthly installments, along with monthly rent.

(ii) by which the Insurance Premiums attributable to the real estate of which the leased premises form a part by multiplying the percentage specified in subparagraph (i) hereof for insurance of multi-peril all risk policy covering the buildings and liability in the manner consistent with the shopping center.

# 13

(iii) common area operating and maintenance costs, which costs include all costs of maintenance, repairs and replacements to common areas, including but not limited to line painting, cleaning of center, roads, lighting, snow removal, management, liability insurance, depreciation of machinery and equipment used in such maintenance, repair and replacement and the cost of personnel in implementing such services (excluding structural maintenance, repair or replacement to buildings).

All such costs shall be multiplied by the fraction or percentage specified in subparagraph (i) hereof and paid by Tenant with monthly base rent payments. Common areas not inclusive of gravel parking area to west of property.

Tenant's share of such costs in excess of the amount hereinafter provided shall be determined on an annual basis for each calendar twelve (12) month period ending on December 31, prorating fractional years. Based upon and establishing costs for common areas, Tenant shall pay \$ 417.33 per month on the first day of each month in advance with rent and at the end of each year an analysis of the total year's common area operating costs shall be presented to Tenant and Tenant shall pay any excess charge to the Landlord within thirty (30) days of receiving said statement.

5. DESTRUCTION: If said building or the leased premises shall be damaged or destroyed in whole or in part by fire, the elements or other casualty so as to render the building or leased premises unfit for occupancy, and if in Landlord's or Tenant's judgment, they cannot be repaired within one hundred eighty (180) days from the happening of said injury, this lease shall terminate, at Landlord's or Tenant's election, effective as of the date of such damage. If Landlord elects to repair the leased premises, such repairs shall be completed within one hundred eighty (180) days from the happening of such injury, delays due to force majeure, strikes, material shortages, and other factors outside Landlord's control excepted. Landlord's failure to repair the leased premises within such time period shall cause this lease to terminate at the expiration thereof without any further liability whatsoever on the part of either party. Upon termination hereunder, Tenant shall immediately surrender the possession of the leased premises and all rights therein to Landlord, the Landlord shall have the right immediately to enter into and take possession of said leased premises and shall not be liable for any loss, damage or injury to the property or person of Tenant or any occupant of, in or upon said leased premises. Rental and all other amounts payable hereunder shall abate during such period as the leased premises remain wholly untenanted due to such event.

6. Tenant agrees that no representations as to the condition of said leased premises have been made by Landlord to Tenant either directly or indirectly prior to or at the execution of this lease that are not herein expressed and Tenant accepts space in "as is" condition.

7. LANDLORD REPAIRS: Landlord agrees to maintain in good condition, and repair as necessary the foundations, exterior walls and the roof of the leased premises.

8. TENANT REPAIRS: During the continuance of this lease Tenant shall keep the leased premises and appurtenances in good order and repair and shall keep the said premises and appurtenances in a wholesome condition without charge or expense to Landlord. Tenant shall make all repairs and replacements necessary to carry out the foregoing including, but not by way of limitation, those to and of all interior and exterior doors, door frames, windows, plate glass, and the heating, air conditioning, plumbing, and electrical system servicing said bay.

Tenant shall pay for all damages to the building as well as damages to the tenants or occupants thereof caused by any waste, misuse or neglect of said leased premises, its apparatus or appurtenances and shall not make or allow to be made any change, alteration or addition, in, upon or to said premises without the written consent of Landlord for that purpose first had and obtained. At the expiration of the time mentioned in this lease, or at an earlier termination thereof by forfeiture or otherwise, Tenant shall yield up said leased premises together with all its apparatus and appurtenances to Landlord in the same condition as when leased, reasonable wear and tear and damage beyond the control of Tenant excepted, and will surrender all original and duplicate keys of the several doors and such other things as pertain to said leased premises.

Landlord hereby waives all claims to the cabinetry, appliances and moveable equipment installed by Tenant on the leased premises or adjacent grounds. Landlord agrees that said personal property shall remain property of Tenant and may be removed by Tenant upon the expiration of its tenancy; provided however, that Tenant restore said premises to its original condition to the extent practicable.

