



**PROCLAMATION  
BUILDING SAFETY MONTH 2012**

WHEREAS, our city's continuing efforts to address the critical issues of safety, energy efficiency, and sustainability in the built environment that affect our citizens, both in everyday life and in times of natural disaster, give us confidence that our structures are safe and sound; and

WHEREAS, building safety and fire prevention officials are at work year round to guide the safe construction of buildings; and

WHEREAS, Building Safety Week is sponsored by the International Code Council Foundation® to remind the public about the critical role of our community's largely unknown guardians of public safety – our local code officials – who assure us of safe, efficient and livable buildings; and

WHEREAS, the theme, "*Building Safety Month: An International Celebration of Safe and Sensible Structures*" encourages all Americans to raise awareness of the importance of building safety; green and sustainable building; and new technologies in the construction industry. Building Safety Month 2012 encourages appropriate steps everyone can take to ensure that the places where we live, learn, work and play are safe and sustainable, and recognizes that countless lives have been saved due to the implementation of safety codes by local and state agencies.

NOW, THEREFORE, I, Douglas Kindig, Mayor of the City of La Vista, do hereby proclaim the month of May, 2012 as Building Safety Week in La Vista. Accordingly our citizens are encouraged to join communities across America to participate in Building Safety Month activities.

IN WITNESS WHEREOF, I have set my hand and caused the official Seal of the City of La Vista to be affixed this 1st day of May, 2012.



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

ATTEST:

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



**PROCLAMATION  
NATIONAL POLICE WEEK**

WHEREAS, The Congress and President of the United States have designated May 15<sup>th</sup> as Peace Officers' Memorial Day, and the week in which May 15<sup>th</sup> falls as National Police week; and

WHEREAS, the members of the La Vista Police Department play an essential role in safeguarding the rights and freedoms of La Vista; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception and the weak against oppression; and

WHEREAS, the men and women of the La Vista Police Department unceasingly provide a vital public service.

NOW, THEREFORE, I, Douglas Kindig, Mayor of the City of La Vista, call upon all citizens of La Vista and upon all patriotic, civic, and educational organizations to observe the week of May 13 - 19, 2012 as **NATIONAL POLICE WEEK** in La Vista and call upon all citizens and civic organizations to observe this week with appropriate ceremonies commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens. I further call upon all citizens of La Vista to observe Tuesday, May 15, 2012 as Peace Officers' Memorial Day in honor of those law enforcement officers who, through their courageous deeds have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

IN WITNESS WHEREOF, I have set my hand and caused the official Seal of the City of La Vista to be affixed this 1<sup>st</sup> day of May, 2012.



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

ATTEST:

Pamela A. Buethe

Pamela A. Buethe, CMC  
City Clerk



# MINUTE RECORD

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

## LA VISTA CITY COUNCIL MEETING April 17, 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 April 17, 2012. Present were Councilmembers: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Also in attendance were City Administrator Gunn, City Attorney McKeon, City Clerk Bueth, Police Chief Lausten, Fire Chief Uhl, Public Works Director Soucie, Finance Director Lindberg, Recreation Director Stopak, Public Building and Grounds Director Archibald, City Engineer Kottmann, and Librarian Jan Bolte.

A notice of the meeting was given in advance thereof by publication in the Times on April 4, 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.

### SWEAR IN POLICE OFFICER – THOMAS J. MARKOWSKY

Mayor Kindig administered the oath of office to Police Officer Thomas J. Markowsky.

### PROCLAMATION – MUNICIPAL CLERKS WEEK

Mayor Kindig read a proclamation for Municipal Clerks' Week.

### APPOINTMENT – FIRE DEPARTMENT OFFICER - RESCUE LIEUTENANT – AUSTIN BRAKE

Chief Uhl presented Austin Brake to fill a vacancy of Rescue Lieutenant for 2012. Councilmember Sheehan made a motion to approve the appointments. Seconded by Councilmember Sell. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

### A. CONSENT AGENDA

#### 1. APPROVAL OF THE AGENDA AS PRESENTED

#### 2. APPROVAL OF CITY COUNCIL MINUTES FROM APRIL 3, 2012

#### 3. MONTHLY FINANCIAL REPORT – MARCH 2012

#### 4. PAY REQUEST – THOMPSON, DREESSEN & DORNER, INC. – PROFESSIONAL SERVICES – APPLEWOOD CREEK IMPROVEMENTS PROJECT - \$9,873.00

#### 5. PAY REQUEST NO. 3 – MELVIN SUDBECK HOMES, INC. - APPLEWOOD CREEK IMPROVEMENTS PROJECT - \$21,698.86

#### 6. RESOLUTION NO. 12-037 – PAINT STRIPING SERVICE

#### 7. APPROVAL OF CLAIMS

AAT, maint.	680.00
ABE'S PORTABLES, rentals	92.20
ACTION BATTERIES, maint.	139.13
ALAMAR, apparel	555.91
ALFARO, M., travel	213.68
AMERICAN FENCE, bld&grnds	6.20
ARAMARK, services	298.01
BABER, B., travel	42.70
BAKER & TAYLOR, books	1485.75
BARCAL, R., travel	54.95
BCDM, services	2170.24
BEACON BUILDING, services	6712.00
BETTER BUSINESS EQUIP., rental	53.19

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BIBLIONIX, equip.	3850.00
BLACK HILLS ENERGY, utilities	77.75
BRAKE, A., auto	100.00
BRENTWOOD AUTO WASH, maint.	126.00
BREWER, W., auto	100.00
BRYAN ROCK, bld&grnds	6527.98
BUILDERS SUPPLY, maint.	219.36
CARDMEMBER SERVICE, other	20924.15
CDW, equip.	3612.00
CENTURY LINK, phone	37.72
CHADEK, M., refund	20.00
CJ'S HOME CENTER, bld&grnds	1656.30
CLARK, R., supplies	25.00
COCA-COLA, conc.	770.28
CONSOLIDATED MGMNT., travel	186.00
CONTROL MASTERS INC., maint.	250.00
CORNHUSKER INTL, maint.	35.44
COX, utility	148.65
CUMMINS CENTRAL POWER, bld&grnds	1439.12
DANDERAND, J., training	412.20
DEETER FOUNDRY, maint.	308.00
DELL MARKETING, services	1223.37
DEMCO INC., supplies	107.10
DIAMONDS GROUNDSKEEPER, maint.	338.00
DISPLAY SALES, equip.	2399.00
DOUGLAS COUNTY ENGINEER, services	21303.26
DOUGLAS COUNTY SHERIFF, services	137.50
DULTMEIER SALES & SERVICE, maint.	6.68
EDGEWEAR, apparel	665.00
EMBLEM, apparel	809.50
EN POINTE TECH., services	984.60
FROEHLICH, R., auto	100.00
FUTUREWARE, services	25.00
G I CLEANER & TAILORS, services	154.40
GALE, books	437.51
GALLS, apparel	60.74
GENUINE PARTS, maint.	1510.04
GRAYBAR ELECTRIC, bld&grnds	134.33
GFOA, training	150.00
GFOA, training	75.00
GREAT PLAINS ONE-CALL, services	293.47
GREENKEEPER, supplies	579.58
H & H CHEV., maint.	18.74
HANEY SHOE, apparel	120.00
HOBBY LOBBY, travel	11.99
HOME DEPOT, supply	279.97
HOST COFFEE, conc.	26.85
HUNTEL COMM., services	370.50
HY-VEE, other	15.69
INDUSTRIAL SALES, maint.	67.96
INLAND TRUCK, maint.	51.72
INTELLIGENT PRODUCTS, bld&grnds	200.90
IVERSON, D., travel	244.00
J Q OFFICE, services	1043.57
JNFS ENGINEERING, services	1027.92
JOHN DEERE LANDSCAPES, supplies	83.75
JOHNSON HARDWARE, bld&grnds	2760.00
JOHNSTONE SUPPLY, bld&grnds	174.00
JOURNAL BROADCAST, marketing	220.00
KLINKER, M., services	200.00

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KRIHA FLUID POWER, maint.	128.16
LA VISTA COMMUNITY FOUNDATION	75.00
LANDPORT, services	125.00
LANDS' END, apparel	39.95
LAUGHLIN, KATHLEEN A, TRUSTEE	474.00
LOGAN CONTRACTORS, maint.	156.74
LOU'S SPORTING GOODS, equip.	443.50
MAPA, services	32274.00
MAPLE 85, maint.	5250.00
MATHESON TRI-GAS, supplies	597.03
MC COY, K., refund	100.00
MELVIN SUDBECK HOMES, services	29874.72
MID CON SYSTEMS, supplies	170.27
MID CONTINENT SAFETY, supplies	40.00
MIDWEST SERVICE, maint.	1092.75
MIDWEST TAPE, media	83.22
MIDWEST TURF & IRRIGATION, maint.	264.37
MNJ TECHNOLOGIES, services	2539.00
MONARCH OIL, maint.	570.50
MSC INDUSTRIAL, supplies	68.29
NATIONAL ENTERTAINMENT, supplies	480.00
NE CODE OFFICIALS, training	460.00
NE IA SUPPLY, maint.	20664.05
NE LAW ENFORCEMENT, training	50.00
NE LIBRARY COMMISSION, books	1959.42
NE WELDING, maint.	46.79
NIKE, pro shop	394.02
NLA, training	15.00
NMC EXCHANGE, maint.	422.46
NUTS AND BOLTS, maint.	6.73
ODEY'S INC., bld&grnds	59.60
OFFICE DEPOT, supplies	971.46
OPPD, utilities	45339.18
OMAHA WINNELSON, maint.	59.64
OMAHA WORLD HERALD, ads.	616.82
OMNIGRAPHICS, books	59.70
O'REILLY AUTO., maint.	529.36
PAPILLION SANITATION, services	304.11
PAPILLION TIRE, maint.	40.60
PARAMOUNT, apparel	498.54
PARTSMASTER, maint.	100.61
PAYLESS, supplies	538.04
PERFORMANCE CHRYSLER JEEP, maint.	471.54
PLAINS EQUIPMENT, equip.	980.68
POWER PLAN, maint.	307.34
PROSOURCE, bld&grnds	235.96
SALEM PRESS, books	245.00
SAM'S CLUB, supplies	1386.71
SAPP BROS, supplies	750.00
SARGUS, H., refund	75.00
SARPY COUNTY, services	3479.89
SHAMROCK CONCRETE, maint.	717.92
SHAW, T., refund	60.00
SHRED-SAFE, services	30.00
SIMON, D., travel	42.70
SMITH, M., refund	50.00
SOCCER, apparel	530.00
STATE STEEL, maint.	300.12
SUBURBAN NEWSPAPERS, adv.	44.00
SUSPENSION SHOP, maint.	571.01

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TED'S MOWER, equip.	666.08
TERRY'S SMALL ENGINE, supplies	180.00
THERMO KING CHRISTENSEN, maint.	172.63
THOMPSON DRESSEN & DORNER, services	1183.15
TRACTOR SUPPLY, maint.	484.94
UPS, postage	6.89
VAIL, A., auto	100.00
WORLD BOOK, books	30.00
ZIMCO SUPPLY, supplies	366.74

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

## REPORTS FROM CITY ADMINISTRATOR AND DEPARTMENT HEADS

Public Works Director Soucie reported the city received a \$3700 grant from the Papio Missouri NRD Celebrate Trees Program and a \$3700 grant from the Nebraska Arboretum Trees for Nebraska Towns (TNT) Program. Both grants will be used for landscaping along the La Vista Link/Keystone Trail. The backstop at the Sports Complex is completed. The headwalls and beams are done on the walk bridge at the park. The water feature is up and running.

Police Chief Lausten reported that TJ. Markowsky is replacing Brenda Jacobs who retired last year. He explained the hiring process and time frame and stated that currently he has no vacancies.

Fire Chief Uhl reported that the Fire Department will be presented with the Extra Mile Award given by Channel 7. This will take place at the district 2 station at 2:00 on Wednesday and they will receive a \$500.00 check.

Public Building and Grounds Director Archibald reported that there was no major damage to buildings with the storm this weekend. The wireless dish at the public works facility was turned and a transformer issue caused a portion of City Hall power to be out for a short period until OPPD could repair the pole.

Librarian Bolte reported that last week was National Library Week. The Summer Reading Program information is out. Children 5 years of age and up are allowed to get a library card now and there are various programs going on at the library.

Recreation Director Stopak reported that the Tree City USA award will be presented by the Governor on April 22, 2012 in Lincoln.

## B. FIREWORKS PERMITS

### 1. RESOLUTION - ESTABLISH NUMBER OF PERMITS

Councilmember Sell introduced and moved for the adoption of Resolution No. 12-038; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, ESTABLISHING THE MAXIMUM NUMBER OF FIREWORKS STANDS TO BE PERMITTED IN THE CITY OF LA VISTA FOR CALENDAR YEAR 2012.

WHEREAS, Section 111.17 and Section 111.18 of the Municipal Code establish criteria that must be met for the issuance of fireworks stand permits, and

WHEREAS, Section 111.17 (A) of the Municipal Code states in part that, "Each year the City Council shall, by resolution, establish the maximum number of permits to be issued."

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of La Vista, Nebraska, that the maximum number of fireworks stand permits to be issued in calendar year 2012 shall not exceed eight.

BE IT FURTHER RESOLVED, that per Section 111.17 (C) (10) of the Municipal Code, permit holders shall provide the City of La Vista with a certificate of insurance for their fireworks stand in the type and amount outlined.

BE IT FURTHER RESOLVED, that the written statement of income and expenses, which is required by Section 111.17 (C) (3) of the Municipal Code, be detailed and provide the City with a breakdown of specific expenditures related to the fireworks operation,



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income from the sale of fireworks, net profit, and specific community betterment expenditures.

BE IT FURTHER RESOLVED, that the issuance of a fireworks permit is conditional upon compliance with the Municipal Code, the Zoning Ordinance, and any other applicable regulations.

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

## **2. RESOLUTION – ISSUANCE OF PERMITS**

Councilmember Crawford introduced and moved for the adoption of Resolution No. 12-039; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA APPROVING THE FIREWORKS STAND PERMIT APPLICATION OF MONARCHS WRESTLING CLUB, LA VISTA YOUTH FOOTBALL AND CHEERLEADING, LA VISTA COMMUNITY FOUNDATION, LA VISTA YOUTH, LA VISTA LANCERS SOCCER CLUB, LA VISTA YOUTH BASEBALL ASSOCIATION, CORNERSTONE CHURCH, AND BEAUTIFUL SAVIOR LUTHERAN CHURCH.

WHEREAS, the City of La Vista requires City approval of the sale of fireworks within the City limits, and

WHEREAS, the guidelines for application and sale of fireworks in La Vista are specified in the La Vista Municipal Code, Section 111.17 and Section 111.18; and

WHEREAS, eight (8) non-profit organizations have applied for permission to sell fireworks in the City of La Vista in conformance with the Municipal Code, the Zoning Ordinance and any other applicable regulations; and

WHEREAS, City staff has reviewed all applications received in 2012 for the purpose of determining which applications were compliant with the Municipal Code, the Zoning Ordinance or any other applicable regulations.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, hereby conditionally grant a permit to:

Monarchs Wrestling Club, La Vista Youth Football And Cheerleading, La Vista Community Foundation, La Vista Youth, La Vista Lancers Soccer Club La Vista Youth Baseball Association, Cornerstone Church, and Beautiful Savior Lutheran Church

to sell fireworks within the City of La Vista for the 2012 calendar year subject to receipt of all appropriate application materials and compliance with recommendations made by the Chief Building Official regarding their site plan; compliance with the Municipal Code, the Zoning Ordinance and any other applicable regulations; and attendance by an official of the nonprofit organization which applied for the permit and a representative for their fireworks supplies at a meeting with City staff (date and time to be established).

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

## **C. RESOLUTIONS – REVISED AUDIT AND FINANCIAL STATEMENT CONTRACT**

### **1. RESOLUTION – APPROVE REVISED AUDIT CONTRACT – ORIZON CPAS LLC.**

Councilmember Quick introduced and moved for the adoption of Resolution No. 12-040; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE ENGAGEMENT OF THE AUDITING FIRM OF ORIZON CPAs LLC, OMAHA, NEBRASKA TO PREPARE THE CITY'S FINANCIAL STATEMENTS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2012 IN AN AMOUNT NOT TO EXCEED \$20,000.00

WHEREAS, the City of La Vista of La Vista solicited proposals for audit services associated with the preparation of the financial statements, annual financial audit and keno audit and received two proposals in response to its request; and

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WHEREAS, City of La Vista staff has been advised by Orizon CPAs LLC, Omaha, Nebraska that the preparation of the financial statements for the fiscal year ending September 30, 2012 will be their last.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the engagement of Orizon CPAs LLC, Omaha Nebraska in an amount not to exceed \$20,000.00 for the preparation of the City's financial statements, and also authorize the Mayor to execute said agreement.

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

## **2. RESOLUTION – APPROVE REVISED AUDIT CONTRACT – BKD, LLP.**

Councilmember Sell introduced and moved for the adoption of Resolution No. 12-044; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE ENGAGEMENT OF THE AUDITING FIRM OF BKD LLP, OMAHA, NEBRASKA TO CONDUCT THE CITY OF LA VISTA'S ANNUAL FINANCIAL AUDIT FOR THE NEXT FOUR YEARS BEGINNING WITH FISCAL YEAR ENDING SEPTEMBER 30, 2012.

WHEREAS, In 2008 the City of La Vista of La Vista solicited proposals for audit services associated with the preparation of the annual financial audit and BKD, LLP was selected,; and

WHEREAS, City of La Vista staff has received and reviewed proposals from two auditing firms and recommends continuing with BDK LLP, Omaha, Nebraska for the City's Annual Financial Audit for the next four years beginning fiscal year ending September 30, 2012 with the following rates:

2012	\$47,000.	2014	\$50,000.
2013	\$48,000.	2015	\$51,500.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the engagement of BKD LLP, Omaha, Nebraska, for the annual financial audit for the next four years beginning with fiscal year ending September 30, 2012, , and also authorize the Mayor to execute said agreement.

Seconded by Councilmember Quick. City Attorney McKeon will review the contract prior to the Mayor's signature to be certain there is an option for the City to terminate the contract at any time. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

## **D. RESOLUTION – AUTHORIZATION TO PURCHASE FIBER OPTIC CABLE**

Councilmember Quick introduced and moved for the adoption of Resolution No. 12-041; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE PURCHASE OF A FIBER OPTIC CABLE WHICH WILL EXTEND FROM THE POLICE DEPARTMENT TO THE VERIZON TOWER IN AN AMOUNT NOT TO EXCEED \$5,175.00.

WHEREAS, the City Council of the City of La Vista has determined that the purchase of a Fiber Optic Cable extending from the Police Department to the Verizon Tower 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 a Fiber Optic Cable which will extend from the Police Department to the Verizon Tower in an amount not to exceed \$5,175.00.

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

## **D. RESOLUTION – SPECIAL DESIGNATED LIQUOR LICENSE – CITY OF LA VISTA – LA VISTA DAZE**

Councilmember Sell introduced and moved for the adoption of Resolution No. 12-042; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE SALE AND CONSUMPTION OF BEER AT A BEER GARDEN IN CENTRAL PARK ON MAY 25 - 26, 2012, IN CONJUNCTION WITH THE ANNUAL LA VISTA DAZE CELEBRATION.

WHEREAS, Central Park is located within the City of La Vista; and

WHEREAS, the City of La Vista has requested approval of a Special Designated Permit to sell and serve beer at a beer garden in Central Park on May 25 - 26, 2012, in conjunction with the annual La Vista Daze celebration.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the City of La Vista to proceed with the application for a "Special Designated License" from the Nebraska Liquor Control Commission to sell and serve beer at a beer garden in Central Park on May 25 - 26, 2012, in conjunction with the annual La Vista Daze celebration.

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

## **F. SPECIAL ASSESSMENT**

### **1. PUBLIC HEARING**

At 7:31 p.m. Mayor Kindig opened the public hearing and stated the floor was now open for discussion on special assessments.

At 7:31 p.m. Councilmember Ellerbeck made a motion to close the public hearing. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

### **2. RESOLUTION**

Councilmember Ellerbeck introduced and moved for the adoption of Resolution No. 12-043; A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE LA VISTA CITY CLERK TO FILE WITH THE SARPY COUNTY TREASURER A SPECIAL ASSESSMENT FOR PROPERTY IMPROVEMENTS AT LOCATIONS AND IN AMOUNTS CITED HEREIN.

WHEREAS, the property owners of  
8016 park View Boulevard/Lot 1279 La Vista; \$120.03  
were notified to clean up their property as they were in violation of the City Municipal Code, Section 93.015, or the City would do so and bill them accordingly,  
and

WHEREAS, the property owners of said addresses chose not to clean the property, thus necessitating the City to do the clean up, and

WHEREAS, the City sent the property owners bills for said clean up which have not been paid,  
and

WHEREAS, the City may file a Special Assessment for Improvements against property for which a City bill for services has not been paid.

NOW THEREFORE BE IT RESOLVED, that the La Vista City Clerk is hereby authorized to file with the Sarpy County Treasurer Special Assessments for Improvements in the

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amounts and against the properties specified above, all located within Sarpy County, La Vista, Nebraska.

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

Councilmember Gowan made a motion to move Comments from the Floor up on the agenda ahead of Item G Executive Session. Seconded by Councilmember Crawford. Councilmembers voting aye: Sell, Ronan, Sheehan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

## COMMENTS FROM THE FLOOR

There were no comments from the floor.

## G. EXECUTIVE SESSION – CONTRACT NEGOTIATIONS; PERSONNEL

At 7:32 p.m. Councilmember Carlisle made a motion to go into executive session for protection of the public interest for contract negotiations and for the protection of the reputation of an individual to discuss personnel matters. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried. Mayor Kindig stated the executive session would be limited to the subject matter contained in the motion.

At 8:05 p.m. the Council came out of executive session. Councilmember Carlisle made a motion to reconvene in open and public session. Seconded by Councilmember Gowan. Councilmembers voting aye: Sell, Ronan, Quick, Sheehan, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

## COMMENTS FROM MAYOR AND COUNCIL

There were no comments from the Mayor and Council.

At 8:08 p.m. Councilmember Crawford made a motion to adjourn the meeting. Seconded by Councilmember Carlisle. Councilmembers voting aye: Sell, Ronan, Sheehan, Quick, Carlisle, Crawford, Ellerbeck and Gowan. Nays: None. Abstain: None. Absent: None. Motion carried.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

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



## PAYMENT RECOMMENDATION No. 4 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 68136ORIGINAL CONTRACT AMOUNT: \$ 311,241.48  
REVISED CONTRACT AMOUNT: \$ 305,959.68  
AMOUNT OF PREVIOUS PAYMENT RECOMMENDATIONS: \$ 128,285.23

Item	Description	In Place Quantities	Unit Price	Amount Due
1	Clearing and Grubbing (Including Trees less than 9" Diameter)	1.00 L.S.	\$ 16,500.00	\$ 16,500.00
2	Clearing and Grubbing Trees Over 9" to 18" Diameter	35 EA.	\$ 250.00	\$ 8,750.00
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	1 EA.	\$ 12,496.00	\$ 12,496.00
7	Common Earth Excavation	1,350 C.Y.	\$ 10.00	\$ 13,500.00
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	280 V.F.	\$ 90.00	\$ 25,200.00
13	Galvanized Wire Mesh or Stock Panels, In Place	480 S.F.	\$ 2.65	\$ 1,272.00
14	Type "A" Rip Rap, In Place	152.41 TONS	\$ 33.00	\$ 5,029.53
15	Type "C" Rip Rap, In Place	1042.62 TONS	\$ 37.00	\$ 38,576.94
16	Type "C" Rip Rap, Grouted In Place	TONS	\$ 45.68	\$ -
17	Vegetated Geoweb Retaining Wall, In Place	1,080 S.F.	\$ 16.00	\$ 17,280.00
18	Vegetated Reinforced Earth Section, In Place	574 S.F.	\$ 9.80	\$ 5,625.20
19	Root Wads With Anchor System, In Place	40 EA.	\$ 485.00	\$ 19,400.00
20	Turf Reinforcement Mat NAG SC250, 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 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	222 EA.	\$ 129.00	\$ 28,638.00
27	Water Management	0.5 L.S.	\$ 15,000.00	\$ 7,500.00
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	HR	\$ 65.00	\$ -

CONTRACT SUBTOTAL \$ 218,074.38

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

H-Piles		\$	-
Type C Riprap	145.70 TONS	\$ 27.00	\$ 3,933.90
Geoweb Retaining Wall Material		\$	-
Root Wad Anchors System		\$	3,411.94

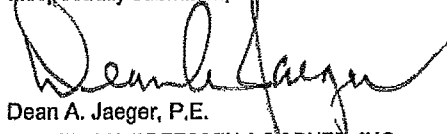
MATERIALS STORED ON-SITE SUBTOTAL \$ 7,345.84

## PAYMENT RECOMMENDATION No. 4 ON CONTACT FOR: Applewood Creek Improvement

<b>Reductions:</b>				
Change Order No. 1				
26	Replacement Trees Per Plant Schedule	222 EA.	\$129.00	\$ (28,638.00)
<b>TOTAL REDUCTIONS</b>				<b>\$ (28,638.00)</b>
<b>Additions:</b>				
Change Order No. 1				
26A	Overstory Trees Per Plant Schedule, in place	EA.	\$153.01	-
26B	Understory Trees Per Plant Schedule, in place	EA.	\$164.65	-
<b>Total Additions</b>				<b>\$ -</b>
<b>TOTAL</b>				<b>\$ 196,782.22</b>
Less 10% Retainage				\$ 19,678.22
Less Previous Payments				\$ 128,285.23
<b>AMOUNT DUE CONTRACTOR</b>				<b>\$ 48,818.76</b>

We recommend that payment in the amount of \$ 48,818.76 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  
JMK  
4/23/2012

Consent Agenda

BANK NO	BANK NAME	CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
-----									
1 Bank of Nebraska (600-873)									
107206	4/18/2012	2554	BARCAL, ROSE		123 00				**MANUAL**
107207	**VOIDED**	Gap in Checks **Voided Manual Check not posted							
107208	4/18/2012	4644	GARROD, MANDY		123 00				**MANUAL**
107209	4/18/2012	427	RAMIREZ, RITA M		123 00				**MANUAL**
107210	4/18/2012	480	UNITED STATES POSTAL SERVICE		1,509 85				**MANUAL**
107211	4/18/2012	143	THOMPSON DREESSEN & DORNER		9,873 00				**MANUAL**
107212	4/18/2012	1426	MELVIN SUDBECK HOMES INC		21,698 86				**MANUAL**
107213	4/24/2012	1194	QUALITY BRANDS OF OMAHA		239 60				**MANUAL**
107214	4/26/2012	3702	LAUGHLIN, KATHLEEN A, TRUSTEE		474 00				**MANUAL**
107215	4/26/2012	944	NE DEPT OF REVENUE-LOTT/51		92,209 21				**MANUAL**
107216	5/01/2012	762	ACTION BATTERIES UNLTD INC		407 28				
107217	5/01/2012	4061	AED ZONE		157 00				
107218	5/01/2012	268	AKSARBEN HEATING/ARS		250 25				
107219	5/01/2012	571	ALAMAR UNIFORMS		244 48				
107220	5/01/2012	536	ARAMARK UNIFORM SERVICES INC		439 90				
107221	5/01/2012	706	ASSOCIATED FIRE PROTECTION		53 50				
107222	5/01/2012	3754	AUSTIN PETERS GROUP INC		1,100 00				
107223	5/01/2012	2945	AVI SYSTEMS INC		2,700 00				
107224	5/01/2012	201	BAKER & TAYLOR BOOKS		1,091 77				
107225	5/01/2012	2554	BARCAL, ROSE		97 13				
107226	5/01/2012	849	BARONE SECURITY SYSTEMS		804 00				
107227	5/01/2012	929	BEACON BUILDING SERVICES		6,712 00				
107228	5/01/2012	410	BETTER BUSINESS EQUIPMENT		53 19				
107229	5/01/2012	196	BLACK HILLS ENERGY		3,127 75				
107230	5/01/2012	2209	BOUND TREE MEDICAL LLC		1,421 98				
107231	5/01/2012	4454	BRAKE, AUSTIN		100 00				
107232	5/01/2012	4647	BREWER, WILLIAM ANDREW		100 00				
107233	5/01/2012	76	BUILDERS SUPPLY CO INC		383 69				
107234	5/01/2012	1294	CAPSTONE		1,408 73				
107235	5/01/2012	4695	CEBALLO, MAX EDWARD		138 00				
107236	5/01/2012	2285	CENTER POINT PUBLISHING		214 50				
107237	5/01/2012	219	CENTURY LINK		1,168 70				
107238	5/01/2012	1504	CITY OF PAPILLION PARKS/RECR		50 00				
107239	5/01/2012	3176	COMP CHOICE INC		437 50				
107240	5/01/2012	4615	CONSOLIDATED MANAGEMENT		185 00				
107241	5/01/2012	4492	CORNHUSKER MARRIOTT HOTEL		278 58				
107242	5/01/2012	3857	COVENTRY HEALTHCARE NEBRASKA		718 00				
107243	5/01/2012	2158	COX COMMUNICATIONS		63 59				
107244	5/01/2012	3136	D & D COMMUNICATIONS		1,379 00				
107245	5/01/2012	4119	D & J BEVERAGE SERVICE INC		308 00				
107246	5/01/2012	3793	DEIML, KEITH		810 00				
107247	5/01/2012	2149	DOUGLAS COUNTY SHERIFF'S OFC		312 50				
107248	5/01/2012	364	DULTMEIER SALES & SERVICE		22 20				
107249	5/01/2012	3334	EDGEWEAR SCREEN PRINTING		00	**CLEARED**	**VOIDED**		
107250	5/01/2012	3334	EDGEWEAR SCREEN PRINTING		00	**CLEARED**	**VOIDED**		
107251	5/01/2012	3334	EDGEWEAR SCREEN PRINTING		2,035 25				
107252	5/01/2012	4696	ELBERT, ADAM JAMES		138 00				
107253	5/01/2012	3776	ELECTRIC SPECIALTIES CO INC		120 00				
107254	5/01/2012	4110	EMERGENCY SERVICES MARKETING		650 00				

## ACCOUNTS PAYABLE CHECK REGISTER

BANK NO	BANK NAME						
CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
107255	5/01/2012	2388	EXCHANGE BANK	695.00			
107256	5/01/2012	3159	FASTENAL COMPANY	4.98			
107257	5/01/2012	1042	FELD FIRE	1,525.00			
107258	5/01/2012	439	FIREGUARD INC	1,597.50			
107259	5/01/2012	142	FITZGERALD SCHORR BARMETTLER	29,678.00			
107260	5/01/2012	3834	FLEET US LLC	2,273.00			
107261	5/01/2012	3415	FOCUS PRINTING	275.00			
107262	5/01/2012	34	FOLLETT SOFTWARE COMPANY	166.23			
107263	5/01/2012	3132	FORT DEARBORN LIFE INSURANCE	1,337.50			
107264	5/01/2012	4050	FROELICH, RORY	100.00			
107265	5/01/2012	3705	FUTUREWARE DISTRIBUTING INC	19.00			
107266	5/01/2012	53	GCR TIRE CENTERS	248.14			
107267	5/01/2012	1672	GENERAL TRAFFIC CONTROLS INC	245.86			
107268	5/01/2012	1044	H & H CHEVROLET LLC	138.02			
107269	5/01/2012	3657	HEARTLAND PAPER	395.00			
107270	5/01/2012	2407	HEIMES CORPORATION	78.35			
107271	5/01/2012	1403	HELGET GAS PRODUCTS INC	75.50			
107272	5/01/2012	4587	HUMMER, BEV	50.00			
107273	5/01/2012	1498	INDUSTRIAL SALES COMPANY INC	138.31			
107274	5/01/2012	1896	J Q OFFICE EQUIPMENT INC	182.89			
107275	5/01/2012	4697	JIRAK, BRYAN M	138.00			
107276	5/01/2012	2653	JONES AUTOMOTIVE INC	1,236.00			
107277	5/01/2012	4706	JONES, TAMMY	30.00			
107278	5/01/2012	3687	KIMBALL MIDWEST	164.94			
107279	5/01/2012	1054	KLINKER, MARK A	200.00			
107280	5/01/2012	4425	LANDPORT SYSTEMS INC	125.00			
107281	5/01/2012	787	LERNER PUBLISHING GROUP	504.65			
107282	5/01/2012	1573	LOGAN CONTRACTORS SUPPLY	2,841.25			
107283	5/01/2012	263	LOVELAND GRASS PAD	2,244.73			
107284	5/01/2012	838	LYMAN-RICHEY SAND & GRAVEL CO	220.28			
107285	5/01/2012	4707	MANZO, MATTHEW	200.00			
107286	5/01/2012	4361	MASTER MECHANICAL SERVICE INC	352.00			
107287	5/01/2012	877	MATHESON TRI-GAS INC	163.74			
107288	5/01/2012	94	MCCANN PLUMBING SERVICE INC	216.95			
107289	5/01/2012	3884	METRO LANDSCAPE MATERIALS &	5,320.00			
107290	5/01/2012	553	METROPOLITAN UTILITIES DIST.	.00	**CLEARED**	**VOIDED**	
107291	5/01/2012	553	METROPOLITAN UTILITIES DIST.	1,995.12			
107292	5/01/2012	98	MICHAEL TODD AND COMPANY INC	297.00			
107293	5/01/2012	2497	MID AMERICA PAY PHONES	50.00			
107294	5/01/2012	2299	MIDWEST TAPE	21.24			
107295	5/01/2012	1046	MIDWEST TURF & IRRIGATION	191.05			
107296	5/01/2012	1830	NE DEPT OF LABOR-WORKFORCE DEV	2,562.00			
107297	5/01/2012	4703	NEBRASKA ENVIRONMENTAL PRODS	22,900.00			
107298	5/01/2012	2897	NEBRASKA GOLF COURSE SUPERIN-	35.00			
107299	5/01/2012	2529	NEBRASKA SOFTBALL ASSN DIST#10	1,608.00			
107300	5/01/2012	2685	NEBRASKA TURF PRODUCTS	1,368.75			
107301	5/01/2012	2631	NEXTEL SPRINT COMMUNICATIONS	385.71			
107302	5/01/2012	2631	NEXTEL SPRINT COMMUNICATIONS	208.36			
107303	5/01/2012	440	NMC EXCHANGE LLC	131.07			
107304	5/01/2012	179	NUTS AND BOLTS INCORPORATED	112.24			
107305	5/01/2012	1808	OCLC INC	28.40			
107306	5/01/2012	3978	ODB COMPANY	315.47			
107307	5/01/2012	1014	OFFICE DEPOT INC	396.84			



BANK NO	BANK NAME						
CHECK NO	DATE	VENDOR NO	VENDOR NAME	CHECK AMOUNT	CLEARED	VOIDED	MANUAL
107308	5/01/2012	2799	OFFUTT YOUTH CENTER	1,440.00			
107309	5/01/2012	79	OMAHA COMPOUND COMPANY	99.92			
107310	5/01/2012	319	OMAHA WINNELSON	157.29			
107311	5/01/2012	4643	OMB GUNS	82.50			
107312	5/01/2012	167	OMNI	2,776.31			
107313	5/01/2012	3935	ORIENTAL TRADING COMPANY	139.50			
107314	5/01/2012	976	PAPILLION TIRE INCORPORATED	162.30			
107315	5/01/2012	2686	PARAMOUNT LINEN & UNIFORM	160.83			
107316	5/01/2012	4654	PAYFLEX SYSTEMS USA INC	250.00			
107317	5/01/2012	1769	PAYLESS OFFICE PRODUCTS INC	111.90			
107318	5/01/2012	1723	PENWORTHY COMPANY	1,185.39			
107319	5/01/2012	3058	PERFORMANCE CHRYSLER JEEP	2,011.56			
107320	5/01/2012	1821	PETTY CASH-PAM BUETHE	60.62			
107321	5/01/2012	1821	PETTY CASH-PAM BUETHE	165.49			
107322	5/01/2012	3089	PFEIFER, VICKI	138.00			
107323	5/01/2012	74	PITNEY BOWES INC-PA	.00	**CLEARED**	**VOIDED**	
107324	5/01/2012	74	PITNEY BOWES INC-PA	204.00			
107325	5/01/2012	1784	PLAINS EQUIPMENT GROUP	1,426.19			
107326	5/01/2012	4308	RAINBOW GIRLS SOFTBALL LEAGUE	2,500.00			
107327	5/01/2012	1121	RALSTON ADVERTISING	537.00			
107328	5/01/2012	191	READY MIXED CONCRETE COMPANY	1,822.00			
107329	5/01/2012	3090	REGAL AWARDS OF DISTINCTION	50.30			
107330	5/01/2012	3774	RETRIEVEX	86.58			
107331	5/01/2012	4411	SAFARILAND LLC	77.78			
107332	5/01/2012	1335	SARPY COUNTY CHAMBER OF	30.00			
107333	5/01/2012	2240	SARPY COUNTY COURTHOUSE	3,479.89			
107334	5/01/2012	503	SCHOLASTIC LIBRARY PUBLISHING	154.75			
107335	5/01/2012	4641	SHRED-SAFE LLC 2011-2012	30.00			
107336	5/01/2012	4272	SOLBERG, CHRISTOPHER	176.18			
107337	5/01/2012	257	SOUTHEAST AREA CLERK'S ASSN	20.00			
107338	5/01/2012	3838	SPRINT	119.97			
107339	5/01/2012	3838	SPRINT	62.25			
107340	5/01/2012	3069	STATE STEEL OF OMAHA	72.20			
107341	5/01/2012	4646	SUPERCO SPECIALTY PRODUCTS	313.05			
107342	5/01/2012	4276	SUPERIOR VISION SVCS INC	440.96			
107343	5/01/2012	913	TARGET BANK	42.59			
107344	5/01/2012	264	TED'S MOWER SALES & SERVICE	117.96			
107345	5/01/2012	4373	THOMAS E STEVENS & ASSOCS	3,000.00			
107346	5/01/2012	4231	TORNADO WASH LLC	80.00			
107347	5/01/2012	2426	UNITED PARCEL SERVICE	100.57			
107348	5/01/2012	4223	VAIL, ADAM	100.00			
107349	5/01/2012	809	VERIZON WIRELESS	95.78			
107350	5/01/2012	809	VERIZON WIRELESS	111.95			
107351	5/01/2012	1174	WAL-MART COMMUNITY BRC	.00	**CLEARED**	**VOIDED**	
107352	5/01/2012	1174	WAL-MART COMMUNITY BRC	1,051.40			
107353	5/01/2012	78	WASTE MANAGEMENT NEBRASKA	537.89			
107354	5/01/2012	3150	WHITE CAP CONSTR SUPPLY/HDS	60.62			
107355	5/01/2012	3941	WPS MEDICARE	230.33			
107356	5/01/2012	984	ZIMCO SUPPLY COMPANY	5,789.85			

BANK NO BANK NAME

CHECK NO DATE VENDOR NO VENDOR NAME CHECK AMOUNT CLEARED VOIDED MANUAL

BANK TOTAL 273,705.71  
OUTSTANDING 273,705.71  
CLEARED .00  
VOIDED .00

FUND	TOTAL	OUTSTANDING	CLEARED	VOIDED
01 GENERAL FUND	133,547.20	133,547.20	.00	.00
02 SEWER FUND	8,355.45	8,355.45	.00	.00
05 CONSTRUCTION	31,571.86	31,571.86	.00	.00
08 LOTTERY FUND	92,488.01	92,488.01	.00	.00
09 GOLF COURSE FUND	2,127.40	2,127.40	.00	.00
15 OFF-STREET PARKING	5,615.79	5,615.79	.00	.00

REPORT TOTAL 273,705.71  
OUTSTANDING 273,705.71  
CLEARED .00  
VOIDED .00

+ Gross Payroll 4/27/12 237,097.85

GRAND TOTAL \$510,803.56

APPROVED BY COUNCIL MEMBERS 5/1/12

\_\_\_\_\_  
COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

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COUNCIL MEMBER

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
ADVERTISE FOR BIDS- UPGRADE WIRELESS SYSTEM	◆ RESOLUTION ORDINANCE RECEIVE/FILE	PAT ARCHIBALD DIRECTOR PUBLIC BUILDINGS & GROUNDS

**SYNOPSIS**

A resolution has been prepared authorizing the advertisement of bids to upgrade the Wireless System serving City Facilities.

**FISCAL IMPACT**

The FY 11/12 Capital Fund provides funding for this project.

**RECOMMENDATION**

Approval.

**BACKGROUND**

The wireless system has been in place since 2003 with an upgrade in 2006. One of the issues identified in the IT Strategic Plan was to bring the Library onto the City's network in conjunction with the wireless upgrade. The proposed upgrade will connect City Hall with the Fire Department District 1 and 2, Public Works and the Library and will improve overall connectivity and speed to all facilities. The specifications were prepared by City staff, Sarpy County IT and JNFS Engineering. The following schedule is proposed:

Advertisement of Bids	May 9, 2012
Bidders Meeting and Walk through	May 15, 2012 9:00 a.m.
Bid deadline	May 21, 2012 10:00 a.m.
Award Contract (tentative)	June 5, 2012

A copy of the detailed specifications is available in the office of the City Clerk.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE ADVERTISEMENT FOR BIDS TO UPGRADE THE WIRELESS SYSTEM SERVING CITY FACILITIES.

WHEREAS, the City Council has determined that the upgrade of the wireless system serving the city facilities is necessary, and

WHEREAS, the FY 11/12 General Fund will provide funding for said project, and

WHEREAS, the connection of the Library to the City's network and upgrades to the wireless system for connection to other city facilities was brought forward in the IT (Information Technology) Strategic Plan.

NOW, THEREFORE BE IT RESOLVED, that the Mayor and City Council do hereby authorize the IT Committee to advertise for bids to upgrade the wireless system serving city facilities.

Advertisement of Bids	May 9, 2012
Bidders Meeting and Walk through	May 15, 2012 9:00 a.m.
Bid deadline	May 21, 2012 10:00 a.m.
Award Contract (tentative)	June 5, 2012

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012

CITY OF LA VISTA

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

ATTEST:

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

**CITY OF LA VISTA**

**REQUEST FOR BID**

**ON: UPGRADE TO WIRELESS SYSTEM SERVING CITY FACILITIES**

NOT AN ORDER

From: City of La Vista  
City Clerk  
8116 Park View Blvd.  
La Vista, Nebraska 68128

Published: May 9, 2012

BIDDERS MEETING AND WALK  
THROUGH: May 15, 2012 9:00 a.m.  
La Vista City Hall  
8116 Park View Blvd.

BID DEADLINE:  
May 21, 2012 at 10:00 a.m.  
La Vista City Hall  
8116 Park View Blvd.