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9. CLEANING: The Tenant shall not perform any acts or carry on any practice which may injure the leased premises or building of which the leased premises are a part, or be a nuisance or menace to other tenants in said building and shall keep the premises under its control (including adjoining drives, streets, alleys or yards) clean and free from rubbish and dirt, at all times, and it is further agreed that in the event the Tenant shall not comply with these provisions, the Landlord may enter upon said premises and have rubbish, dirt and ashes removed and the sidewalks cleaned, in which event the Tenant agrees to pay all charges that the Landlord shall pay for hauling rubbish, ashes and dirt, or cleaning walks. Said reasonable charges shall be paid to the Landlord by the Tenant as soon as a bill is presented to Tenant and the Landlord shall have the same remedy as is provided in paragraph 16 of this lease in the event of Tenant's failure to pay.

10. COMPLIANCE WITH LAWS: The Tenant shall at its own expense promptly comply with all laws, orders, regulations or ordinances of all Municipal, County and State authorities affecting the leased premises and the cleanliness, safety, occupation and use of same, except those relating to the structural portions of the leased premises which shall be Landlord's responsibility unless resulting from the particular use of the leased premises by Tenant.

11. REMEDY: If the Tenant shall default in any payment, expenditure or covenant other than rent required to be paid, expended or performed by the Tenant under the terms hereof, which shall continue for thirty (30) days after written notice thereof is provided to Tenant, the Landlord may at its option, make such payment or expenditure or perform such covenant, in which event the amount or cost thereof shall be payable as rental to the Landlord by the Tenant on the next ensuing rent day together with a charge of five percent (5%) of the amount thereof for Landlord's administrative expenses in connection therewith.

12. EASEMENTS: Tenant hereby grants to Landlord such licenses or easements in or over the leased premises or any portion or portions thereof as shall be reasonably required for the installation or maintenance of mains, conduits, pipes, or other facilities to serve the building of which the leased premises are a part, or any part thereof, including but not by way of limitation, the premises of any other Tenant thereof, provided, however, that Landlord shall pay for any alteration required on the leased premises as a result of any such exercise, occupancy under, or enjoyment of, any such license or easement, and provided further that no exercise, occupancy under, or enjoyment of any such license or easement shall result in any unreasonable interference with Tenant's use, occupancy, or enjoyment of the leased premises as contemplated by this lease.

13. ROOF ACCESS: The Landlord reserves the right of free access at all times to the roof of the leased premises. The Tenant shall not use the roof for any purpose without the consent in writing of the Landlord.

14. SUBLET: Tenant shall not sublet said leased premises or any part thereof, nor allow the same to be used or occupied by any other person or for any other use than that herein specified, nor assign this lease or any interest therein, without the written consent of the Landlord, which written consent the Landlord agrees will not be unreasonably withheld, and shall not suffer or permit any assignment or transfer by operation of law or otherwise, of the estate, or interest of Tenant in said leased premises acquired in, by or through this lease. Any written consent which Landlord may give to any assignment of Tenant's lease or to any sublease or co-tenancy of the leased premises shall be bound by the terms hereof, and be restricted to the particular assignment or sublease or co-tenancy, and the agreement herein not to assign or sublet remain in effect against the Tenant and Tenant's assigns and subleases it shall not be deemed unreasonable for Landlord to withhold consent to any new use or Tenant on the basis of existence of a competing use by a then current or prospective tenant of the shopping center, exclusive of non-compete clauses in existing leases.

15. LANDLORD'S OPTION: The Tenant agrees that if the estate hereby created shall be taken in execution, or by other process of law, or if the Tenant shall be declared bankrupt or insolvent, according to law, or any receiver be appointed for the business and property of the Tenant, or if any assignment shall be made of the Tenant's property for the benefit of creditors, then and in such event this lease may be canceled at the option of the Landlord.

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16. CURE FOR DEFAULTS: If Tenant shall default in the payment of rent reserved, or move out of, abandon or vacate the leased premises, then if Tenant shall not have cured such defaults within ten (10) days after receiving written notice thereof, Landlord may either:

(i) terminate this lease, and with or without process of law, expel and remove Tenant, or any other person or persons in occupancy from the leased premises, together with their goods and chattels, using such force as may be necessary in the judgment of Landlord or its agents in so doing, and repossess the leased premises, provided that in the event of termination pursuant hereto Landlord shall, nevertheless, be entitled to damages provided by law, just as if Tenant repudiated this lease, or