( Contract Award Tentatively Scheduled for June 5, 2012 )

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IMPORTANT

1. Any discount quoted will be deducted from the price when bill is paid.
2. The owner reserves the right to reject any or all bids, and to waive informalities or irregularities in the bidding, and to negotiate contract terms with the various bidders when such is deemed by the owner to be in its best interest. The right is also reserved to accept or reject any part of bid unless otherwise indicated by vendor.
3. Instructions, manufacturer's catalog numbers, etc., where shown herein are for descriptive purposes to guide the bidder in interpreting the standard, quality, design, and performance desired and shall not be construed to exclude proposals based on furnishing other types of materials.
4. Any substitutions must equal or surpass the specifications. When submitting a substitute article as equal, full name and description must be given, the City reserving the right, however, of deciding upon its suitability for the purpose intended.
5. All shipping and delivery charges shall be noted on the proposal.
6. Prices quoted shall not be subject to increase during the entire term of the contract. However, should there be a reduction in the price of any one or more items covered by the contract, during the period of the contract, the price to the City of La Vista shall be reduced to equal the revised list price less the discount herein quoted.
7. The City shall have the right to inspect any material or services specified herein. Equipment, supplies or services that fail to comply with the specification herein as regards to design, material, or workmanship are subject to rejection at the option of the City. Any materials rejected shall be removed from the premises of the City of La Vista at the expense of the vendor.

8. Each bidder shall submit all necessary catalogs, descriptive literature, etc. needed to describe fully the material he proposed to furnish.
9. Any bidder's exceptions to those terms and conditions or deviations from the written specifications shall be shown in writing. However, such exceptions may be cause for rejection of the bid.
10. All prices and notations must be in ink or typewritten. Mistakes may be crossed out, and corrections typed adjacent and must be initialed in ink by person signing the proposal.
11. No bid may be withdrawn after the scheduled closing time for receipt of bids for at least sixty (60) days.
12. Bids must be submitted on the forms provided in a sealed envelope plainly marked "**SEALED BID**" with material description, date and time of closing written thereon. All bid proposals must be signed with the firm name and by an authorized officer or employee of the company.
13. Questions should be directed to Pam Buethe, City Clerk, at 402-331-4343 or by e-mail to [pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org) at least three (3) working days before quotation is submitted. As required by State Law, neither the vendor nor his subcontractors shall discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to their hire, tenure, terms, conditions, or privileges of employment or because of their race, color, religion, sex, disability, or natural origin.



# City of La Vista Nebraska

## Wireless Upgrade

The City of La Vista Nebraska is accepting proposals for a new point to point wireless system.

The City will be utilizing The Verizon Tower located at 96<sup>th</sup> and Grandville as a center point for the Wireless system. The Facilities to be served will be;

Fire District 1,  
8110 Park View Blvd. La vista Nebraska,

Fire District 2,  
10727 Chandler Road

Public Works Facility,  
9900 Portal Road

La Vista Public Library,  
9110 Giles Road

All wireless dishes are aimed towards the Verizon Tower located at 96 & Grandville and are routed back to the District 1 Fire Station which is connected to City Hall via fiber.

A diagram will be provided.

The La Vista Library is the only building not presently served at this time. A tripod roof mounted tower will be provided.

All facilities shall be served with a 4.9 GHz. System, with the exception of the link between the Verizon Tower and the District 1 Fire Station. This link shall utilize a 23 GHz. System.

Each 4.9 GHz link must be capable of 100 to 200 Mbps throughput.

The 23GHz system must be capable of a minimum of 300 Mbps.

Vendors may quote the equipment, the installation or both.

## Wireless Equipment 4/12/2012

Manufacturer	Model	Description	Qty
Proxim	952-00230	Tsunami GX800 Wireless Backhaul	1
		2-Year 24x7 ServPak Advance Replacement Warranty	1
RadWin	2049-011	4.9GHz Point to Point Wireless Link	6
		2 Year 24x7 Maintenance	6
RadWin	9921-2012	Power over Ethernet Injector	6
		2' High Performance Antenna (17.7-19.7GHz)	2
RadWin	9924-006	Surge Protectors	8

**Installation;** See Specifications attached.



# ALLTEL TOWER 190' ALLTEL TOWER to lavista city hall

lavista city hall 120'  
41.18732  
096.03898

41.18320

096.06236

Link name	Product	Local antenna	Remote antenna	Max aggregate IP throughput (Mbps)
-----------	---------	---------------	----------------	------------------------------------

ALLTEL TOWER  
to lavista city hall  
Tsunami®  
GX800

Point link with  
up to 622Mbps

Link Type Line-of Sight

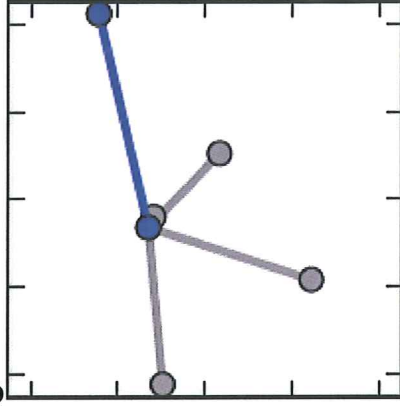
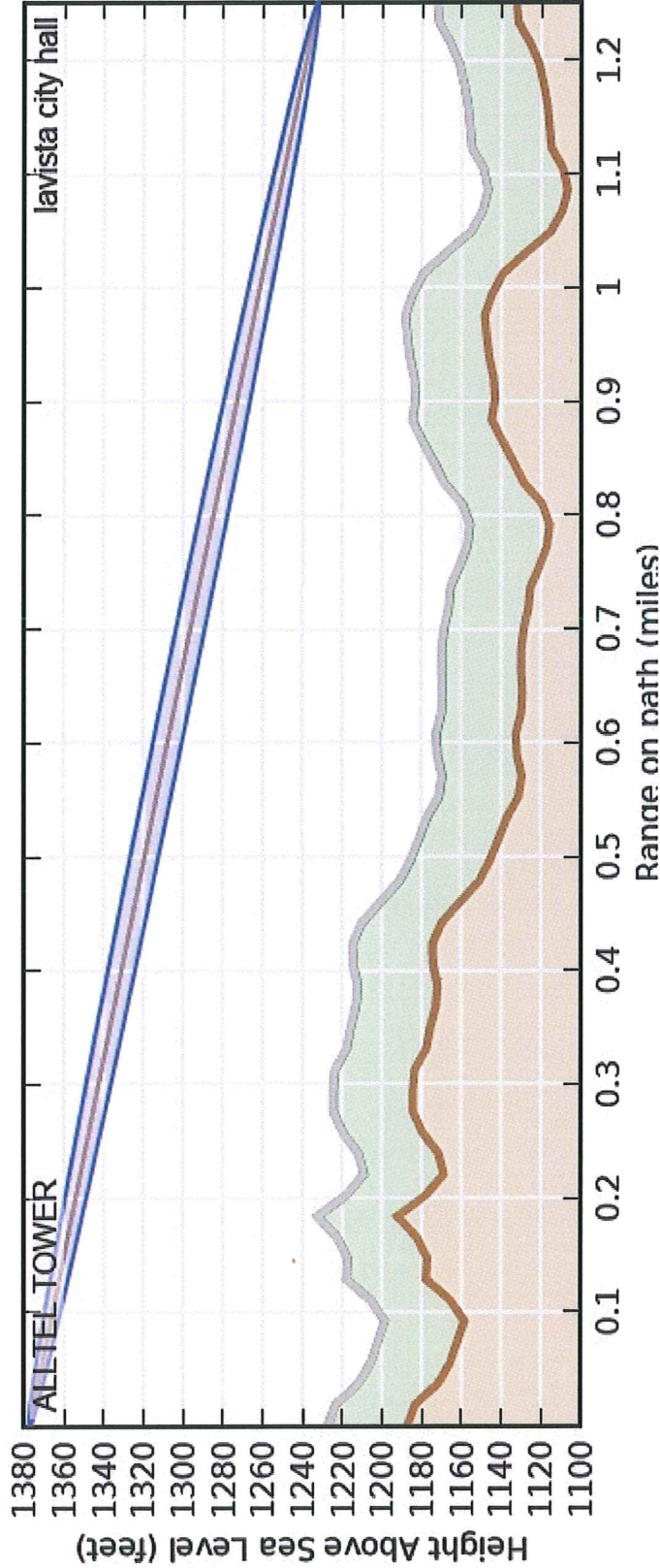
Link Length 1.252 mi.

Band 18 GHz

Regulation FCC

Annual Link Availability 100.00000 %

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ALLTEL TOWER 190'
ALLTEL TOWER to 9900 Portal Road
9900 Portal Road 60'

41.18320
41.16962

096.06236
096.06810

Link name	Product	Local antenna	Remote antenna	Max aggregate IP throughput (Mbps)
-----------	---------	---------------	----------------	------------------------------------

ALLTEL TOWER to 9900 Portal Road
RADWIN 2000 C-Series for Public Safety
4.9Ghz

delivering up to 200 Mbps net aggregate throughput

Link Type Line-of-Sight

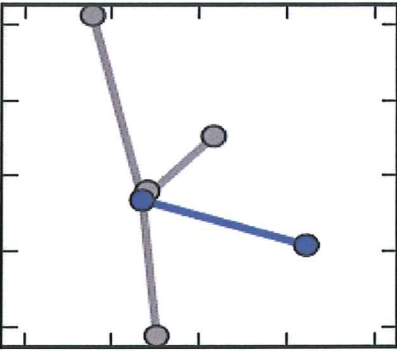
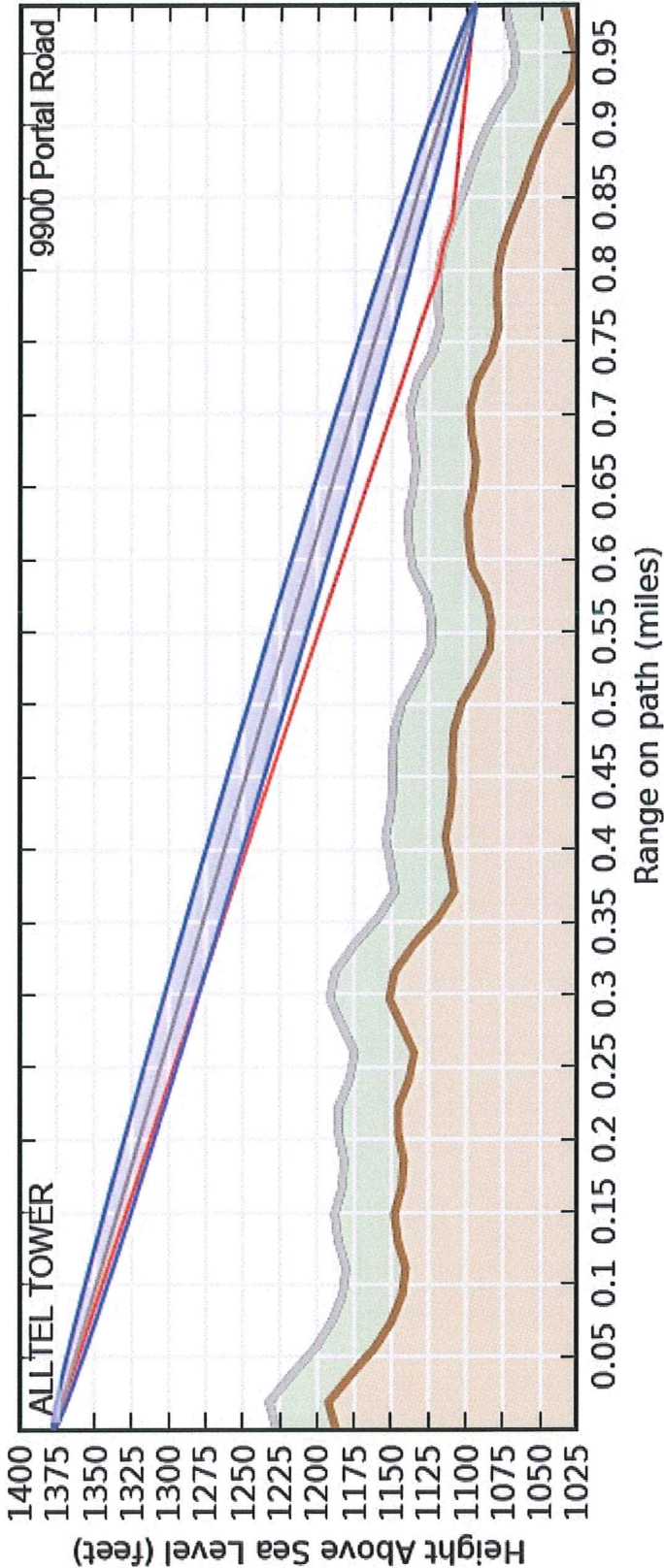
Link Length 0.983 mi.

Band 4.9 GHz

Regulation USA, Canada

Annual Link Availability 100.00000 %

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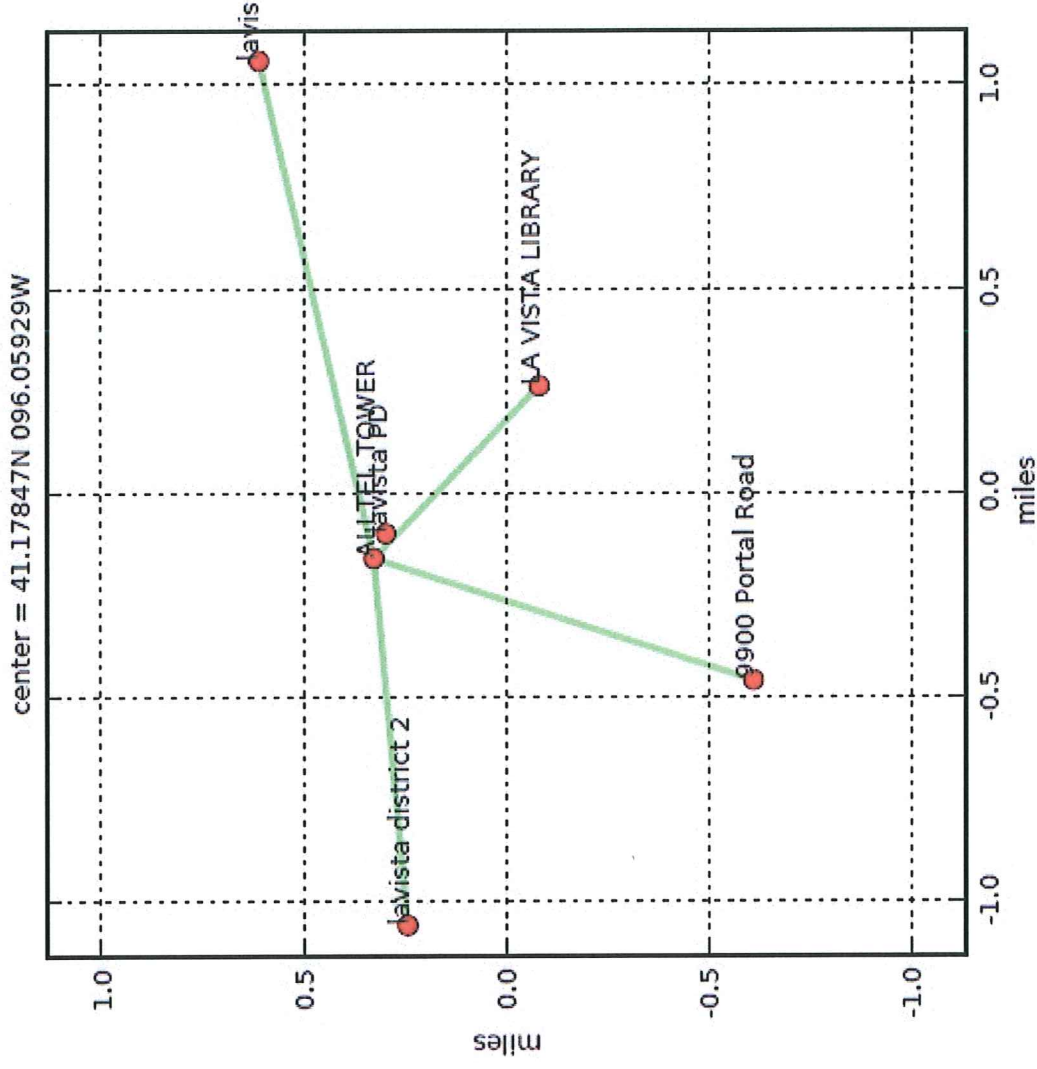




# Project LAVISTA WIRELESS LINK PROJECT

## Proposal Report

10 March 2012



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ALLTEL TOWER 190' ALLTEL TOWER to lavista

lavista district 2 60'  
41.18199  
096.07960

41.18320

district 2

096.06236

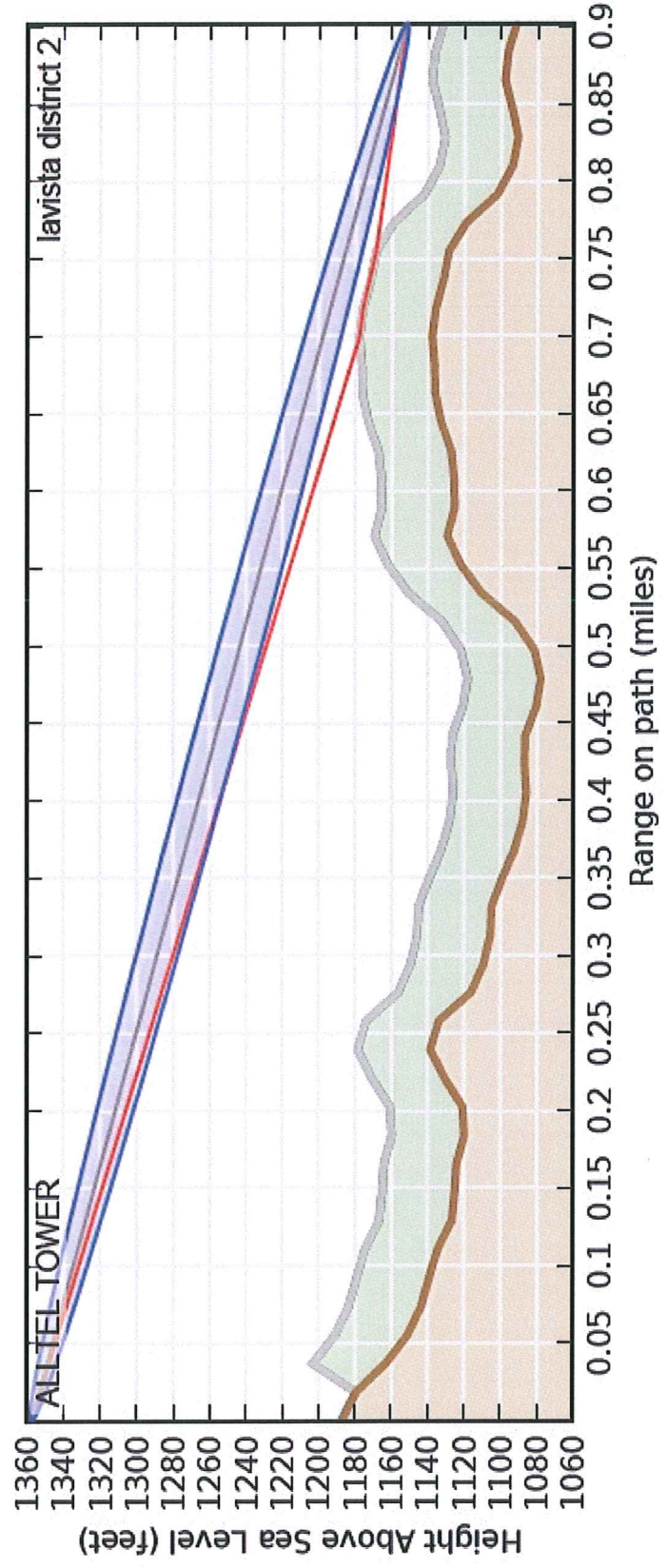
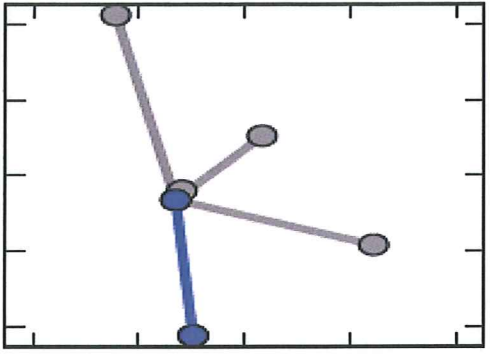
Link name	Product	Local antenna	Remote antenna	Max aggregate IP throughput (Mbps)
ALLTEL TOWER to lavista district 2	RADWIN 2000 C-Series for Public Safety 4.9Ghz			

delivering up to 200 Mbps net aggregate throughput

Link Type Line-of-Sight  
Link Length 0.902 mi.

Band 4.9 GHz  
Regulation USA, Canada  
Annual Link Availability 100.00000 %

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ALLTEL TOWER 190'
ALLTEL TOWER to LA VISTA LIBRARY 25'

41.18320
41.17729

096.06236
096.05427

Link name	Product	Local antenna	Remote antenna	Max aggregate IP throughput (Mbps)
-----------	---------	---------------	----------------	------------------------------------

ALLTEL TOWER
RADWIN 2000

to LA VISTA
C-Series for

LIBRARY
Public Safety

4.9Ghz
4.9Ghz

delivering up to 200 Mbps net aggregate throughput

Link Type Line-of-Sight

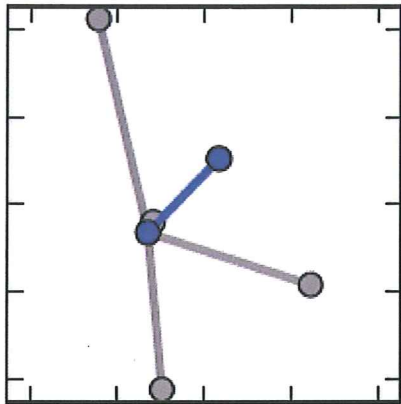
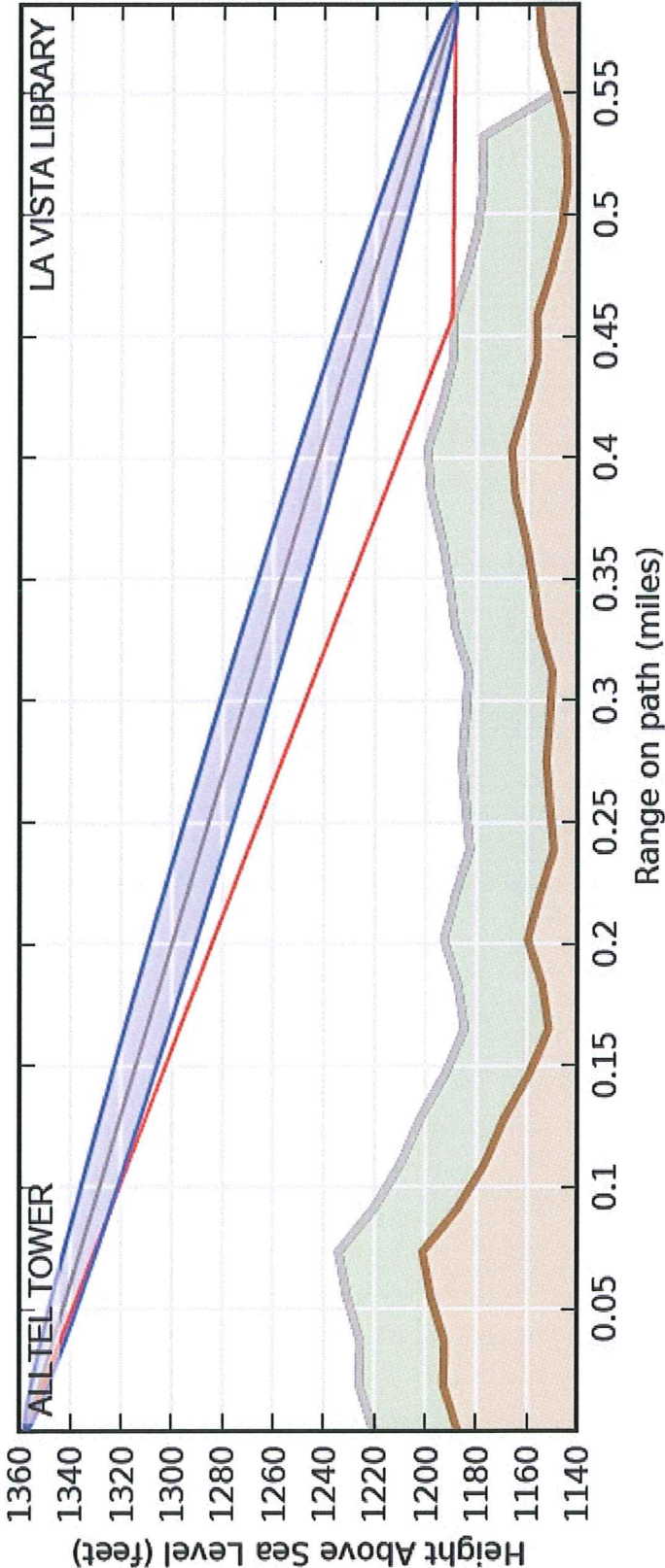
Link Length 0.587 mi.

Band 4.9 GHz

Regulation USA, Canada

Annual Link Availability 100.00000 %

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## 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 APPLICATION FOR ADDITION TO THE CLASS C LIQUOR LICENSE FOR MICHAEL J. PIGNOTTI AND SUSANNE M. MOLLACK DBA PHILLY SPORTS BAR & GRILL, LA VISTA, NEBRASKA.

WHEREAS, Michael J. Pignotti and Susanne M. Mollack dba Philly Sports Bar & Grill, 8116 S 84th Street, La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for an addition to their Class C Liquor License to add a beer garden, 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 application for the addition to the Class C Liquor License submitted by Michael J. Pignotti and Susanne M. Mollack dba Philly Sports Bar & Grill, 8116 S 84th Street, La Vista, Nebraska.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

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

## Pam Buethe

---

**From:** Bob Lausten  
**Sent:** Monday, April 23, 2012 9:28 AM  
**To:** Pam Buethe  
**Subject:** RE: Agenda items

The police department has reviewed both plans submitted and have not identified any law enforcement concerns.

Robert S. Lausten  
Chief of Police  
La Vista Police Department  
7701 S. 96th St.  
La Vista, Nebraska 68128  
(402) 331-1582 FAX: (402) 331-7210

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---

**From:** Pam Buethe  
**Sent:** Friday, April 20, 2012 9:22 AM  
**To:** Bob Lausten  
**Subject:** Agenda items

Bob,  
Please review these two requests for additions to liquor license areas and send me your comments. If I could have those by Wednesday, that would be great.  
Thank you  
Pam

*Pamela A. Buethe, CMC  
City Clerk  
City of La Vista  
8116 Park View Boulevard  
La Vista NE 68128  
Phone: (402) 331-4343  
Fax: (402) 331-4375  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)*



# STATE OF NEBRASKA

Dave Heineman  
Governor

NEBRASKA LIQUOR CONTROL COMMISSION  
Hobert B. Rupe Executive Director  
301 Centennial Mall South, 5th Floor  
P.O. Box 95046  
Lincoln, Nebraska 68509-5046  
Phone (402) 471-2571  
Fax (402) 471-2814  
TRS USER 800 833-7352 (TTY)

April 10, 2012

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

Dear Clerk

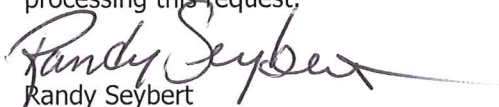
The below licensee has requested an **ADDITION**:

LICENSE #: **C-45403**  
LICENSEE NAME: **PIGNOTTI, MICHAEL J. & MOLLACK, SUSANNE M.**  
TRADE NAME: **PHILLY SPORTS BAR & GRILL**  
ADDRESS: **8116 S 84<sup>TH</sup> STREET**  
CITY/COUNTY: **LA VISTA / SARPY**  
PREMISE PHONE: **402-331-6112**

OLD DESCRIPTION: **ONE STORY BLDG APPROX 100' X 45'**

NEW DESCRIPTION: **ONE STORY BLDG APPROX 100' X 45' W/BEER GARDEN APPROX 15' X 15'**

Please present this request to you city/village/county board and send us a copy of their recommendation. If recommendation of denial or no recommendation is made the Commission has no alternative but to cease processing this request.

  
Randy Seybert  
Licensing Division  
Nebraska Liquor Control Commission

rs  
cc: file

Janice Wiebusch  
Commissioner

Bob Batt  
Chairman  
An Equal Opportunity/Affirmative Action Employer

William Austin  
Commissioner



# APPLICATION FOR ADDITION TO LIQUOR LICENSE

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

Office Use

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CONTROL COMMISSION

### Application:

- Must include processing fee of \$45.00 made payable to Nebraska Liquor Control Commission
- Must include a copy of the lease or deed showing ownership of area to be added
  - This is still required even if it's the same as on file with our office
- Must include simple sketch showing existing licensed area and area to be added, must include outside dimensions in feet (not square feet), direction north. No blue prints.
- May include a letter of explanation

RS

LIQUOR LICENSE #

45403 - C

LICENSEE NAME

Michael J. Pignotti Susanne M. Mollak

TRADE NAME

Philly Sports Bar &amp; Grill

PREMISE ADDRESS

8116 South 84th Street

CITY

LaVista

CONTACT PERSON

Michael J. Pignotti

PHONE NUMBER OF CONTACT PERSON

(402) 490-5751

### Complete the following questions:

1) Are you adding on to your building?

☐

Yes

☒

No

- Include a sketch of the area to be added showing:

- existing building
- outside dimensions (in feet)
- direction north

2) Are you adding an outdoor area?

☒

Yes

☐

No

If an outdoor area (check one of the following)

☒

012.07 "Beer garden" shall mean an outdoor area included in licensed premises, which is used for the service and consumption of alcoholic liquors, and which is contained by a fence or wall preventing the uncontrolled entrance or exit of persons from the premises, and preventing the passing of alcoholic liquors to persons outside the premises. (examples may include, but are not restricted to sand volleyball, horseshoe pits...)



1200007697

10R # 19761  
\$45.00

1  
he

☐ 012.08 "Sidewalk cafe" shall mean an outdoor area included in licensed premises, which is used by a restaurant or hotel with a restaurant license, for the service of meals as well as alcoholic liquors, and which is contained by a permanent fence, wall, railing, rope or chain, defining the licensed area, provided that one open entrance not to exceed eight (8) feet shall be allowed.

What type of permanent fencing will you be using?

14 gauge tubular steel

• Include a sketch of the area to be added showing:

- existing building
- outside dimensions (in feet)
- direction north

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Michael J PIGNOTTI

Print Name of Signature

Michael J Pignotti

Signature of Licensee or Officer

State of Nebraska

County of Sarpy

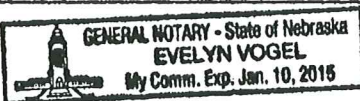
The foregoing instrument was acknowledge before  
me this 3.30.12

Date

Evelyn Vogel

Notary Public Signature

Affix Seal Here

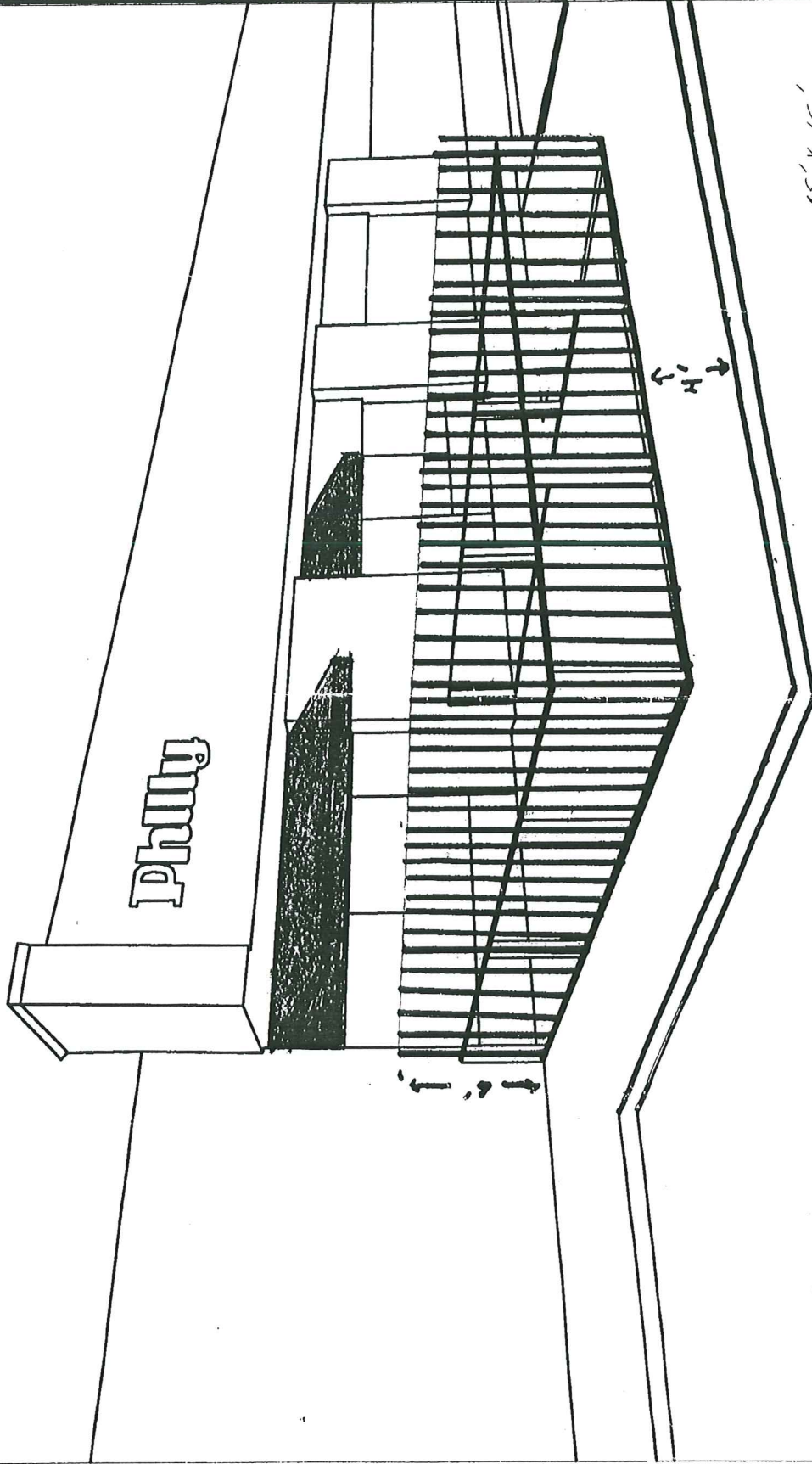


1944-1945

OUTDOOR PATIO ADDITION

PHILLY SPORTS BAR AND GRILL  
8116 SOUTH 84TH STREET - LA VISTA, NE

CITY OF LA VISTA  
APPROVED BY \_\_\_\_\_  
NAME: \_\_\_\_\_  
DATE: \_\_\_\_\_  
RECD BY \_\_\_\_\_  
INI \_\_\_\_\_  
DATE \_\_\_\_\_



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NEBRASKA LIQUOR  
CONTROL COMMISSION



## BRENTWOOD SQUARE SHOPPING CENTER LEASE

THIS LEASE, made this 6th day of July, 2011, by and between F & J REALTY, hereinafter referred to as "Landlord", and MICHAEL PIGNOTTI and SUSANNE MOLLAK, husband and wife, 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 8086 & 8116-8118 South 84th Street, LaVista, Nebraska 68128, which space is described as follows: an area consisting of approximately 3,250 square feet, and said space so leased shall be used as a restaurant/lounge 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 four (4) years beginning October 1, 2011.

3. **RENTS:** Tenant shall pay to Landlord as rent for said leased premises during the initial Lease Term the total sum of One Hundred Fifty-Six Thousand and 00/100 Dollars (\$ 156,000.00) 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.

### RENT SCHEDULE:

From October 1, 2011 to end of lease term, \$ 3,250.00 per month.  
From \_\_\_\_\_ to \_\_\_\_\_, \$ \_\_\_\_\_ per month.  
From \_\_\_\_\_ to \_\_\_\_\_, \$ \_\_\_\_\_ per month.

Rent representing \_\_\_\_\_, 19\_\_\_\_ (\$ \_\_\_\_\_) 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 (4.890% for taxes/3.489% 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.

\*Tenant's pro rata share of taxes are exclusive of Space No. 8020 square footage in the shopping center and the Tenant's pro rata share of common area maintenance is inclusive of Space No. 8020 square footage with relation to net rentable square footage of the shopping center in relation to Tenant's demised square footage.

(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

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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 \$ 848.00 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. **Landlord agrees to replace the heating and air conditioning system serving the leased premises at Landlord's expense in the event it is no longer in a serviceable condition.**

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 claim 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

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practicable.

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, and 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 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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CONTROL COMMISSION

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 (a) and (b) 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

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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.

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.

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

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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 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:

Michael Pignotti and Susanne Mollak  
22026 Silverado Drive  
Elkhorn, Nebraska 68022

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 hercof.

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

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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.

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

32. SECURITY DEPOSIT: The Landlord herewith acknowledges the receipt of Two Thousand Nine Hundred Seventy-Nine and 17/100 ----- Dollars (\$ 2,979.17 ), 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

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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 five percent (5 %) of the gross receipts for said 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 this 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 year. Tenant shall provide Landlord a report showing gross receipts within sixty (60) days of the end of said period 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.

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

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Tenant's sole expense, have one (1) lighted exterior can sign installed by lease commencement date. At termination of subject lease, said sign shall become property of the Landlord. Tenant shall be allowed to use a single freestanding sign at specified location on attached site plan. 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.

(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 \_\_\_\_\_, 19\_\_\_\_\_, to be effective.~~

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45. The undersigned hereby **personally** guarantees unto the Landlord, its successors and assigns, the payment of base rent and any and all assessments so defined in master 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.

47. CANCEL PRIOR LEASE: Upon the effective date of this lease, that September 20, 2006 lease for 8086 & 8116-8118 South 84<sup>th</sup> Street, LaVista, Nebraska shall be cancelled, void, and of no further force and effect.

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 Weseloh

By: Frank R. Krejci  
Frank R. Krejci

TENANT

Witness: \_\_\_\_\_

By: Michael Pignotti  
MICHAEL PIGNOTTI

Witness: \_\_\_\_\_

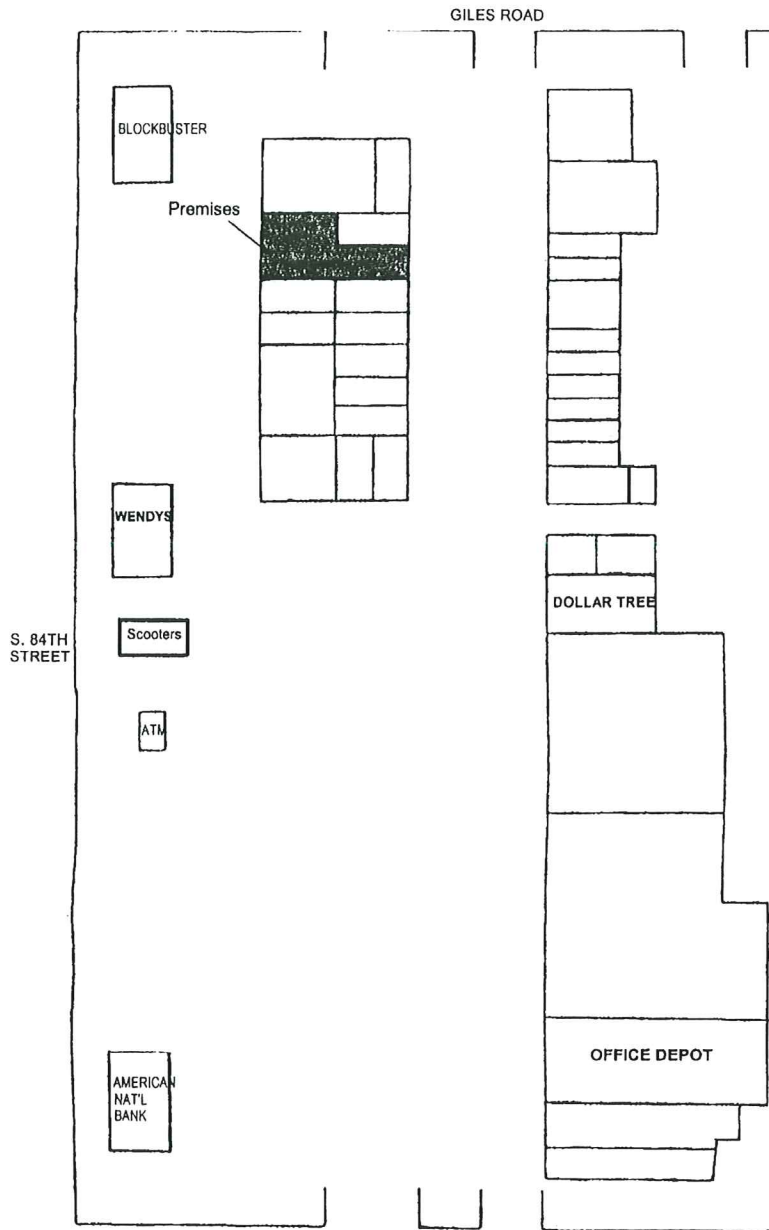
By: Susanne Mollak  
SUSANNE MOLLAK

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Exhibit A



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**BRENTWOOD SQUARE SHOPPING CENTER**

84th & Giles Road, LaVista, NE

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BRENTWOOD SQUARE SHOPPING CENTER

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.

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 raceway, 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.

  
LANDLORD'S  
INITIALS

  
TENANT'S  
INITIALS



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**BRENTWOOD SQUARE SHOPPING CENTER**  
**RULES AND REGULATIONS**

1. AWNINGS AND CANOPIES: No awnings or other projections shall be attached to a wall, roof or fascia, the premises or the building in which the demised premises are located without, in each instance, the prior written consent of Landlord.
2. NOISE: No loudspeakers, televisions, phonographs, radios or other sound or pictorial devices shall be used in a manner so as to be heard or viewed outside the demised premises of each respective Tenant without the prior written consent of Landlord.
3. PREVENT FREEZING: Tenant shall maintain a temperature within the demised premises throughout the year to maintain a sufficiently high enough interior temperature to prevent freezing of plumbing and fixtures.
4. ODOR: Tenant shall not make, or permit, any noise or odor objectionable to the public, or other occupants of the building, or to the Landlord, to emit from the demised premises; or create, or permit the extended maintenance arising from said odor of for existence of any nuisance.
5. PARKING: The Landlord requires that any tenants, their agents or representatives do not park in stalls directly in front of any retail space or directly adjacent to such space but rather all Tenants, assigns or representatives shall park no closer than a minimum of a 100 foot radius to said space to allow easy access to customer parking.
6. Any further rules and regulations may be made at discretion of the Landlord pursuant to Section 30 of the Lease agreement attached hereto.

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ADDENDUM

The following Addendum is made a part of the Lease dated the 6th day of July, 2011, by and between F & J REALTY, Landlord, and MICHAEL PIGNOTTI and SUSANNE MOLLAK, husband and wife, Tenant.