(ii) terminate Tenant's right to possession only, without terminating this lease, and with process of law, expel, and remove Tenant, or any other person or persons in occupancy from the leased premises together with their goods and chattels, using such force as may be necessary in the judgment of Landlord or its agents in so doing, and repossess the leased premises without such entry and possession terminating this lease or releasing Tenant in whole or in part from Tenant's obligation to pay rent hereunder for the full term hereof. Upon and after entry into possession without termination of this lease, Landlord shall use its best efforts to relet the leased premises or any part thereof for the account of the Tenant, to any person, firm, or corporation, for such rent, for such term (including a term beyond the term hereof, but the part of such term which is beyond the term hereof shall not be chargeable to Tenant's account), and upon such terms and conditions as Landlord, in Landlord's sole discretion, shall determine, and Landlord shall apply all rents received upon such a reletting as follows:

(a) first to the payment of such reasonable expenses as Landlord may have incurred in recovering possession of said leased premises (including legal expense and attorneys' fees), and in putting the same into good order or condition, or preparing, or altering the same for rental and reletting, and all other reasonable expense, commissions and charges paid, assumed, or incurred by Landlord in or about reletting the leased premises; and

(b) then to the fulfillment of the covenants of Tenant hereunder, if the consideration collected by Landlord upon any such reletting is not sufficient to pay in full the amount of rent reserved in this lease together with the items and expenses enumerated in subparagraphs (i) and (ii) above, then Tenant shall pay to the Landlord the amount of each monthly deficiency upon demand.

The foregoing remedies shall not be deemed mutually exclusive nor are the foregoing intended to be exclusive of any other remedies available at law or in equity to Landlord, all such rights and remedies being cumulative. In the event any payment of rent is paid after ten (10) days from the date on which said rent is due, Tenant shall pay an administrative charge of five percent (5%) of the amount of the late payment of the next rent due date.

17. LIEN: Landlord shall have a lien on all of the property, fixtures and furniture of Tenant situated on the leased premises during the term of this lease as security for the payment of the rent reserved and the performance of the agreements of this lease by Tenant, which lien Landlord may enforce by distress or attachment, and Tenant hereby waives all exemptions. If the rent reserved herein shall at any time be in arrears or Tenant shall breach any of the agreements of this lease, Landlord shall thereupon be entitled to the immediate possession of all of the property, fixtures and furniture of Tenant situated on the leased premises and may enter said premises and take possession thereof. If at the end of thirty (30) days Tenant shall not have fulfilled its obligations hereunder then Landlord, at its option, may sell the same at a public or private sale, and if such property is sold Landlord shall apply the proceeds, first, to the cost and expenses of such sale, second, to the satisfaction of any sums owing to it from Tenant for nonpayment of rent and expense of such sale, third, to the satisfaction of any sums owing to it from Tenant for nonpayment of rent accrued or to

accrue under the terms hereof or breaches of other obligations of the lease, and the balance, if any, it shall pay over to Tenant. Any property, furniture or fixtures belonging to Tenant, which Landlord may store, shall be at Tenant's sole risk and Landlord shall not be held responsible for any breakage or damage occasioned by such storing. If this lease is terminated at the election of Landlord, as aforesaid, or in any other way, Tenant shall, without demand, surrender and deliver up said leased premises and property peaceably to Landlord immediately upon such termination, and if Tenant shall remain in possession of the leased premises, or any part thereof, one day after the termination of this lease in any of the ways above named, Tenant shall be deemed guilty of forcible detainer of the leased premises under the statutes of the State of Nebraska and shall be subject to all the conditions and provisions above named and to eviction and removal forcibly or otherwise with or without process of law as above stated. After the commencement of a suit, or after final judgment, for possession of said premises, Landlord may receive and collect any rent due from Tenant, and the payment of said rent shall not waive or affect said suit or said judgement. All rights of Landlord in the event of default herein enumerated shall be in addition to and without prejudice to any remedy or remedies, which Landlord may have at law or in equity for nonpayment of rent or for breaches of the covenants and agreements hereof.

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18. HOLD HARMLESS: Landlord shall not be liable for any damage occasioned by failure to keep the leased premises in repair, other than as results from its own negligent acts or omissions, and shall not be liable for any damage done or occasioned by or from electric current, plumbing, gas, water, steam or sewage, or the bursting, leaking, running or failure of operation of any radiator, tank, water closet, wash stand, waste pipe, air-conditioning or any other apparatus in, above, upon or about said building or leased premises, nor for damage occasioned by water, snow, or ice being upon any sidewalk or entrance way, or being upon or coming through the roof, skylight, trap door or any other opening in said building or premises, nor for any damage arising from the action or negligence of Tenant, co-tenants or other occupants of the said building or of any owners or occupants of adjacent or contiguous property. Tenant hereby releases, discharges and agrees to indemnify, protect and save harmless Landlord of and from any and all claims, demands and liability for any loss, damage, injury or other casualty to person or property arising from the foregoing and hereby, in advance of loss, waives any right to subrogation arising by reason of such loss. To the extent obtainable, Tenant shall be required to obtain in Tenant's insurance coverage a waiver of subrogation clause as to any rights against Landlord and other tenants in the shopping center upon an insured loss. Tenant and Landlord hereby release, discharge and agree to indemnify, protect and save harmless each other of and from any and all claims, demands and liability for any loss, damage, injury or other casualty to property, whether it be that of either of the parties hereto or of third persons, whether they be third persons, or employees caused by, growing out of or happening in connection with use or occupancy of the leased premises or use of any equipment, facilities or property in, on or adjacent to aforesaid building.

19. INSURANCE REQUIREMENTS: Tenant agrees to indemnify and hold harmless the Landlord from any liability for damages to any person or property in, on or about said leased premises from any cause whatsoever, excluding causes created by its own act or omissions or that of its contractors, employees or agents and Tenant will procure and keep in effect during the term hereof public liability and property damage insurance for the benefit of the Landlord of not less than Two Hundred Fifty Thousand Dollars (\$250,000.00) for damages resulting to one person, Five Hundred Thousand Dollars (\$500,000.00) for damages resulting from one casualty, and Fifty Thousand Dollars (\$50,000.00) property damage resulting from any one occurrence. Tenant shall deliver said policies or a certificate of insurance to the Landlord with an endorsement providing that the policy cannot be canceled or the coverage lapsed except after thirty (30) days notice to Landlord, and upon Tenant's failure so to do the Landlord may at its option obtain such insurance and the cost thereof shall be paid as additional rent due and payable upon the next ensuing rent day.

20. All of the remedies herein are cumulative and given without impairing any other rights or remedies of Landlord, and Tenant shall pay and discharge all costs and expenses and attorney fees that shall arise from the enforcing of the covenants of this lease by Landlord.

21. The fact that Landlord does not exercise its rights hereunder in the event of breach of one or more covenants herein by Tenant shall not be deemed a waiver of such rights as to that or any subsequent breaches of the same or any other covenants herein by Tenant.

22. EMINENT DOMAIN: In the event that the whole of the building of which the leased premises form a part or the whole of the leased premises shall be taken by the exercise of the power of eminent domain, then in such case, this lease shall terminate as of the date of the taking of possession by or the vesting of title in the condemning authority.

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If less than the whole, but more than twenty percent (20%) of the leased premises are taken under the power of eminent domain, Landlord and Tenant shall each have the right to terminate this lease by giving written notice to the other within thirty (30) days after being notified of such taking and in such event, such termination shall be effective upon the day possession of such premises shall be required for public use. In the event (i) neither party hereto shall elect to terminate this lease; or (ii) less than twenty percent (20%) of the leased premises are so taken, Landlord shall, at its own cost and expense, make all necessary repairs and alterations to the basic building, storefront and interior work in order to constitute the remaining premises a complete architectural unit. In the event, pursuant to the terms of this paragraph 22, this lease is not terminated, all of the terms herein provided shall continue in effect, except that the rent shall be reduced in proportion to the amount of the leased premises taken. Any award made for any taking under the power of eminent domain shall belong solely to Landlord with the exception of any portion of the award made specifically for tangible personal property of Tenant. Landlord may, in its sole discretion, effect a sale of the whole or any portion of the leased premises in lieu of condemnation, in which case the sale shall be construed as a taking under the power of eminent domain and the proceeds of sale as an award.

23. SUBORDINATION: This lease shall, at the option of Landlord, be subject and subordinate to any mortgages or deeds of trust now or of record affecting the leased premises or hereafter placed on the leased premises by Landlord. Landlord may exercise the aforesaid option to subordinate this lease by notifying Tenant thereof at any time in writing. In the event Landlord exercises its option to subordinate this lease to any deed of trust or mortgage pursuant hereto, Tenant shall, at the option of the holder of said deed of trust or mortgage or of any purchaser at any foreclosure sale thereunder, attorn to said holder of any such deed of trust or mortgage or to any purchaser at any foreclosure sale thereunder.