- (A.) Merchants Association: Tenant will promptly become a member of, and during the term of this lease participate in, the Merchants Association. Each member tenant shall have one vote; Landlord shall also have one vote. Merchants Association funds are to be used solely for advertising and promotions and administration expenses incident thereto. Dues are calculated on the basis of Ten Cents (10¢) per square foot per year payable in advance on the first day of each month. Minimum dues are Ten and 00/100 Dollars (\$10.00) per month.
- (B.) Exhaust, Ventilation and Fire Extinguishing Systems: Tenant agrees to provide and maintain in good operating condition fire extinguishing equipment to provide continuous fire protection to all cooking units and equipment including, but not limited to, hoods, ducts, exhausts, deep fat fryers, ranges, grills and broilers. Said fire extinguishing equipment shall include an automatic fuel shut-off and a "catch pan" to prevent grease from leaking from Tenant's roof exhaust fan onto the building roof. Inspections of such equipment shall be made no less than annually, and Tenant shall comply with all recommendations of the Landlord's insurance carrier and of the Insurance Services Office of Nebraska. Tenant agrees to have all exhausts, hoods and sanitary sewer lines clean and free from grease build up; ventilation systems and related equipment professionally cleaned on a contracted basis no less than quarterly; agrees to provide Landlord with a copy of such contract; and agrees to comply with any and all recommendations of the Landlord's insurance carrier with regard to fire protection.
- (C.) Tenant Allowance: Provided Tenant is not in default of any of the terms and conditions herein beyond any applicable cure period, Landlord will pay to Tenant an improvement allowance in the amount of Four Thousand Dollars (\$4,000.00) to be applied to Tenant's cost of improvements for the outdoor patio. Such cash allowance shall be payable upon completion of work, and Landlord's receipt of appropriate lien waivers from Tenant or Tenant's contractor(s).

## 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 APPLICATION FOR ADDITION TO THE CLASS L LIQUOR LICENSE FOR LUCKY BUCKET BREWING LLC DBA LUCKY BUCKET BREWING COMPANY, LA VISTA, NEBRASKA.

WHEREAS, Lucky Bucky Brewing LLC dba Lucky Bucket Brewing Company, 11941 Centennial Rd., La Vista, Sarpy County, Nebraska, has applied to the Nebraska Liquor Control Commission for an addition to their Class L Liquor License to add access and a storage cooler, 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 application for the addition to the Class L Liquor License submitted by Lucky Bucky Brewing LLC dba Lucky Bucket Brewing Company, 11941 Centennial Rd., La Vista, Nebraska.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

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

## **Pam Buethe**

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**From:** Bob Lausten  
**Sent:** Monday, April 23, 2012 9:28 AM  
**To:** Pam Buethe  
**Subject:** RE: Agenda items

The police department has reviewed both plans submitted and have not identified any law enforcement concerns.

Robert S. Lausten  
Chief of Police  
La Vista Police Department  
7701 S. 96th St.  
La Vista, Nebraska 68128  
(402) 331-1582 FAX: (402) 331-7210

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**From:** Pam Buethe  
**Sent:** Friday, April 20, 2012 9:22 AM  
**To:** Bob Lausten  
**Subject:** Agenda items

Bob,  
Please review these two requests for additions to liquor license areas and send me your comments. If I could have those by Wednesday, that would be great.  
Thank you  
Pam

*Pamela A. Buethe, CMC  
City Clerk  
City of La Vista  
8116 Park View Boulevard  
La Vista NE 68128  
Phone: (402) 331-4343  
Fax: (402) 331-4375  
[pbuethe@cityoflavista.org](mailto:pbuethe@cityoflavista.org)*



# STATE OF NEBRASKA

Dave Heineman  
Governor

NEBRASKA LIQUOR CONTROL COMMISSION  
Hobert B. Rupe Executive Director  
301 Centennial Mall South, 5th Floor  
P.O. Box 95046  
Lincoln, Nebraska 68509-5046  
Phone (402) 471-2571  
Fax (402) 471-2814  
TRS USER 800 833-7352 (TTY)

April 17, 2012

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

Dear Clerk

The below licensee has requested an **ADDITION**:

LICENSE #: **L-84859**  
LICENSEE NAME: **LUCKY BUCKET BREWING LLC**  
TRADE NAME: **LUCKY BUCKET BREWING COMPANY**  
ADDRESS: **11941 CENTENNIAL RD**  
CITY/COUNTY: **LA VISTA/ SARPY**  
PREMISE PHONE: **402-763-8868**

OLD DESCRIPTION: **ONE STORY AREA APPROX 45' X 77'**

NEW DESCRIPTION: **ONE STORY AREA APPROX 45' X 77' INCLUDING ACCESS & STORAGE COOLER APPROX 20' X 40'**

Please present this request to you city/village/county board and send us a copy of their recommendation. If recommendation of denial or no recommendation is made the Commission has no alternative but to cease processing this request.

  
Randy Seybert  
Licensing Division  
Nebraska Liquor Control Commission

rs  
cc: file

Janice Wiebusch  
Commissioner

Bob Batt  
Chairman  
An Equal Opportunity/Affirmative Action Employer

William Austin  
Commissioner

**APPLICATION FOR ADDITION  
TO LIQUOR LICENSE**

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

Office Use

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JUL 27 2012  
NEBRASKA LIQUOR  
CONTROL COMMISSION

**Application:**

- Must include processing fee of \$45.00 made payable to Nebraska Liquor Control Commission
- Must include a copy of the lease or deed showing ownership of area to be added
  - This is still required even if it's the same as on file with our office
- Must include simple sketch showing existing licensed area and area to be added, must include outside dimensions in feet (not square feet), direction north. No blue prints.
- May include a letter of explanation

25

LIQUOR LICENSE # L-84859

LICENSEE NAME Lucky Bucket Brewing, LLC

TRADE NAME Lucky Bucket Brewing Company

PREMISE ADDRESS 11941 Centennial Rd, Suite 1

CITY La Vista

CONTACT PERSON Zac Triemert

PHONE NUMBER OF CONTACT PERSON 402-213-5903

**Complete the following questions:**

- 1) Are you adding on to your building? ☒ Yes ☐ No
- Include a sketch of the area to be added showing:
    - existing building
    - outside dimensions (in feet)
    - direction north

- 2) Are you adding an outdoor area? ☐ Yes ☒ No

**If an outdoor area (check one of the following)**

☐ 012.07 "Beer garden" shall mean an outdoor area included in licensed premises, which is used for the service and consumption of alcoholic liquors, and which is contained by a fence or wall preventing the uncontrolled entrance or exit of persons from the premises, and preventing the passing of alcoholic liquors to persons outside the premises. (examples may include, but are not restricted to sand volleyball, horseshoe pits...)

OK #1652  
#45-mm

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1200007724

☐ 012.08 "Sidewalk cafe" shall mean an outdoor area included in licensed premises, which is used by a restaurant or hotel with a restaurant license, for the service of meals as well as alcoholic liquors, and which is contained by a permanent fence, wall, railing, rope or chain, defining the licensed area, provided that one open entrance not to exceed eight (8) feet shall be allowed.

What type of permanent fencing will you be using? \_\_\_\_\_

- Include a sketch of the area to be added showing:
  - existing building
  - outside dimensions (in feet)
  - direction north

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MAR 27 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

ZAC TRIEMERT

Print Name of Signature

[Signature]

Signature of Licensee or Officer

State of Nebraska

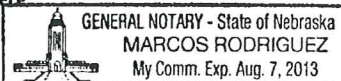
County of Sarpy

The forgoing instrument was acknowledge before  
me this 3/23/2012  
Date

[Signature]

Notary Public Signature

Affix Seal Here





27 2012

~~SECRET~~

ION

LAVISTA, NEBRASKA

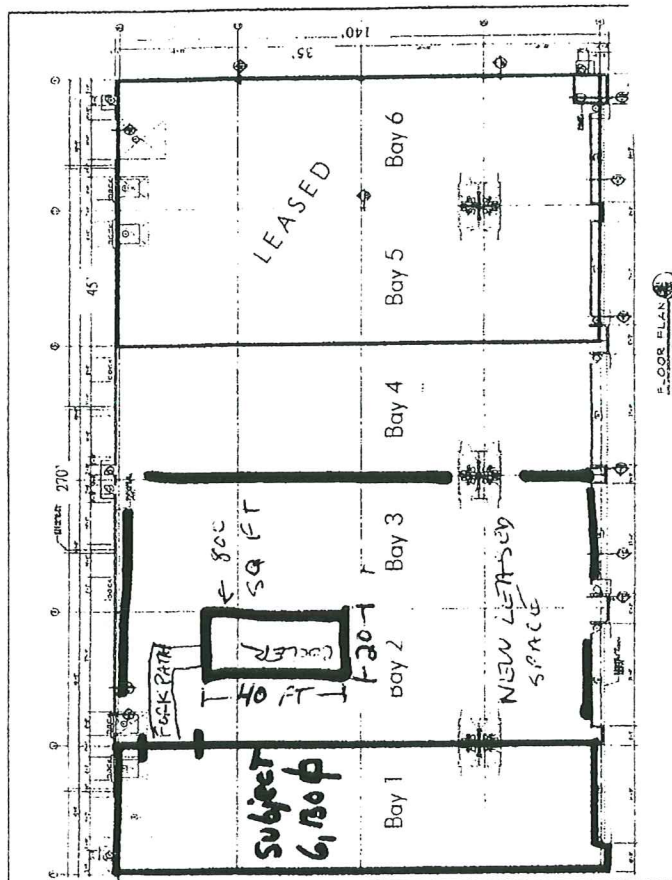
FLOOR PLAN:

**David H. Maenner**  
T 402.697.5862  
david.maenner@cbre.com

CB Richard Ellis/MEGA  
14301 FNB Parkway, Suite 100  
Omaha, NE 68154  
T 402.334.8877  
F 402.334.8976

[www.cbre.com/omaha](http://www.cbre.com/omaha)

**100** A CENTURY OF SERVICE  
1901-2001



18,374	total	50 ft
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17-03239-1

37006. CE taking this is the date and the change of above from survey to the date before date. However, we have not wanted to convey any more information, namely to represent an area. It is a simple subject for the property, all other general, change of price, rental or other conditions, and the need to improve or enhance without notice. We include projections, opinions, assumptions or estimates for example only, and they may not represent current or future performance of the property. You and your real estate industry should conduct your own investigation of the property and market.

**CBRE**  
CB RICHARD ELLIS



# CHAR-DEB PROPERTIES LLC

## Business Property Lease

THIS LEASE is entered into this 7 day of March, 2009, between Char-Deb Properties, L.L.C., a Nebraska limited liability company, Landlord, and Quaff, LLC, a Nebraska limited liability company, Tenant.

### PREMISES

1. Landlord leases to Tenant at 11941 Centennial Road Suites # 1, La Vista, Nebraska 68128 (the "Premises"), containing approximately 6,130 square feet of area as depicted on attached Exhibit "A", on the following terms and conditions. The Premises consist of a single bay of a commercial building located on the real property legally described as:

LOT 33 BROOK VALLEY II BUSINESS PARK, La Vista, Sarpy County, Nebraska

and referred to in this Lease as the "Real Estate".

### TERM

2. This lease shall be for a term of 74 months, beginning on the first day of April, 2009, and ending on the 31<sup>st</sup> day of May, 2015, unless terminated earlier as provided in this Lease. Upon execution of this lease, and reasonable notification to Landlord, Tenant may store and install equipment in the Premises prior to the commencement date of the lease. Should the commencement date be delayed then the expiration date shall be adjusted correspondingly. Within 30 days after the commencement date, Landlord and Tenant shall execute a commencement date agreement, which shall clarify the commencement and expiration dates. Any partial months of the term shall be prorated.

### USE OF PREMISES

3. The Premises are leased to Tenant only for use in Tenant's business, which includes the production of beer and distilled spirits. Tenant may use the Premises for general office purposes, promotion, sales (including sales directly to the public), warehousing, and distilling / brewery functions and other functions incidental to Tenant's business. Tenant agrees to use the Premises in such a manner as to not interfere with the rights of other tenants in the Real Estate, to comply with all applicable governmental laws, ordinances, and regulations in connection with its use of the Premises, to keep the Premises in a clean and sanitary condition, and to use all reasonable precaution to prevent waste, damage, or injury to the Premises.

### RENT

4.(a) **Base Rent.** The total Base Rent under this Lease is (\$156,376.30). Tenant agrees to pay rent to Landlord at 19791 Cougar Avenue, Honey Creek, IA 51542, or at any other place Landlord may designate in writing, in lawful money of the United States, in monthly installments in advance, on the first day of each month, as follows:

6,130	Sq. Footage		True	Less:	Actual	Actual	
	Months Sq. Ft.	Base PSF	Monthly Base	TI Credit PSF	Base Rent PSF	Monthly Base	Total Actual
Months 1 - 2	2 6,130	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Months 3-38	36 6,130	\$ 4.50	\$ 2,298.75	\$ 0.54	\$ 3.96	\$ 2,022.90	\$ 72,824.40
Months 39-62	24 6,130	\$ 5.00	\$ 2,554.17	\$ 0.54	\$ 4.46	\$ 2,278.32	\$ 54,679.60
Months 63- 74	12 6,130	\$ 5.25	\$ 2,681.88	\$ 0.54	\$ 4.71	\$ 2,406.03	\$ 28,872.30
Averages	74				\$ 4.66		\$ 156,376.30

(b) **Operating Expenses.** In addition to the Base Rent, Tenant shall pay its pro rata share of Operating Expenses of the Real Estate of which the Premises are part, parking areas, and grounds. "Operating Expenses" shall mean the costs, subject to the limitations in this subsection, of maintaining and operating the Real Estate, including

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DATE

KEEP THIS DOCUMENT AVAILABLE FOR INSPECTION  
BY OFFICERS OF ALCOHOL AND TOBACCO TAX AND  
TRADE BUREAU

  
BUREAU OF TTB NATIONAL REVENUE CENTER



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but not limited to all taxes and special assessments levied upon the Real Estate; all common insurance costs; and all costs of labor, material and supplies for maintenance, repair, replacement, and operation of the Real Estate, including but not limited to line painting, lighting, snow removal, landscaping, cleaning, and professional outside management company costs including building superintendents. For purposes of calculating Operating Expenses, the component comprising professional outside management company costs, including building superintendents shall not exceed five percent (5%) of the gross rental income of the Real Estate. Operating Expenses shall not include property additions and capital improvements to the real estate, alterations made for specific tenants, depreciation of the Real Estate, debt service on long-term debt, or income taxes paid by Landlord.

"Tenant's pro rata share" shall mean the percentage determined by dividing the square feet of the Premises as shown in Paragraph 1, by the square feet of building area of the Real Estate, as defined by the American National Standard published by Building Owners and Managers Associations which at the date hereof is agreed to be 36,682 square feet, or 16.67 %.

Tenant's pro rata share of the Operating Expenses shall be determined on an annual basis for each calendar year ending on December 31 and shall be pro rated for the number of months Tenant occupied the Premises if Tenant did not occupy the Premises the full year. Landlord may reasonably change this amount at any time upon written notice to Tenant. At the end of each year, a detailed analysis of the total year's Operating Expenses shall be presented to Tenant and Tenant shall pay the amount, if any, by which the Tenant's pro rata share of the Operating Expenses for the year exceeded the amount of the Operating Expenses paid by Tenant. Tenant shall pay any such excess charge to the Landlord within thirty (30) days after receiving the statement. If Tenant has overpaid its pro rata share of Operating Expenses for the past year, Landlord shall apply the overpayment to Tenant for the following year and, if the overpayment is substantial, reduce the monthly payment to minimize annual future overpayments. In the event this Lease terminates at any time other than the last day of the year, the excess Operating Expenses shall be determined as of the date of termination. Upon termination of this Lease, any overpayment of Operating Expenses by Tenant shall be applied to the amounts due Landlord from Tenant under this Lease and any remaining overpayment shall be refunded to Tenant. Tenant may have the right to audit expenses. **Note: Operating Expenses are due beginning with the commencement date of this lease. 2009 estimated Operating Expenses are estimated at \$1.40 per square foot which equates to a monthly estimate of \$715.16 per month.**

(c). **Payment of Rent.** Tenant agrees to pay the Base Rent as and when due, together with Tenant's share of the Operating Expenses and all other amounts required to be paid by Tenant under this Lease. In the event of nonpayment of any amounts due under this Lease, whether or not designated as rent, Landlord shall have all the rights and remedies provided in this Lease or by law for failure to pay rent.

(d). **Late Charge.** If the Tenant fails to pay the Base Rent together with the Tenant's share of the Operating Expenses and all other amounts required to be paid by Tenant under this Lease, on or before the tenth day after such payments are due, Tenant agrees to pay Landlord a late charge of **five percent (5%) of the base rental amount** for each month the payment is late.

(e). **Security Deposit.** As partial consideration for the execution of the Lease, the Tenant has delivered to Landlord the sum of \$2,113.19 Security Deposit. The Security Deposit will be returned to Tenant at the expiration of this Lease if Tenant has fully complied with all covenants and conditions of this Lease.

#### SERVICES

5. Tenant shall pay directly to the service provider when due, all water, gas, electricity, and sewer use fees incurred at or chargeable to the Premises beginning with the commencement date of this Lease.

#### ASSIGNMENT OR SUBLEASE

6. Tenant shall not assign this Lease or sublet the whole or any part of the Premises, transfer this Lease by operation of law or otherwise, or permit any other person except agents and employees of Tenant to occupy the Premises, or any part thereof, without the prior written consent of Landlord. Landlord may consider the following in determining whether to withhold consent: (a) financial responsibility of the new tenant, (b) identity and business character of the new tenant, (c) nature and legality of the proposed use of the Premises. Landlord's consent shall not be unreasonably withheld or delayed.



Landlord shall have the right to assign its interest under this Lease or the rent reserved hereunder.

### TENANT'S IMPROVEMENTS

7. Tenant shall have the right to place partitions and fixtures and make improvements or other alterations in the interior of the Premises at its own expense. Prior to commencing any such work, Tenant shall first obtain the written consent of Landlord for the proposed work. Landlord shall not unreasonably delay or withhold its consent. Landlord may, as a condition to giving its consent, require that the work be done by Landlord's own employees and/or under Landlord's supervision, provided that 1) Landlord submits a competitive bid to reasonably acceptable to Tenant to perform the work to Tenant's satisfaction; 2) Landlord's price to complete the work does not exceed 102.5% of the lowest arms-length competitive bid Tenant received for comparable work; and 3) Landlord submits certificates of insurance showing liability and workers' compensation insurance coverage for the work, to the same extent that Tenant requires for others bidding on the work. If Landlord performs the work, Landlord shall: 1) meet or exceed the standards applicable to any other similarly situated contractor; 2) abide by all laws and regulations governing such work, including providing at its own expense adequate liability and workers' compensation insurance; 3) accept reasonable direction from Tenant regarding the work to the same degree as would be expected by any other contractor reasonably hired by Tenant; 4) meet or exceed the same standards of workmanship as would be expected of any other commercial enterprise performing similar work; and 5) complete the work in a timely and professional manner. If Landlord does not undertake to do the work, Tenant agrees to complete the work on the Premises free and clear of liens and in a manner satisfactory to Landlord. Any new Tenant improvements done by Landlord will include a one-year warranty for material and labor. Upon termination of this Lease, at Landlord's option, Tenant will repair and restore the Premises at Tenant's expense to its former condition, except that: 1) Tenant shall not be required to remove permanent improvements, additions or alterations made with Landlord's approval; and 2) any such improvements, additions, or alterations installed or made by Tenant, except Tenant's trade fixtures, shall become part of the Premises and the property of the Landlord. Tenant may remove its trade fixtures at the termination of this Lease provided Tenant is not then in default and provided further that Tenant repairs any damage caused by such removal.

### REPAIRS

8. Landlord agrees to maintain in good condition, and repair as necessary the foundations, exterior walls and the roof of the Premises.

Tenant agrees that it will make, at its own cost and expense, all repairs and replacements to the Premises not required to be made by Landlord, including, but not limited to, all interior and exterior doors, door frames, windows, plate glass, and the heating, air conditioning, plumbing and electrical systems servicing the Premises. Tenant agrees to do all redecorating, remodeling, alteration, and painting required by it during the term of the Lease at its own cost and expense, to pay for any repairs to the Premises or the Real Estate made necessary by any negligence or carelessness of Tenant or any of its agents or employees or persons permitted on the Real Estate by Tenant, and to maintain the Premises in a safe, clean, neat, and sanitary condition. Tenant shall be entitled to no compensation for inconvenience, injury, or loss of business arising from the making of any repairs by Landlord, Tenant, or other tenants to the Premises or the Real Estate.

As a condition precedent to Tenant accepting the obligations of this section of the Lease, Landlord agrees to provide Tenant with data acceptable to Tenant's insurance carrier to determine the insurable value of Landlord's property for which Tenant becomes responsible for making repairs or replacement under this section of the Lease.

### CONDITION OF PREMISES

9. Landlord represents that there are no known defects to the Premises that would materially affect the terms of this lease except for those defects that Landlord has disclosed to Tenant in writing prior to execution of this Lease. Except as provided herein, Tenant agrees that no other promises, representations, statements, or warranties have been made on behalf of Landlord to Tenant respecting the condition of the Premises, or the manner of operating the Real Estate, or the making of any repairs to the Premises. Landlord and Tenant will make a walk-through inspection before Tenant takes possession of the Premises. By taking possession of the Premises, Tenant will acknowledge that the Premises were in good and satisfactory condition when possession was taken, except for punch list items, which will be noted, and except for latent defects that could not reasonably be discovered by a walk-through inspection. Tenant shall, at the termination of this Lease, by lapse of time or otherwise, remove all of



Tenant's property and surrender the Premises to Landlord in as good condition as when Tenant took possession, normal wear and Landlord approved-alterations excepted.