24. NOTICES: Any notice, demand, request, consent, approval, or other communication which either party hereto is required or desires to give or make or communicate upon or to the other shall be in writing and shall be given or made or communicated by United States registered or certified mail, addressed in the case of Landlord to:

F & J Realty  
Brentwood Square Shopping Center  
c/o First Management, Inc.,  
Suite 550-The Center  
1941 South 42nd Street  
Omaha, Nebraska 68105-2982

and addressed in the case of Tenant to:

Kate Kounnavong  
6230 South 42<sup>nd</sup> Street  
Omaha, NE 68107

subject to the right of either party to designate a different address by notice similarly given. Any notice, demand, request, consent, approval, or other communication so sent shall be deemed to have been given, made or communicated, as the case may be on the date the same was deposited in the United States mail as certified matter with postage thereon fully prepaid.

25. All payments to be made to the Landlord shall be made to the address indicated in paragraph 24 hereof.

26. The term "Landlord" as used in this Lease, as relates to Landlord's covenants and obligations, shall be limited to mean and include only the owners (at the relevant time) of the fee simple title to the leased premises and/or underlying realty. It shall be a condition of any transfer of Landlord's interest in this lease that the transferee agrees to be bound by and perform all obligations of the Landlord hereunder, in the absence of which no purported transfer shall be effective. In the event such transfer is properly effective, the transferor shall be automatically relieved of all personal liability regarding the performance of Landlord's obligations herein contained which arise out of acts occurring after the effective date of such transfer (it being intended hereby that all of Landlord's obligations herein contained shall be binding upon Landlord, its successors and assigns, but only during and in respect of their respective periods of ownership of any interest in the leased premises or the underlying realty). Landlord hereby stipulates that it holds title to said premises, has the authority to execute this lease, and guarantees Tenant of its rights to peaceful, quiet use of said premises.

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27. RIGHT TO SHOW: The Tenant hereby agrees that for a period commencing ninety (90) days prior to the expiration of this lease, the Landlord may show the premises to prospective Tenants, and sixty (60) days prior to the expiration of this lease, may display in and about said premises and in the windows thereof, the usual and ordinary "FOR LEASE or RENT" signs.

28. HOLDOVER: Should Tenant, or any of its successors in interest, holdover the premises, or any part thereof, after the expiration of the term of this lease, unless otherwise agreed in writing, such holdover shall constitute and be construed as tenancy from month to month only, at a rental equal to the rental payable for the last month of the term of this lease plus one hundred percent (100%) of such amount. The inclusion of the preceding sentence shall not be construed as Landlord's permission for Tenant to holdover. Notwithstanding the foregoing, however, such increased rentals shall be no more than one hundred twenty percent (120%) of the previously applicable rental unless (i) Landlord and Tenant are not then actively negotiating for the renewal of the occupancy of the leased premises or (ii) Landlord has given Tenant at least one hundred twenty (120) days advance written notice of its intention to exercise its rights under this paragraph 28.

29. UTILITIES IN HOLDOVER: The Tenant will pay all charges made against the leased premises for gas, water, sewage, heat, and electricity during the continuance of the lease, as the same shall become due.

30. ADVERTISING, RULES AND REGULATIONS, AND PARKING: It is further agreed that all signs and advertising displayed in and about the premises shall be such that only as advertise the business carried on upon the leased premises, and that the Landlord shall control the character and size thereof, and that no sign shall be displayed excepting such as shall be approved in writing by the Landlord, and that no awning shall be installed or used on the exterior of said building unless approved in writing by the Landlord. Landlord shall have the right from time to time to establish and enforce reasonable rules and regulations regarding signs, customer and tenant parking areas, use of the common areas and of the leased premises. Such rules and regulations shall be effective upon notice to Tenant of their promulgation. Tenant shall not be entitled to conduct any fire or going out of business sales upon or about the leased premises without the prior written consent of Landlord.

Pursuant to the Landlord's ability to establish and enforce reasonable rules and regulations regarding the parking areas, Tenant does hereby agree to require all employees, agents and representatives to park to the rear of the demised premises, known as the west side, so long as adequate parking spaces exist, and upon request shall serve to Landlord or its agents, a comprehensive list of employees, agents and representatives' automobiles, by color, make and license number upon demand to aid in enforcement of this regulation. Should Tenant not comply by supplying the list or enforcement thereof upon formal written notification, Tenant shall be construed to be in default of the lease agreement.

31. ACCESS: The Landlord shall have the right to enter upon the leased premises at all reasonable hours for the purpose of inspecting the same. If the Landlord deems any repairs or replacements necessary which are Tenant's obligation to make hereunder, Landlord may demand that the Tenant make the same and if the Tenant refuses or neglects forthwith to commence such repairs or replacements, and complete the same with reasonable dispatch the Landlord may make or cause to

..... and shall not be responsible to the Tenant for any loss or damage that may accrue to Tenant's stock or business by reason thereof, and if the Landlord makes or causes to be made such repairs or replacements, the Tenant agrees that Tenant will forthwith on demand, pay to the Landlord the cost thereof together with a charge of five percent (5%) of the amount thereof for Landlords' administrative expenses in connection therewith.