### PERSONAL PROPERTY AT RISK OF TENANT

10. Tenant shall bear the risk of loss or damage to Tenant's personal property in the Premises. Landlord shall not be liable for any damage to any property of Tenant or its agents or employees in the Premises caused by steam, electricity; sewage; gas or odors; water, rain, or snow which may leak into, issue or flow into the Premises from any part of the Real Estate, or from any other place; or for any damage done to Tenant's property in moving same to or from the Real Estate or the Premises. Tenant shall give Landlord, or its agents, prompt written notice of any damage to or defects in water pipes, gas or warming or cooling apparatus in the Premises.

### LANDLORD'S RESERVED RIGHTS

11. Without notice to Tenant, without liability to Tenant for damage or injury to property, person or business, and without effecting an eviction of Tenant or a disturbance of Tenant's use or possession or giving rise to any claim for setoff or abatement of rent, Landlord shall have the right to:

- (a) Change the name or street address of the Real Estate.
- (b) Install and maintain signs on the Real Estate.
- (c) At reasonable times, to decorate, and to make, at its own expense, repairs, alterations, additions, and improvements, structural or otherwise, in or to the Premises, the Real Estate, or part thereof, and any adjacent building, land, street or alley, and during such operations to take into and through the Premises or any part of the Real Estate all materials required, and to temporarily close or suspend operation of entrances, doors, corridors, elevators, or other facilities to do so; provided that Landlord shall not interfere with Tenant's business operations and shall give reasonable advanced notice to Tenant of any repairs, alterations, additions and improvements that may materially affect Tenant's business operations.
- (d) Show the Premises to prospective tenants at reasonable times, during the last six (6) months of the Lease.
- (e) Take any and all reasonable measures, including inspections or the making of repairs, alterations, and additions and improvements to the Premises or to the Real Estate, which Landlord deems necessary or desirable for the safety, protection, operation, or preservation of the Premises or the Real Estate, provided that Landlord shall 1) consult with Tenant prior to taking any measures (other than emergency measures when consultation would not be feasible) that might interfere with Tenant's business operations, and provided that Landlord will take steps to reasonably avoid interfering with Tenant's business operations and shall give reasonable advanced notice to Tenant of any measures that may materially affect Tenant's business operations.
- (f) Approve all signs on the exterior of the Premises prior to installation thereof.

### INSURANCE

#### 12.1 Insurance Policies.

- (a) Insurance required herein shall be by companies duly licensed or admitted to transact business in the state where the Premises are located, and maintaining during the policy term a "General Policyholders Rating" of at least B+, V, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender.
- (b) Lessee agrees not to do or permit to be done anything which invalidates the required insurance policies, provided that the Lessor first provides written notice of the acts or omissions which would invalidate the policies. In the absence of such prior notice, Lessee's compliance with the terms of this Lease that are relevant to Lessor's insurance coverage shall be deemed sufficient to avoid breaching this obligation not to do anything to invalidate Lessor's insurance. Lessor shall not obtain insurance that fails to provide coverage because of Tenant's business or the usual activities associated with Tenant's business. However, Tenant agrees to pay to landlord for the increase,



if any, in premiums that are above the existing premiums for Landlords fire / building insurance due to Tenant's operations provided that Landlord documents the such increase to Tenant.

(c) Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 30 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may order such insurance and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other party may, but shall not be required to, procure and maintain the same.

**12.2 Waiver of Subrogation.** Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

### **12.3 Property Insurance – Building, Improvements and Rental Value.**

(a) **Building and Improvements.** Lessor shall obtain and keep in force a policy or policies of insurance in the name of Lessor, with loss payable to Lessor, any ground-Lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof.

(b) **Lessee Owned Alterations and Utility Installations.** Trade Fixtures, and Lessee's personal property shall be insured by Lessee under Paragraph 12.4. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender), including coverage for debris removal and the enforcement of any Applicable Requirement requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of labor consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$1,000 per occurrence.

(c) **Lessee's Improvements.** Lessor shall not be required to insure Lessee Owned Alterations and Utility Installations unless the item in question has become the property of Lessor under the terms of this Lease.

### **12.4 Lessee's Property; Business Interruption Insurance.**

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property. Trade Fixtures and Lessee Owned Alterations and Utility installations. Lessee shall provide Lessor with written evidence that such insurance is in force.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.



(c) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

### INDEMNITY

13.1 Except for Lessor's negligence or misconduct, Lessee shall indemnify, protect, defend and hold harmless the Lessor and its agents, partners and Lenders, from and against any and all claims, loss of rents, damages, liens, judgments, penalties, expenses or liabilities arising out of the use or occupancy of the Premises by Lessee. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonable satisfactory to Lessor. Lessor agrees that counsel selected by Lessee's insurance carriers shall be satisfactory to Lessor. Lessor shall fully cooperate with Lessee, Lessee's insurance carriers and Lessee's counsel in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

13.2 **Exemption of Lessor from Liability.** Lessor shall not be liable for injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the Building, or from other sources or places. Lessor shall not be liable for any damages arising from any act or neglect of any other tenant of Lessor nor from the failure of Lessor to enforce the provisions of any other lease in the Project. Notwithstanding Lessor's negligence or breach of this Lease, Lessor shall under no circumstances be liable for injury to Lessee's business or for any loss of income or profit therefrom.

### ENVIRONMENTAL REGULATIONS AND INDEMNIFICATION

14. Notwithstanding any other provision of this Lease, Tenant shall comply with all laws, statutes, ordinances, rules, regulations or orders of any governmental authority, regarding any handling, transportation, storage, treatment or use of hazardous or toxic substances. Tenant, at its own cost and expense, shall immediately repair any damage and restore the Premises and the Real Estate to its condition existing prior to any leak, spill, release, emission or disposal of hazardous or toxic substance, which tenant has caused or which results from Tenant's acts or omissions.

Tenant hereby agrees to defend, indemnify and hold harmless Landlord and its officers, employees and agents from all claims, costs, damages, demands, expenses, fines, judgments, liabilities and losses which arise during or after the term of this Lease from the presence of toxic or hazardous substances in the soil, groundwater or soil vapor on or under the Premises or the Real Estate if, during Tenant's occupancy, Tenant, its officers, employees or agents willfully or negligently caused such toxic or hazardous substances to be present in the soil, groundwater or soil vapor on or under the Premises or the Real Estate.

### LIABILITY INSURANCE

15. Tenant agrees to procure and maintain continuously during the entire term of this Lease, a policy or policies of insurance in a company or companies acceptable to Landlord, at Tenant's own cost and expense, insuring Landlord and Tenant from all claims, demands or actions; such comprehensive insurance shall protect and name the Tenant as the Insured and Landlord as an additional insured and providing coverage of at least \$2,000,000.00 for injuries to any one person, \$2,000,000.00 for injuries to persons in any one accident and \$2,000,000.00 for damage to property, made by or on behalf of any person or persons, firm or corporation arising from, related to, or connected with the conduct and operation of Tenant's business in the Premises, or arising out of and connected with the use and occupancy of sidewalks and other Common Areas by the Tenant. All such insurance shall provide that Landlord shall be given a minimum of ten (10) days notice by the insurance company prior to cancellation, termination or change of such insurance. Tenant shall provide Landlord with certificates evidencing that such insurance is in full force and effect and stating the term and provisions thereof. If Tenant fails to comply with such



requirements for insurance, Landlord may, but shall not be obligated to, obtain such insurance and keep the same in effect, and Tenant agrees to pay Landlord, upon demand, the premium cost thereof.

## DAMAGE OR DESTRUCTION

### 16.1 Definitions

(a) **"Premises Partial Damage"** shall mean damage or destruction to the Premises to the extent that the cost of repair is less than 50% of the fair market value of the Premises immediately prior to such damage or destruction. **"Premises Building Partial Damage"** shall herein mean damage or destruction to the building of which the Premises are a part to the extent that the cost of repair is less than 50% of the fair market value of such building as a whole immediately prior to such damage or destruction.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises to the extent that the cost of repair is 50% or more of the fair market value of the Premises immediately prior to such damage or destruction. **"Premises Building Total Destruction"** shall herein mean damage or destruction to the building of which the Premises are a part to the extent that the cost of repair is 50% or more of the fair market value of such building as a whole immediately prior to such damage or destruction.

(c) **"Insured Loss"** shall mean damage or destruction which was caused by an event required to be covered by the insurance described in paragraph 12.

**16.2 Partial Damage – Insured Loss.** Subject to the provisions of paragraphs 16.4, 16.5 and 16.6, if at any time during the term of this lease there is damage which is an Insured Loss and which falls into the classification of Premises Partial Damage or Premises Building Partial Damage, then Lessor, at Lessor's sole cost, shall repair such damage, but not Lessee's fixtures, equipment or tenant improvements, as soon as reasonably possible and this Lease shall continue in full force and effect.

**16.3 Partial Damage – Uninsured Loss.** Subject to the provisions of Paragraphs 16.4, 16.5 and 16.6, if at any time during the term of this Lease there is damage which is not an Insured Loss and which falls within the classification of Premises Partial Damage or Premises Building Partial Damage, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may at Lessor's option either (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) give written notice to Lessee within thirty (30) days after the date of the occurrence of such damage of Lessor's intention to cancel and terminate this Lease, as of the date of the occurrence of such damage. In the event Lessor elects to give such notice of Lessor's intention to cancel and terminate this Lease, Lessee shall have the right within ten (10) days after the receipt of such notice to give written notice to Lessor of Lessee's intention to repair such damage at Lessee's expense, without reimbursement from Lessor, in which event this Lease shall continue in full force and effect, and Lessee shall proceed to make such repairs as soon as reasonably possible. If Lessee does not give such notice within such 10-day period this Lease shall be cancelled and terminated as of the date of the occurrence of such damage.

**16.4 Total Destruction.** If at any time during the term of this Lease there is damage, whether or not an Insured Loss, (including destruction required by any authorized public authority), which falls into the classification of Premises Total Destruction or Premises Building Total Destruction, this Lease shall automatically terminate as of the date of such total destruction.

### 16.5 Damage Near End of Term.

(a) If at any time during the last six months of this Lease there is damage, whether or not an Insured Loss, which falls within the classification of Premises Partial Damage, Lessor may at Lessor's option cancel and terminate this Lease as of the date of occurrence of such damage by giving written notice to Lessee of Lessor's election to do so and within 30 days after the date of occurrence of such damage.

(b) Notwithstanding paragraph 16.5 (a), in the event that Lessee has an option to extend or renew this Lease, and the time within which said option may be exercised has not yet expired, Lessee shall exercise such option, if it is to be exercised at all, no later than 20 days after the occurrence of an insured Loss falling within the classification of Premises Partial Damage during the last six months of the term of this Lease. If Lessee duly exercises such

option during said 20 day period, Lessor shall, at Lessor's expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option during said 20 day period, Lessor shall, at Lessor's expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option during said 20 day period, then Lessor may at Lessor's option terminate and cancel this Lease as of the expiration of said 20 day period by giving written notice to Lessee of Lessor's election to do so within 10 days after the expiration of said 20 day period, notwithstanding any term or provision in the grant of option to the contrary.

#### **16.6 Abatement of Rent; Lessee's Remedies**

(a) In the event of damage described in paragraphs 16.2 or 16.3, and Lessor or Lessee repairs or restores the Premises pursuant to the provisions of this Paragraph 16, the rent payable hereunder for the period during which such damage, repair or restoration continues shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired. Except for abatement of rent, if any, Lessee shall have no claim against Lessor for any damage suffered by reason of any such damage, destruction, repair or restoration.

(b) If Lessor shall be obligated to repair or restore the Premises under the provisions of this Paragraph 16 and does not commence such repair or restoration within 30 days after the date of the damage occurred, and is unable to give reasonable assurances that the repair will be sufficiently completed to allow Tenant to resume its full business operations within 90 days of the date such damage occurred, Lessee may at Lessee's option cancel and terminate this Lease by giving Lessor written notice of Lessee's election to do so at any time prior to the commencement of such repair or restoration. In such event this Lease shall terminate as of the date of occurrence of the damage.

**16.7 Termination – Advance Payments.** Upon termination of this Lease pursuant to this Paragraph 16, an equitable adjustment shall be made concerning advance rent and any advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's security deposit as has not theretofore been applied by Lessor.

**16.8 Waiver.** Lessor and Lessee waive the provisions of any statutes which relate to termination of leases when leased property is destroyed and agree that such event shall be governed by the terms of this Lease.

### **CONDEMNATION**

17. If the whole or any part of the Premises shall be taken by public authority under the power of eminent domain, then the term of this Lease shall cease on that portion of the Premises so taken, from the date of possession, and the rent shall be paid to that date, with a proportionate refund by Landlord to Tenant of such rent as may have been paid by Tenant in advance. If the portion of the Premises taken is such that it prevents the practical use of the Premises for Tenant's purposes, then Tenant shall have the right either (a) to terminate this Lease by giving written notice of such termination to Landlord not later than thirty (30) days after the taking; or (b) to continue in possession of the remainder of the Premises, except that the rent shall be reduced in proportion to the area of the Premises taken. In the event of any taking or condemnation of the Premises, in whole or in part, the entire resulting award of damages shall be the exclusive property of Landlord, including all damages awarded as compensation for diminution in value to the leasehold, without any deduction for the value of any unexpired term of this Lease, or for any other estate or interest in the Premises now or hereafter vested in Tenant.

### **DEFAULT OR BREACH**

18. Each of the following events shall constitute a default or a breach of this Lease by Tenant:

(a) If Tenant fails to pay Landlord any rent or other payments when due hereunder;

(b) If Tenant vacates or abandons the Premises and does not continue to pay rent;

(c) If Tenant fails to perform or comply with any other term or condition of this Lease and if such nonperformance shall continue for a period of ten (10) days after notice thereof by Landlord to Tenant, time being of the essence.



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### EFFECT OF DEFAULT

19. In the event of any default or breach hereunder, in addition to any other right or remedy available to Landlord, either at law or in equity, Landlord may exert any one or more of the following rights:

(a) Landlord may re-enter the Premises immediately and remove the property and personnel of Tenant, and shall have the right, but not the obligation, to store such property in a public warehouse or at a place selected by Landlord, at the risk and expense of Tenant.

(b) Landlord may retake the Premises and may terminate this Lease by giving written notice of termination to Tenant. Without such notice, Landlord's retaking will not terminate the Lease. On termination, Landlord may recover from Tenant all damages proximately resulting from the breach, including the cost of recovering the Premises and the difference between the rent due for the balance of the Lease term, as though the Lease had not been terminated, and the reasonable rental value of the Premises, which sum shall be immediately due Landlord from Tenant.

(c). Landlord may relet the Premises or any part thereof for any term without terminating this Lease, at such rent and on such terms as it may choose. Landlord may make alterations and repairs to the Premises. In addition to Tenant's liability to Landlord for breach of this Lease, Tenant shall be liable for all expenses of the reletting, for any alterations and repairs made, and for the rent due for the balance of the Lease term, which sum shall be immediately due Landlord from Tenant. Landlord shall use its best efforts to mitigate its damages including using its best efforts to relet the Premises. The amount due Landlord will be reduced by the net rent received by Landlord during the remaining term of this Lease from reletting the Premises or any part thereof. If during the remaining term of this Lease Landlord receives more than the amount due Landlord under this sub-paragraph, the Landlord shall pay such excess to Tenant, but only to the extent Tenant has actually made payment pursuant to this sub-paragraph.

### SURRENDER-HOLDING OVER

20. Tenant shall, upon termination of this Lease, whether by lapse of time or otherwise, peaceably and promptly surrender the Premises to Landlord. If Tenant remains in possession after the termination of this Lease, without a written lease duly executed by the parties, Tenant shall be deemed a trespasser. If Tenant pays, and Landlord accepts, rent for a period after termination of this Lease, Tenants shall be deemed to be occupying the Premises only as a tenant from month to month, subject to all the terms, conditions, and agreements of this Lease, except that the rent shall be 2 times the monthly rent specified in the lease immediately before termination.

### SUBORDINATION AND ATTORNMENT

21.1 Landlord reserves the right to place liens and encumbrances on the Premises superior in lien and effect to this Lease. This Lease and all rights of Tenant hereunder, shall, at the option of Landlord, be subject and subordinate to any liens and encumbrances now or hereafter imposed by Landlord upon the Premises or the Real Estate or any part thereof, and Tenant agrees to execute, acknowledge, and deliver to Landlord, upon request, any and all instruments that may be necessary or proper to subordinate this Lease and all rights herein to any such lien or encumbrance as may be required by Landlord.

In the event any proceedings are brought for the foreclosure of any mortgage on the Premises, Tenant will attorn to the purchaser at the foreclosure sale and recognize such purchaser as the Landlord under this Lease. The purchaser, by virtue of such foreclosure, shall be deemed to have assumed, as substitute Landlord, the terms and conditions of this Lease until the resale or other disposition of its interest. Such assumption, however, shall not be deemed an acknowledgment by the purchaser of the validity of any then existing claims of Tenant against the prior Landlord.

Tenant agrees to execute and deliver such further assurances and other documents, including a new lease upon the same terms and conditions contained herein, confirming the foregoing, as such purchaser may reasonably request. Tenant waives any right of election to terminate this Lease because of any such foreclosure proceedings.

21.2 **Non-Disturbance.** With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "Non-Disturbance Agreement") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this lease, including any options to extend the term hereof, will not be

disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

#### NOTICES

22. Any notice given hereunder shall be given in writing and sent by registered or certified mail, or by overnight courier delivery service to Landlord at **Char-Deb Properties, L.L.C., 19791 Cougar Avenue, Honey Creek, IA 51542** and to Tenant at **Quaff LLC, 11941 Centennial Road Suite I, La Vista, NE 68128** or at such other address as either party may from time to time designate in writing. Each such notice shall be deemed to have been given at the time it shall be personally delivered to such address or three business days after being deposited in the United States mail in the manner prescribed herein.

#### RULES AND REGULATIONS

23. Tenant and Tenant's agents, employees and invitees shall fully comply with all rules and regulations of the Real Estate, as amended from time to time, which are made a part of this Lease.

(a) The Landlord shall have the right to make such other and further reasonable rules and regulations as, in the judgment of the Landlord, may from time to time be needed for the safety, care and cleanliness and general appearance of the Premises and for the preservation of good order therein.

(b) The entrance shall be under the exclusive control of the Landlord and shall not be obstructed, or used by the Tenant for any other purpose than ingress and egress to and from the Premises; and the Landlord shall have the right to control ingress and egress to and from the Building at all times.

(c) The Tenant, shall not place nor permit to be placed any exterior signs, advertisements or notices upon the Building, and shall not place merchandise or show-cases in front of the Building, without the Landlord's written consent, which shall not be unreasonably withheld. This provision does not prohibit Tenant from placing signs within the Premises subject to provisions of this lease pertaining to Tenant's fixtures.

(d) If the Tenant desires telegraphic or telephonic connections, the Landlord will direct the electricians as to where and how the wires are to be introduced, and without such written directions no boring or cutting for wires will be permitted.

(e) The Landlord shall have the right to elude or eject from the Building, animals of every kind, bicycles, or any other wheeled vehicle, and all canvassers and other persons who conduct themselves in such a manner as to be, in the judgment of the Landlord, an annoyance to the tenants or a detriment to the Building.

(f) Upon termination of this lease the Tenant shall surrender all keys of said Premises and of the Building, and shall give to the Landlord the combination of all locks on any vaults and safes.

#### NET LEASE

24. This is a net-net-net Lease and the parties agree and understand that Tenant shall pay Tenant's proportionate share of the real estate taxes, special assessments, insurance and all other Operating Expenses as described in subparagraph 4.b of this Lease.

#### MISCELLANEOUS

25.(a) **Binding on Assigns.** All terms, conditions, and agreements of this Lease shall be binding upon, apply, and inure to the benefit of the parties hereto and their respective heirs, representatives, successors, and assigns.

(b) **Amendment in Writing.** This Lease contains the entire agreement between the parties and may be amended only by subsequent written agreement.



(c) **Waiver - None.** The failure of Landlord or Tenant to insist upon strict performance of any of the terms, conditions and agreements of this Lease shall not be deemed a waiver of any of their rights or remedies hereunder and shall not be deemed a waiver of any subsequent breach or default of any of such terms, conditions, and agreements. The doing of anything by Landlord or Tenant, which Landlord or Tenant is not obligated to do hereunder, shall not impose any future obligation on Landlord or Tenant nor otherwise amend any provisions of this Lease.

(d) **No Surrender.** No surrender of the Premises by Tenant shall be affected by Landlord's acceptance of the keys to the Premises or of the rent due hereunder, or by any other means whatsoever, without Landlord's written acknowledgment that such acceptance constitutes a surrender.

(e) **Captions.** The captions of the various paragraphs in this Lease are for convenience only and do not define, limit, describe, or construe the contents of such paragraphs.

(f) **Brokers.** The brokers involved in this transaction are, **David Maenner, CB Richard Ellis Real Estate Company as Agent for Landlord, and Mike Mellen, Grubb Ellis / Pacific Realty, as Agent for Tenant.** The brokers are entitled to a commission on the initial lease term and a commission at the same rate on any expansion of the area of the Premises during the initial lease term.

(g) **Applicable Law.** This Lease shall be governed by and constructed in accordance with the laws of the State of Nebraska.

#### OTHER PROVISIONS

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#### 26. Landlord Improvements at Landlords cost:

- a) Install a fire rated demising wall;
- b) Install two (2) handicap restrooms at a location convenient for Landlord and complete any remaining flooring pavement;
- c) Install adequate warehouse heat and metal halide high bay or equivalent lighting.

MAR 27 2012

CONTROL COMMISSION

27. **Tenant's Improvements:** Tenant's improvements to the building must first be approved by Landlord in writing prior to any work commencing. Additionally, Tenant agrees to submit to Landlord, also for its written approval, that funds are in place and available in an amount sufficient to pay for all improvements performed. Landlord shall not unreasonably withhold or delay approval. Contractor lien waivers evidencing payment for work performed will be provided by Tenant to Landlord within 30 days of completion of improvements, or Tenant shall be deemed in violation of this Lease.

28. **Water Meter:** Tenant agrees to provide a separate water meter to measure its own water consumption and pay for same.

29. **Signage:** Landlord prefers all signage to go on the sign band directly over the door which is illuminated at night. If Tenant requires signage on the building fascia similar to Emser Tile, said letters must be made out of foam and adhered per Landlord specifications. In any event, all signage must be approved by Landlord prior to installation and approved by the city of LaVista. Tenant shall be allowed to apply its pro rata share of any building sign budget to one or more signs that will Tenant will place on the exterior of the Premises, subject to the approval by the Lessor as provided for in this Lease.

30. **Renewal Option:** Should Tenant be in compliance with all terms and conditions of this Lease, then Tenant shall have one (1) option to renew this lease for three (3) years upon prevailing market rental terms then in effect to be negotiated no later than 180 days prior to the expiration date of this Lease.

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

Char-Deb Properties, L.L.C.

Landlord

Krueger, David  
Witness

Krueger, David  
Witness

By

By

Quaff, LLC

Tenant

Melissa S.  
Witness

Melissa S.  
Witness

Melissa S.  
Witness

By

By

By

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MAR 27 2012

NEBRASKA LIQUOR  
CONTROL COMMISSION

**PERSONAL GUARANTEE**

The undersigned hereby unconditionally guarantee unto the Landlord the payment of the rent and the performance of all of the covenants under the Lease by the Tenant and hereby waive notice of any default under the Lease and agree that this liability shall not be released or affected by an extension of time for payment or by any forbearance by the Landlord.

Dated this \_\_\_\_\_ Day of March 2009

By:

By:

J. ZAC TREMEIER (ss# 472-0273835) [Signature] (ss# 505-6412957)  
Name Name

18801 JONES ST. 9354 DENVER AVE  
ELKHORN NE 68022 Omaha, NE 68114  
City State Zip City State Zip

By:

Jason D. Payne (ss# 430-3970010)  
Name

615 N. 40<sup>th</sup> St.  
Omaha, NE NE 68131  
City State Zip



**Second Modification To Lease  
By and Between  
Char-Deb Properties, L.L.C., as Landlord  
and  
Quaff, LLC, as Tenant**

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MAY 27 2012

NEED FOR  
CONTROL COMMISSION

Landlord and Tenant have entered into a lease agreement dated March 9, 2009 and Modified July 10, 2009 for warehouse space located at 11941 Centennial Road, Suite #1, La Vista, Nebraska 68128

Tenant and Landlord agree to the following modifications to said lease effective May 15, 2010:

1. **Size:** Effective upon the full execution of this Second Modification, Tenant shall have control over the adjacent Bay # 3 comprised of approximately 6,114 square feet. This brings Tenant's total space to 18,374 square feet or 50.0% of the building.
2. **Base Rent:** See chart bellows, which blends the existing Base Rent Schedule with the expansion rent. This is subject to changes in the Operating Expenses as set forth in paragraph 4(a) of the Lease

Time Frame	# Months	Blended Sq. Ft.	Blended Monthly Base Rent	Blended Base \$ / SF
6/1/2010 thru 6/30/2010	1	18,374	\$ 3,861.90	\$ 2.52
7/1/2010 thru 9/30/2011	3	18,374	\$ 4,193.94	\$ 2.74
10/1/2010 thru 2/28/2011	5	18,374	\$ 5,467.69	\$ 3.57
3/1/2011 thru 6/30/2011	4	18,374	\$ 6,741.44	\$ 4.40
7/1/2011 thru 5/31/2012	11	18,374	\$ 6,869.15	\$ 4.49
6/1/2012 thru 5/31/2014	24	18,374	\$ 7,379.99	\$ 4.82
6/1/2014 thru 5/31/2015	12	18,374	\$ 7,507.70	\$ 4.90

3. **Lease Term:** Remains the same expiring May 31, 2015.
4. **Condition of Premises:** Landlord will complete demising walls, install 1 warehouse heater, bay lighting and add 1 men's and 1 women's restroom within the existing concrete "leave out" area.

All other terms and conditions of the lease remain in full force and effect and unchanged.

Agreed and Accepted:

**Char-Deb Properties, L.L.C., as Landlord**

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

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

**Quaff, LLC, as Tenant**

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

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

27 2012

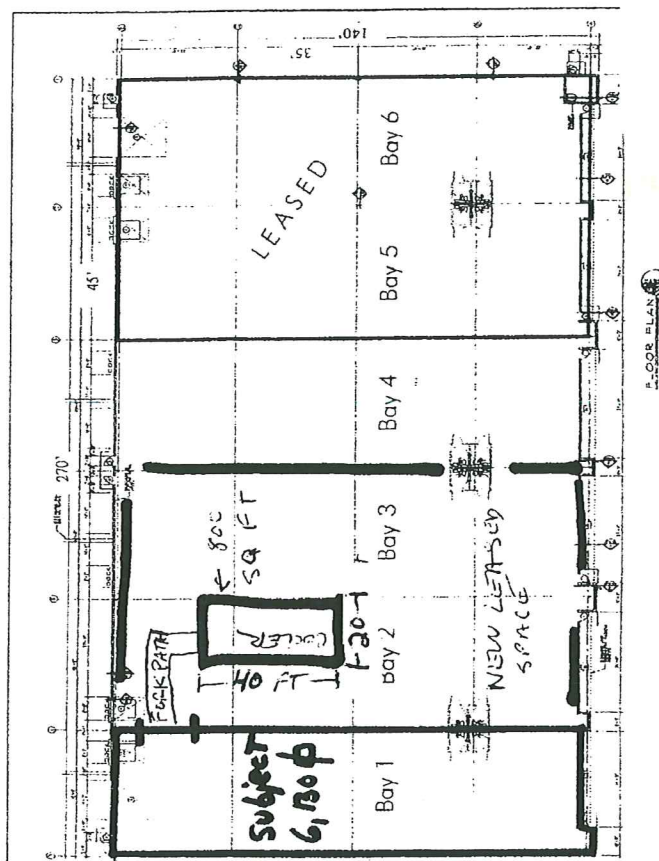
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ON

LAVISTA, NEBRASKA

FLOOR PLAN:

# 100 A CENTURY OF SERVICE



18,374  
TOTAL  
SQ FT

PL63325

202006, 08/24/2016 11:14 AM. We assigned the *disposition* above from sources or materials to be made. However, we have not verified its accuracy and it is not a guarantee, warranty, representation or that it is a correct subject to be possible, of events, facts, or changes of position or other conditions, or the value, level or frequency of an individual without notice. We make no predictions, opinions, assumptions or estimates for example, and they may not represent current or future performance of the property. You and your bar and legal advisors should consider each item with regard to the property or its structure.

**CBRE**  
CB RICHARD ELLIS

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
CONDITIONAL USE PERMIT — AUTOMOTIVE REPAIR SERVICES Tax Lot 18, Section 17-14-12 HARRY ANDERSON AVE & HARRISON	◆ RESOLUTION ORDINANCE RECEIVE/FILE	ANN BIRCH COMMUNITY DEVELOPMENT DIRECTOR

**SYNOPSIS**

A public hearing has been scheduled for Council to consider an application to allow a Conditional Use Permit for Tax Lot 18, Section 17-14-12, for Automotive Repair Services, generally located northwest of Harry Anderson Avenue and Harrison Street.

**FISCAL IMPACT**

N/A.

**RECOMMENDATION**

Approval.

**BACKGROUND**

A public hearing has been scheduled to consider an application submitted by Dearborn Land Development, LLC, on behalf of the property owner, Harrison I-80, LLC, to approve a conditional use permit amendment to allow for a Progressive Auto Claims Center on Tax Lot 18, Section 17-14-12, generally located northwest of Harry Anderson Avenue and Harrison Street. The property is zoned I-1 Light Industrial. The Conditional Use Permit would allow for Automotive Repair Services, specifically an automotive claims center within a 16,591 sq. ft. building.

A detailed staff report is attached.

The Planning Commission held a public hearing on March 15, 2012 and unanimously recommended approval of the conditional use permit subject to resolution of items as noted in the staff report prior to City Council.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE EXECUTION OF A CONDITIONAL USE PERMIT FOR AUTOMOTIVE REPAIR SERVICES ON TAX LOT 18, SECTION 17-14-12, SARPY COUNTY, NEBRASKA.

WHEREAS, Dearborn Land Development, LLC, has applied on behalf of the property owner, Harrison I-80, LLC, for a conditional use permit for automotive repair services on Tax Lot 18, Section 17-14-12, Sarpy County, Nebraska; and

WHEREAS, the La Vista Planning Commission has reviewed the application and recommends approval; and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit for such purposes, subject to the following conditions:

1. Successful resolution of the following final design review issues:
  - a. Approval of the updated landscape plan.
  - b. Provision of acceptable brick samples.
  - c. The back entry feature is called to be painted. A continuation of the prefinished metal is recommended for longevity.
  - d. Building-mounted light fixture cuts need to be reviewed and approved.
2. Completion of a Wastewater Service Agreement modification with the City of Omaha that includes Tax Lots 17 and 18.

NOW THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista hereby authorize the execution of a Conditional Use Permit in form and content submitted at this meeting, for Dearborn Land Development, LLC, for automotive repair services on Tax Lot 18, Section 17-14-12, Sarpy County, Nebraska, subject to the conditions listed in the last recital above.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

ATTEST:

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

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



**CITY OF LA VISTA  
PLANNING DIVISION**

**RECOMMENDATION REPORT**

CASE NUMBER: 01-CUP-2012

FOR HEARING OF: May 1, 2012  
Report Prepared on: April 24, 2012

**I. GENERAL INFORMATION**

**A. APPLICANT:**

Dearborn Land Development, LLC  
14600 Detroit Avenue, Suite 1500  
Lakewood, OH 44107

**B. PROPERTY OWNER:**

Harrison I-80, LLC  
10855 West Dodge Road, Suite 270  
Omaha, NE 68154

**C. LOCATION:** Northwest of Harry Anderson Avenue and Harrison Street

**D. LEGAL DESCRIPTION:** Tax Lot 18, Section 17-14-12, Sarpy County, Nebraska

**E. REQUESTED ACTION(S):** Development of an Automotive Repair Services facility as conditionally permitted within the I-1 Zoning District in the City of La Vista Zoning Ordinance.

**F. EXISTING ZONING AND LAND USE:** I-1, Light Industrial, and Gateway Corridor District (Overlay District); vacant.

**G. PURPOSE OF REQUEST:** The Conditional Use Permit would allow for Automotive Repair Services, specifically an automotive claims center within a 16,591 sq ft building.

**H. SIZE OF SITE:** 2.96 Acres

**II. BACKGROUND INFORMATION**

**A. EXISTING CONDITION OF SITE:** Tax Lot 18, Section 17-14-12 is a relatively flat property, however it sits below the street frontages which are on three sides.

**B. GENERAL NEIGHBORHOOD/AREA LAND USES AND ZONING:**

- 1. North:** I-1 Light Industrial, Vacant
- 2. East:** I-1 Light Industrial, Vacant
- 3. South:** C-3 – Highway Commercial / Office Park, Vacant

4. **West:** C-3 – Highway Commercial / Office Park, Performance Auto

**C. RELEVANT CASE HISTORY:** None.

**D. APPLICABLE REGULATIONS:**

1. Section 5.10 of the Zoning Regulations – I-1 Light Industrial
2. Article 6.0 of the Zoning Regulations – Conditional Use Permits
3. Article 5.17 of the Zoning Regulations – Gateway Corridor District

**III. ANALYSIS**

**A. COMPREHENSIVE PLAN:** The Future Land Use Map of the Comprehensive Plan designates the area for industrial land uses.

**B. OTHER PLANS:** Not applicable.

**C. TRAFFIC AND ACCESS:**

1. The proposed driveway onto Harry Anderson Avenue is properly aligned with 118<sup>th</sup> Street.
2. The peak hour traffic associated with this facility does not warrant a traffic impact study.
3. The CUP site plan notes that the striping on Harry Anderson Avenue will be revised to indicate a left-turn bay into the proposed entrance.

**D. UTILITIES:**

1. The applicant will install a private sanitary sewer service bored into the existing sanitary manhole at the northerly side of Harry Anderson and 118<sup>th</sup> Street intersection.
2. The property presently has access to water, gas, power and communication utilities.
3. The City will be pursuing a Wastewater Service Agreement modification with the City of Omaha to include Tax Lots 17 and 18.

**IV. REVIEW COMMENTS:**

1. In respect to this specific use as an automotive claims center, the following condition was added to the standard conditions of the Conditional Use Permit:
  - h. All vehicles on the site for claim review will remain in either the designated fenced-in waiting area or within the building. No vehicles on the site for

claim review shall remain for more than one (1) week.

2. The building design approval process is in its final stages, the following issues have yet to be resolved:
  1. Approval of the updated landscape plan.
  2. Provision of acceptable brick samples.
  3. The back entry feature is called to be painted. A continuation of the prefinished metal is recommended for longevity.
  4. Building-mounted light fixture cuts need to be reviewed and approved.

**V. PLANNING COMMISSION RECOMMENDATION:**

Approval of a Conditional Use Permit for Tax Lot 18, Section 17-14-12, subject to:

1. Completion of final design review prior to presentation to City Council for approval.
2. Approved of a sewer connection agreement between the applicant and the City. (Issue resolved without need for agreement.)
3. Completion of a Wastewater Service Agreement modification with the City of Omaha that includes Tax Lots 17 and 18.

**VI. STAFF RECOMMENDATION:**

Approval of a Conditional Use Permit for Tax Lot 18, Section 17-14-12, as it is in conformance with the Comprehensive Plan and Article 6 – Conditional Use Permits of the Zoning Ordinance, subject to:

1. Successful resolution of the following final design review issues:
  - a. Approval of the updated landscape plan.
  - b. Provision of acceptable brick samples.
  - c. The back entry feature is called to be painted. A continuation of the prefinished metal is recommended for longevity.
  - d. Building-mounted light fixture cuts need to be reviewed and approved.
2. Completion of a Wastewater Service Agreement modification with the City of Omaha that includes Tax Lots 17 and 18.

**VII. ATTACHMENTS TO REPORT:**

1. Vicinity Map
2. Conditional Use Permit
3. Site Plan Exhibits
4. Draft Design Review Exhibits

**VIII. COPIES OF REPORT SENT TO:**

1. Douglas Dreessen, P.E. – Thompson, Dreessen, and Dorner, Inc.
2. John, Wojtila – Dearborn Land Investment, LLC
3. Public Upon Request

Prepared by:

Community Development Director

Date





## Vicinity Map

# Progressive Claims Center Conditional Use Permit

March 9, 2012  
CAS





# **City of La Vista**

## **Conditional Use Permit**

### **Conditional Use Permit for a Automotive Repair Service**

This Conditional Use Permit issued this 1<sup>st</sup> day of May, 2012, by the City of La Vista, a municipal corporation in the County of Sarpy County, Nebraska ("City") to, Dearborn Land Development, LLC ("Owner"), pursuant to the La Vista Zoning Ordinance.

WHEREAS, Owner wishes to construct and operate an Automotive Repair Service upon the following described tract of land within the City of La Vista zoning jurisdiction:

Tax Lot 18 17-14-12, in Sarpy County, Nebraska.

WHEREAS, Owner has applied for a conditional use permit for the purpose of locating and operating an Automotive Repair Service (Progressive Claims Center); and

WHEREAS, the Mayor and City Council of the City of La Vista are agreeable to the issuance of a conditional use permit to the owner for such purposes, subject to certain conditions and agreements as hereinafter provided.

NOW, THEREFORE, BE IT KNOWN THAT subject to the conditions hereof, this conditional use permit is issued to the owner to use the area designated on Exhibit "A" hereto for an Automotive Repair Service, said use hereinafter being referred to as "Permitted Use or Use".

#### **Conditions of Permit**

The conditions to which the granting of this permit is subject are:

1. The rights granted by this permit are transferable and any variation or breach of any terms hereof shall cause permit to expire and terminate without the prior written consent of the City (amendment to permit) or unless exempted herein.
2. In respect to the proposed Use:
  - a. A site plan showing the property boundaries of the tract of land and easements, proposed structures and orientation, parking, access points, and drives is approved by the City and attached to the permit as "Exhibit A". Access will be from Harry Anderson Avenue.
  - b. Normal hours of operation for said Automotive Repair Service will be from 8 a.m. to 6 p.m. Monday through Friday and 8 a.m to 3 p.m. on Saturday.
  - c. There will be up to 57 employees on site per day when the claims office is fully operating.
  - d. The site will be comprised of a 16,591 square foot building, required parking and landscaping.
  - e. Deliveries must correspond with normal business hours of operation.
  - f. The premises shall be developed and maintained in accordance with the site plan (Exhibit A) and elevations (Exhibit B) as approved by the City and incorporated herein by this reference. Any modifications must be submitted to the Chief Building Official for approval.
  - g. There shall be no storage, placement or display of goods, supplies or any other material, substance, container, or receptacle outside of the facility, except trash receptacles and those approved in writing by the City. All dumpsters and trash bins shall maintain a solid 6-foot enclosure around each unit constructed of materials complimentary to the main building.
  - h. All vehicles on the site for claim review will remain in either the designated fenced in waiting area

or within the structure. No vehicles on the site for claim review shall remain for more than one (1) week.

- i. All permanent and temporary signs shall comply with the City's sign regulations.
  - j. Owner shall abide by all aspects of City of La Vista Zoning Ordinance Section 7.16 – *Performance Standards for Industrial Uses*.
  - k. Owner shall obtain all required permits from the City of La Vista and shall comply with any additional requirements as determined by the Chief Building Official, including, but not limited to, building, fire, and ADA.
  - l. The owner shall make annual inspections of the premises and structures, and the operation thereof for any hazard or risk, including, but not limited to, those of an environmental or safety nature. The owner shall take immediate action to protect persons, property and the environment from any damage, injury or loss, or risk thereof, arising out of or resulting from any hazard or risk on the premises and to abate any hazard or risk and remove it from the premises in accordance with any applicable laws, rules or regulations, as amended or in effect from time to time.
  - m. Owner shall comply (and shall ensure that all employees, invitees, suppliers, structures, appurtenances and improvements, and all activities occurring or conducted, on the premises at any time comply) with any applicable federal, state and/or local regulations, as amended or in effect from time to time, including, but not limited to, applicable environmental or safety laws, rules or regulations.
  - n. Owner hereby indemnifies the City against, and holds the City harmless from, any liability, loss, claim or expense whatsoever (including, but not limited to, reasonable attorney fees and court cost) arising out of or resulting from the acts, omissions or negligence of the owner, his agents, employees, assigns, suppliers or invitees, including, but not limited to, any liability, loss, claim or expense arising out of or resulting from any violation on the premises of any environmental or safety law, rule or regulation.
3. The applicant's right to maintain the use as approved pursuant to these provisions shall be based on the following:
- a. An annual inspection to determine compliance with the conditions of approval. The conditional use permit may be revoked upon a finding by the City that there is a violation of the terms of approval.
  - b. The use authorized by the conditional use permit must be initiated within one (1) year of approval and shall become void two (2) years after the date of approval unless the applicant has fully complied with the terms of approval.
  - c. All obsolete or unused structures, accessory facilities or materials with an environmental or safety hazard shall be abated and/or removed at owner's expense within twelve (12) months of cessation of the conditional use.
4. Notwithstanding any other provision herein to the contrary, this permit, and all rights granted hereby, shall expire and terminate as to a permitted use hereunder upon the first of the following to occur:
- a. Owner's abandonment of the permitted use. Non-use thereof for a period of twelve (12) months shall constitute a presumption of abandonment.
  - b. Cancellation, revocation, denial or failure to maintain any federal, state or local permit required for the Use.
  - c. Owner's construction or placement of a storage tank, structure or other improvement on the premises not specified in this permit.
  - d. Owner's breach of any other terms hereof and his failure to correct such breach within ten (10) days of City's giving notice thereof.



5. In the event of the owner's failure to promptly remove any safety or environmental hazard from the premises, or the expiration or termination of this permit and the owner's failure to promptly remove any permitted materials or any remaining environmental or safety hazard, the City may, at its option (but without any obligation to the owner or any third party to exercise said option) cause the same to be removed at owner's cost (including, but not limited to, the cost of any excavation and earthwork that is necessary or advisable) and the owner shall reimburse the City the costs incurred to remove the same. Owner hereby irrevocably grants the City, its agents and employees the right to enter the premises and to take whatever action as is necessary or appropriate to remove the structures or any environmental or safety hazards in accordance with the terms of this permit, and the right of the City to enter the premises as necessary or appropriate to carry out any other provision of this permit.
6. If any provision, or any portion thereof, contained in this agreement is held to be unconstitutional, invalid, or unenforceable, the remaining provisions hereof, or portions thereof, shall be deemed severable, shall not be affected, and shall remain in full force and effect.

### **Miscellaneous**

The conditions and terms of this permit shall be binding upon owner, his successors and assigns.