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32. SECURITY DEPOSIT: The Landlord herewith acknowledges the receipt of One Thousand Two Hundred and 00/100 Dollars (\$1,200.00), which is to be retained as security for the faithful performance of all of the covenants, conditions, and agreements of this lease, but in no event shall the Landlord be obligated to apply the same upon rents or other charges in arrears or upon damages for the Tenant's failure to perform the said covenants, conditions and premises for nonpayment of rent or for any other reason shall not in any event be affected by reason of the fact that the Landlord holds this security. The sum if not applied toward the payment of rent in arrears or toward the payment of damages suffered by the Landlord by reason of the Tenant's breach of the covenants, conditions and agreements of this lease is to be returned to the Tenant when this lease is terminated, according to these terms, and in no event is the said security to be returned until the Tenant has vacated the premises and delivered possession to the Landlord.

In the event that the Landlord should repossess himself of the leased premises because of the Tenant's default or because of the Tenant's failure to carry out the covenants, conditions and agreements of this lease, the Landlord may apply the said security upon all damages suffered to the date of said repossession and may apply the said security upon all damages suffered to the date of said repossession and may retain the said security to apply upon such damages as may be suffered or shall accrue thereafter by reasons of the Tenant's default or breach. The Landlord shall not be obligated to keep the said security as a separate fund, but may mix the said security with his own funds. Under no circumstances shall Landlord be responsible to Tenant to account for such funds other than to disclose their ultimate application to whatever damages Landlord elects. Landlord's obligation to Tenant as to such deposit shall terminate upon Landlord's conveyance of the shopping center to a successor Landlord and delivery of such funds to said successor Landlord by check or credit.

33. LATE CHARGE: Any rent or assessments as so outlined in the lease not paid when due and any other sums due from Tenant to Landlord hereunder not paid when due (or upon demand) shall be subject to a \$50.00 late fee if not received by the Landlord within five (5) days after that due date and late charges shall accrue at a rate of \$5.00 per day, to be paid with said month's late rent.

34. BINDING ON PARTIES: All the terms of this lease shall extend to and be binding upon the respective heirs, executors, administrators, successors and assigns of the respective parties hereto.

35. Unless prevented by events reasonably beyond Tenant's control, Tenant shall use, occupy and operate the entire premises continuously and without interruption during the term in the manner and under the names set forth in the lease hereof in a competent, dignified, energetic and consistent manner such as will enhance the premises as a whole and its reputation as a desirable place to shop so as to achieve the maximum profitable volume of sales. Unless prevented by events reasonably beyond Tenant's control, Tenant shall remain open for business and adequately stocked on all days and during all hours that it is customary for businesses in Brentwood Square Shopping Center to be open with the option of being closed or open on Sundays or any evening and shall adequately staff its store with sufficient employees to handle the maximum profitable quality to accomplish the same; and shall maintain displays of merchandise in the display windows, if any, and keep such windows well lighted.

36. PERCENTAGE RENTS: Tenant shall pay additional rental for each lease year equal to the amount by which \_\_\_\_ percent (\_\_\_\_%) of the gross receipts for said each lease year, which shall include the total sales price of all merchandise sold in or from the leased premises and the total amount received or charged for services rendered or performed in or from the leased premises (exclusive of sales tax), exceed the rental paid in monthly installments during said lease year. If Tenant's fiscal year and lease year do not correspond, Tenant may pay its additional annual rental on a fiscal year basis provided Landlord agrees in writing to the calculation method to be used for any periods shorter than one (1) year. Tenant shall provide Landlord an annual report showing gross

receipts within sixty (60) days of the end of ~~said period each lease year~~ and the report must be certified as accurate by Tenant.

Landlord shall have the right to require an audit of Tenant's books and records by a Certified Public Accountant of Landlord's choice to verify the accuracy of the reported figures for gross receipts. If the results of said audit differ by more than five percent (5%) from said reported figures, Tenant shall pay to Landlord the cost of said audit as additional rent hereunder.

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Said additional rent shall be paid with the submission of the report and shall be based on the gross receipts for the lease year or period immediately preceding said report.