1. Delay of City to terminate this permit on account of breach of owner of any of the terms hereof shall not constitute a waiver of City's right to terminate, unless it shall have expressly waived said breach and a waiver of the right to terminate upon any breach shall not constitute a waiver of the right to terminate upon a subsequent breach of the terms hereof, whether said breach be of the same or different nature.
2. Nothing herein shall be construed to be a waiver or suspension of, or an agreement on the part of the City to waive or suspend, any zoning law or regulation applicable to the premises except to the extent and for the duration specifically authorized by this permit.
3. Any notice to be given by City hereunder shall be in writing and shall be sufficiently given if sent by regular mail, postage prepaid, addressed to the owner as follows:

**Contact Name and Address:** Progressive Casualty Insurance Company  
5920 Landerbrook Drive, Bldg. 3, OH-L23  
Mayfield Heights, OH 44127

**Effective Date:**

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

THE CITY OF LA VISTA

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

Attest:

\_\_\_\_\_  
Pam Buethe  
City Clerk

**CONSENT AND AGREEMENT**

The undersigned does hereby consent and agree to the conditions of this permit and that the terms hereof constitute an agreement on the part of the undersigned to fully and timely perform each and every condition and term hereof, and the undersigned does hereby warrant, covenant and agree to fully and timely perform and discharge all obligations and liabilities herein required by owner to be performed or discharged.

Owner:

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

Title: \_\_\_\_\_

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





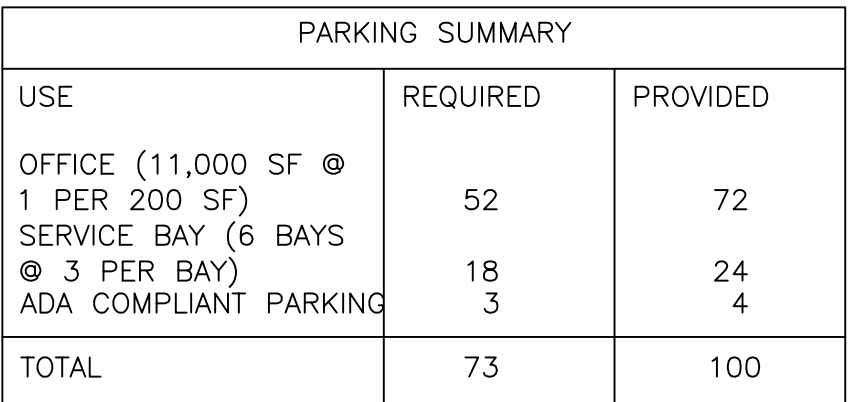
PROGRESSIVE  
REGIONAL  
CLAIMS OFFICE

DEARBORN LAND  
INVESTMENT, LLC

[illegible]

# CONDITIONAL USE PERMIT SITE PLAN

# C1.0



ZONING REQUIREMENTS (CONDITIONAL USE)		
LOT REQUIREMENT	REQUIRED	PROVIDED
LOT AREA	10,000 SF	129,137 SF
FRONT YARD (HARRY ANDERSON AVENUE)	60 FT	64.62 FT
FRONT YARD (HARRISON STREET)	35 FT	40.23 FT
SIDE YARD	30 FT	N/A
REAR YARD	25 FT	170.51 FT
MAX. HEIGHT	45 FT	27.67 FT
MAX. LOT COVERAGE	65%	60%



PROGRESSIVE  
REGIONAL  
CLAIMS OFFICE

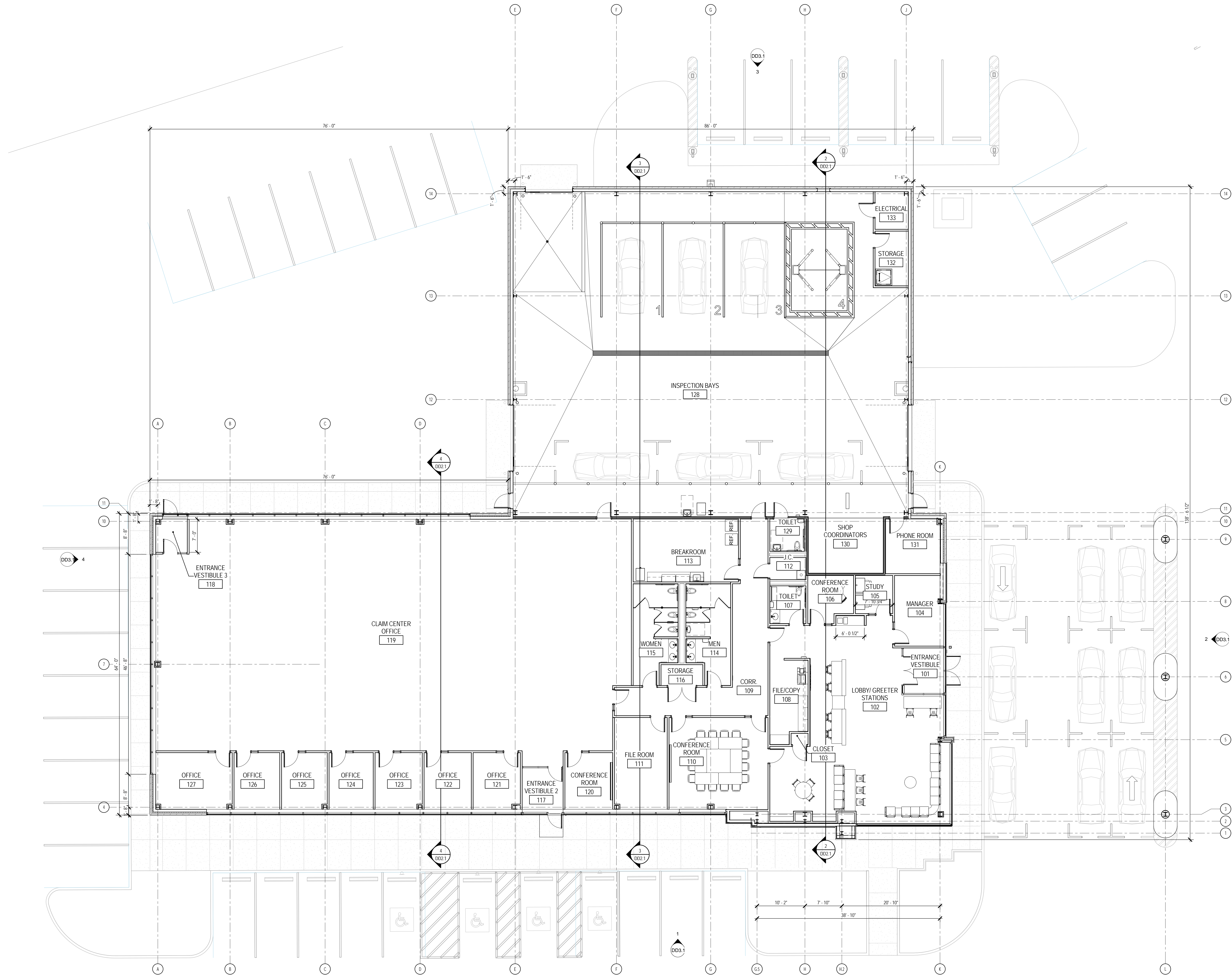
DEARBORN LAND  
INVESTMENT, LLC

# C4.0

**DAVID FJARE, PLA**  
611 DAMON STREET  
COUNCIL BLUFFS, IOWA 51503  
402.699.9429 712.328.9518  
DFJARE@COX.NET



4/20/2023 11:26:56 AM  
C:\Users\jason\OneDrive\Documents\Progressive CC - LA Vista NE.dwg  
jason



1 FIRST FLOOR PLAN  
DD1.1 SCALE: 1/8" = 1'-0"

**RICHARD L. BOWEN  
+ ASSOCIATES INC.**  
1100 QUARTER BUILDING, CLEVELAND, OHIO 44115  
PHONE: (216) 593-1100  
FAX: (216) 593-1101  
WWW.RLBOWEN.COM

**ARCHITECTS • ENGINEERS • SURVEYORS**

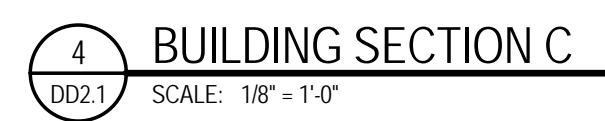
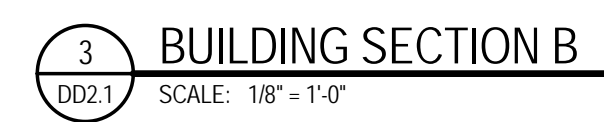
SEAL:

Author	Checker
DRAWN BY:	CHECKED BY:

REVISIONS	
REV #	DATE
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2	04.20.2023
3	
4	
5	
6	
7	
8	
9	
10	
11	
12	
13	
14	

SCALE: AS NOTED  
DISCIPLINE: **ARCHITECTURAL**  
SHEET TITLE: **FLOOR PLAN**

**PROGRESSIVE**  
PROGRESSIVE PROJECT NUMBER: PRO00083  
PROGRESSIVE REGIONAL CLAIMS OFFICE  
HARRY ANDERSON LANE & HARRISON ST  
LA VISTA, NE



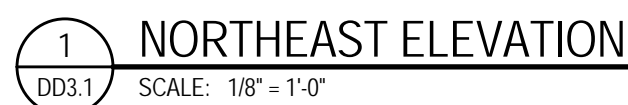
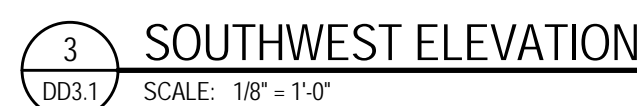




GREY BLEND - TO




DARK IRONSPOT - BOTTOM



**RICHARD L. BOWEN  
+ ASSOCIATES INC.**

11000 SHAMER BOULEVARD, CLEVELAND, OHIO 44120  
PHONE: (216) 491-9000 FAX: (216) 491-8863  
[www.rlbai.com](http://www.rlbai.com)



SEAL:

Author

---

Y

RAWN P

REVISIONS			
REV #	DATE	DESCRIPTION	CHECKED BY
00000010		DSSCA MP PERSONAL PAGE 6AGE	
00000011		0028103 DSSCA MP PERSONAL PAGE 6AGE	

SCALE: AS NOTED

SCALE: AS NOTED

DISCIPLINE: ARCHITECTURAL

SHEET TITLE:  
EXTERIOR  
ELEVATIONS

**PROGRESSIVE®**

PROGRESSIVE PROJECT NUMBER: PRE001853

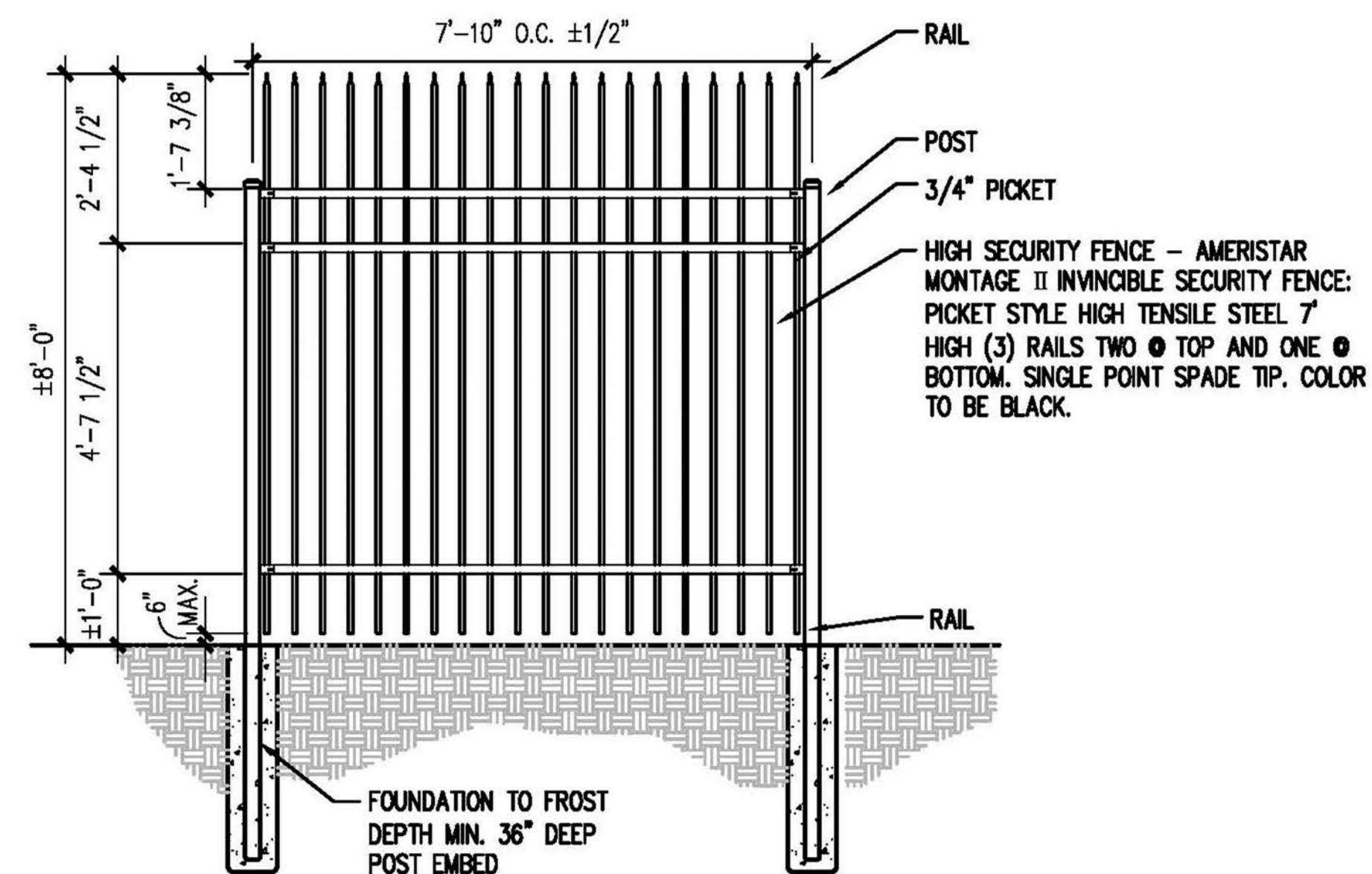
PROGRESSIVE REGIONAL CLAIMS OFFICE

RLB NO.: 7697.08

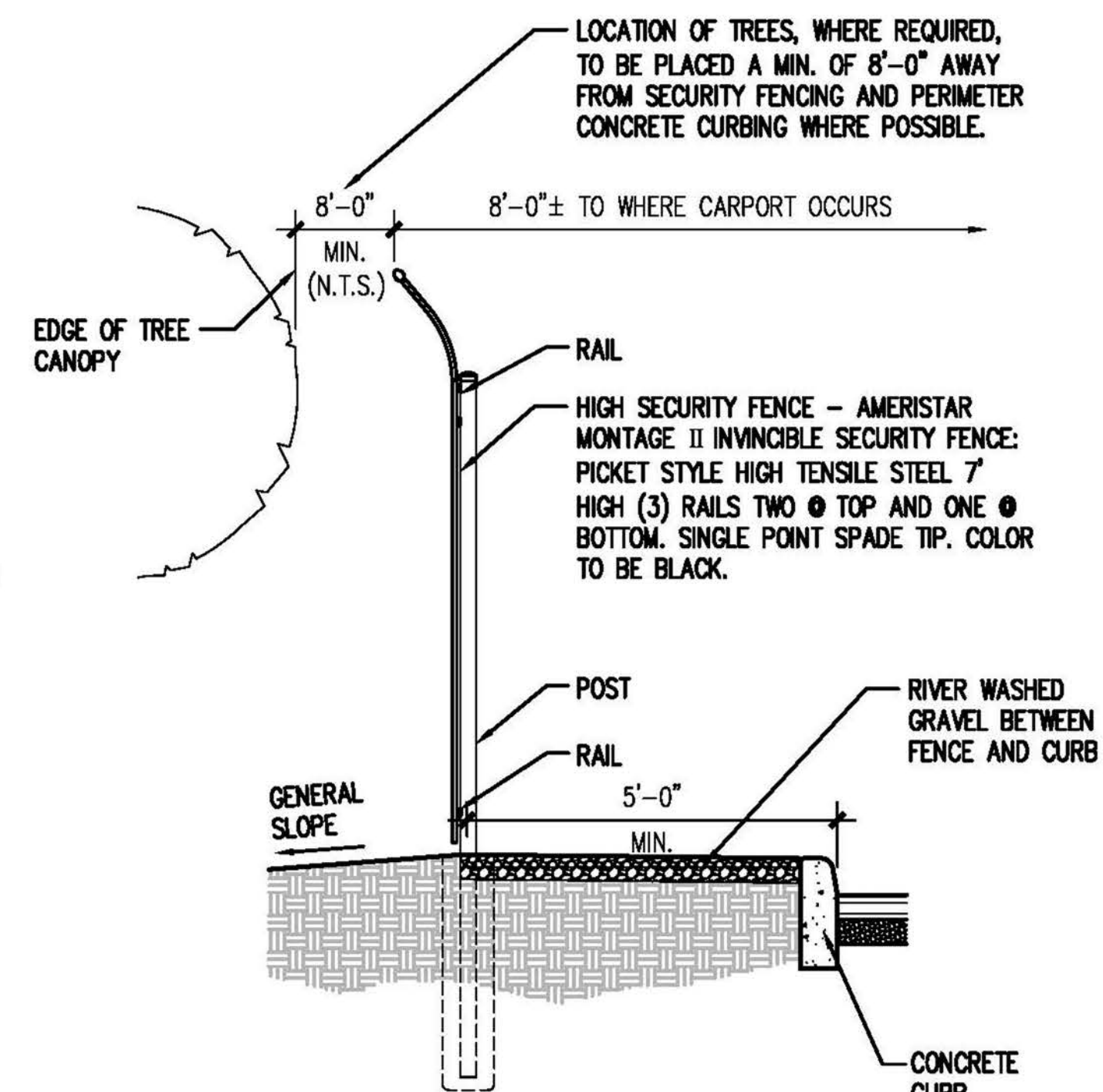
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DD3.1





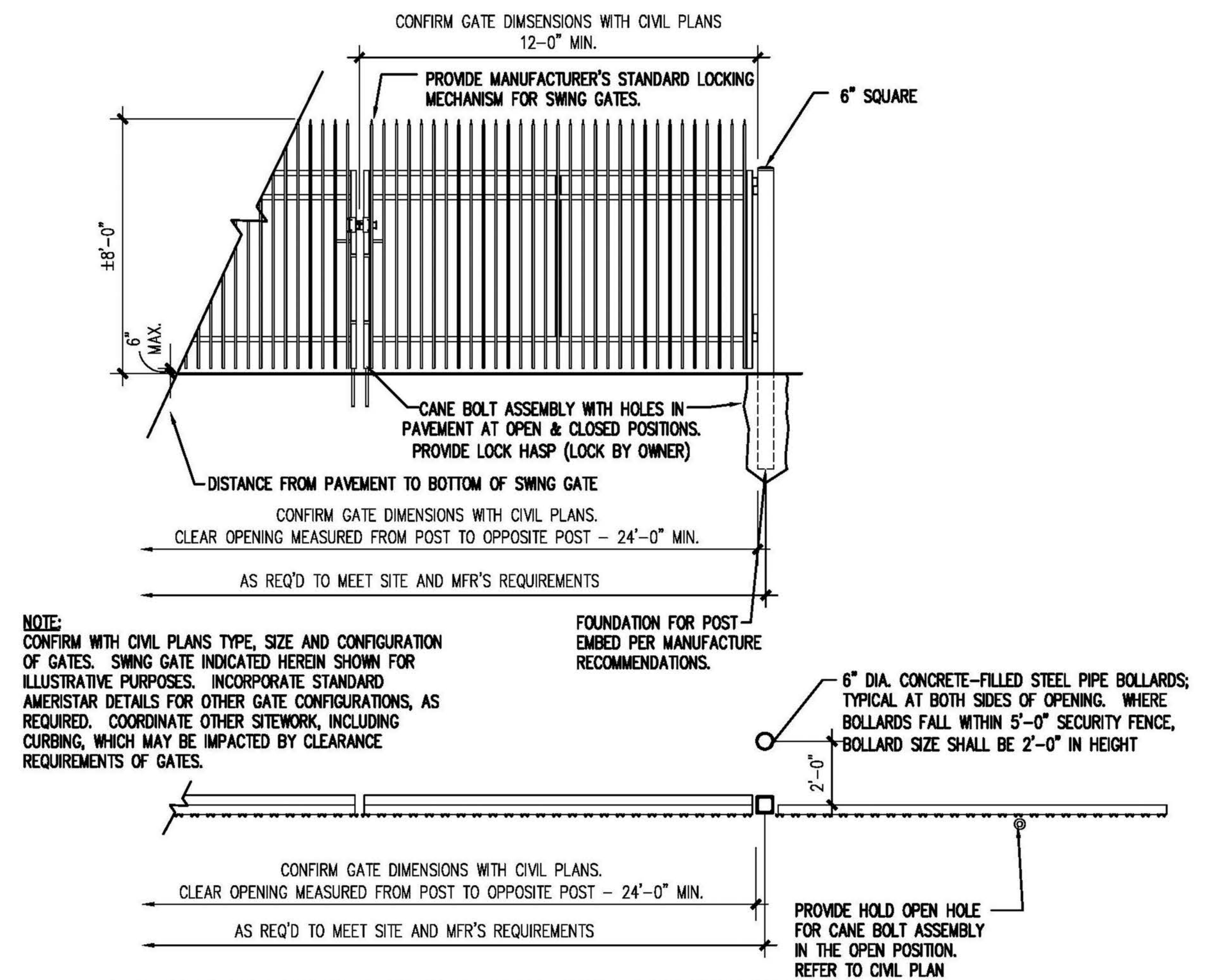
6A SECURITY FENCE ELEVATION  
AS1.1 N.T.S.



**7A SECURITY FENCE SECTION**