37. SIGNAGE: All exterior signs must be approved in writing by Landlord prior to installation by Tenant. All lighted signs to be per specifications shown on Exhibit "B" sign criteria. Tenant shall at Tenant's sole expense, have one (1) lighted exterior sign installed by lease commencement date. Said sign must meet all legal codes.

38. ESTOPPEL CERTIFICATE: Tenant shall, upon demand from Landlord, execute and deliver to Landlord, an Estoppel Certificate in such form and content as requested by Landlord, attesting to the compliance to date of Landlord with the terms and conditions of this lease and such other matters as requested by Landlord which would prevent Tenant from attesting to such a certificate. Tenant shall set forth such alleged default or defaults upon the certificate and detail or attest to the fact that these listed defaults are the only defaults by Landlord hereunder.

39. INTENT: It is the purpose and intent of Landlord and Tenant that the return to Landlord under this lease shall be absolutely net to Landlord so that the share of taxes, insurance premiums, management fees and any and all other reasonable other and necessary expenses and costs reasonably attributable to the premises (and not otherwise specifically provided for in this lease) shall be the obligation of Tenant rather than Landlord.

40. TENANT ALTERATIONS: The Tenant shall not make any alterations, additions, or improvements in or to the premises without the prior written consent of the Landlord, subject to any conditions the Landlord may deem appropriate. Any alterations, additions, or improvements consented to by the Landlord shall be made at the Tenant's sole expense. The Tenant shall provide its own trash containers for construction debris; use service entrances to the premises, if any; conduct no core drillings during business hours; and disrupt other tenants as little as possible. The Tenant shall secure any and all governmental permits, approvals, or authorizations required in connection with any such work, and shall hold Landlord harmless from any and all liability, costs, damages, expenses (including attorneys' fees), and liens resulting therefrom. All alterations, additions, and improvements (expressly including all light fixtures and floor coverings), except trade fixtures, appliances, and equipment that do not become a part of the premises, shall immediately become the property of the Landlord. Upon the expiration or early termination of the term hereof, the Tenant shall, upon written demand by Landlord (given at least thirty (30) days before the end of the term), at the Tenant's sole expense, remove any such alterations, additions, or improvements designated by the Landlord. The Tenant shall, forthwith and with all due diligence, at its sole expense, repair any damage to the premises caused by such removal. Tenant further agrees to submit to Landlord or Landlord's agents all plans and prints for said alterations prior to actual work and Tenant's contractors shall provide Landlord with proof of liability insurance prior to commencing any actual alterations.

41. RIGHT TO TRIAL: Tenant hereby waives right to request a trial by jury for any dispute arising out of the terms, conditions and covenants of this lease whether such legal action taken shall arise out of enforcement of any of the provisions contained herein or whether or not dispute arises out of consequences of Tenant occupying space in Brentwood Square Shopping Center.

42. EXPLANATORY PROVISIONS: (A) The words "Landlord" and "Tenant" shall be taken to include and be binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns, and shall be taken in the plural sense, wherever the context requires, and all pronouns used herein and referring to said parties shall be construed accordingly, regardless of the number or gender thereof.

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(B) Headings of the various paragraphs herein are inserted merely as a matter of convenience and for reference and shall not be considered as in any manner defining, limiting or describing the scope or intent of the particular paragraphs to which they refer or as affecting the meaning or construction of the language in the body of such paragraphs.

43. ADDITIONAL PROVISIONS: SEE ADDENDUM

44. Until this lease is executed on behalf of all parties hereto, it shall be construed as an offer of proposed Lessee to proposed Lessor. Time being of the essence, this lease must be completed on behalf of all parties on or before January 15, 2012, to be effective.

45. The undersigned, as well as the corporation, hereby guarantees unto the Landlord, its successors and assigns, the payment of base rent and any and all assessments so defined in this lease, and the performance of all of the covenants under said lease by Tenant and hereby waives notice of any default under said lease and agrees that liability shall not be released or affected by any extension of time for payment or by any forbearance by the Lessor.

46. There are no oral agreements between the parties hereto affecting this lease, and this lease supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties hereto with respect to the subject matter thereof, and none thereof shall be used to interpret or construe this lease.

IN WITNESS WHEREOF, the parties hereto have caused the execution of this lease as of the day and year first above written.

F & J REALTY  
LANDLORD

Witness: Randall Wresler

By:

Frank R. Krejci  
Frank R. Krejci

THAI ORCHIDS, L.L.C.  
TENANT

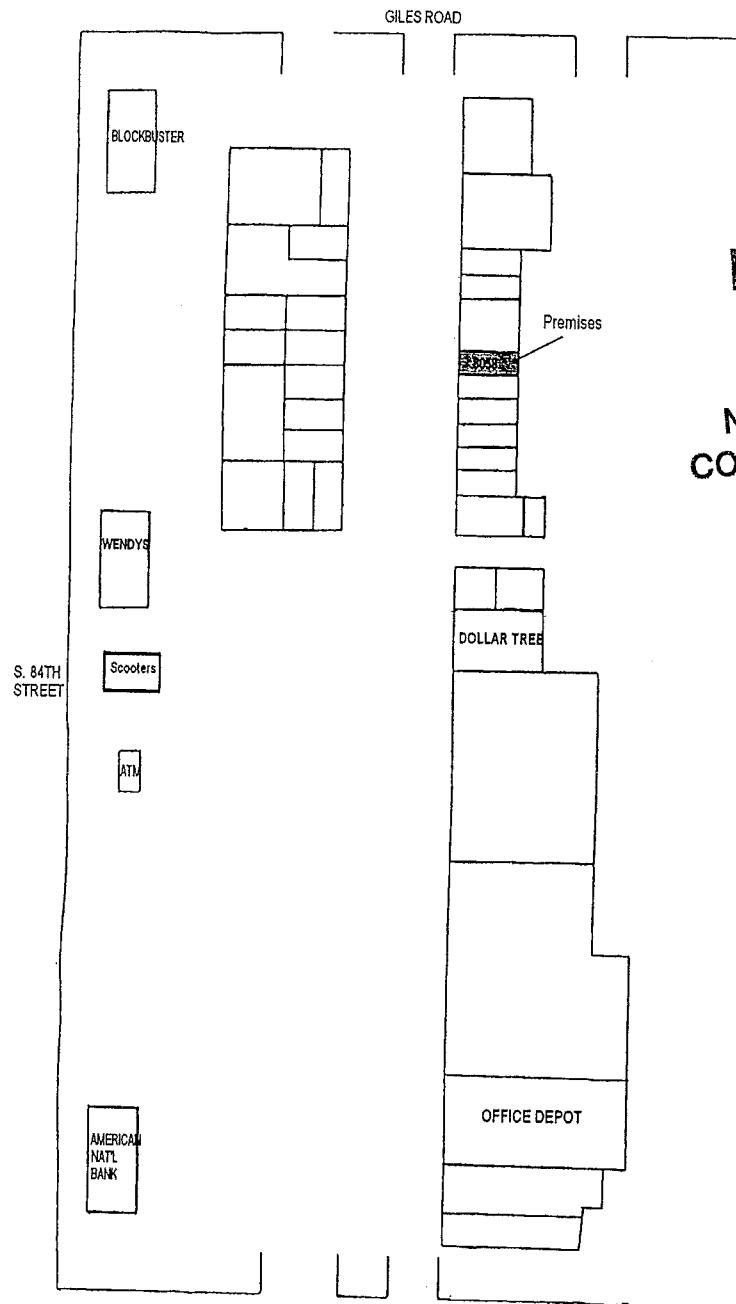
Witness: Randall Wresler By: Kate Kounnavong

GUARANTOR

By:

Kate Kounnavong  
Kate Kounnavong

Exhibit A



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MAR 01 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

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**BRENTWOOD SQUARE SHOPPING CENTER**

84th & Giles Road, LaVista, NE

EXHIBIT "B"

RE: SIGN CRITERIA

This policy is established by the owner of Brentwood Square Shopping Center, LaVista, Nebraska, to attain the best possible appearance of all signs in the center.

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1. Prior to construction and erection of any signs, two copies of the plans and specifications must be submitted for approval by the Landlord, % First Management, Inc., Property Manager.
2. All signs on the Phase I and Phase II buildings are to be the individual letter style mounted on race way, internally illuminated by neon illumination and mounted in the designated area on the Brentwood Square Shopping Center buildings. No flashing lamps, or revolving or rotating units will be allowed.
3. All signs' letter size and sign length on the Phase I and Phase II buildings are to be approved by the Landlord, % First Management, Inc., Property Manager.
4. No flashing lamps, revolving or rotating units or lighted window signs will be permitted. Neon illuminated signs are permitted.
5. No V-type marquee signs will be allowed.
6. All field measurements must be verified.

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LANDLORD'S  
INITIALS

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TENANT'S  
INITIALS

**RECEIVED**

MAR 01 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION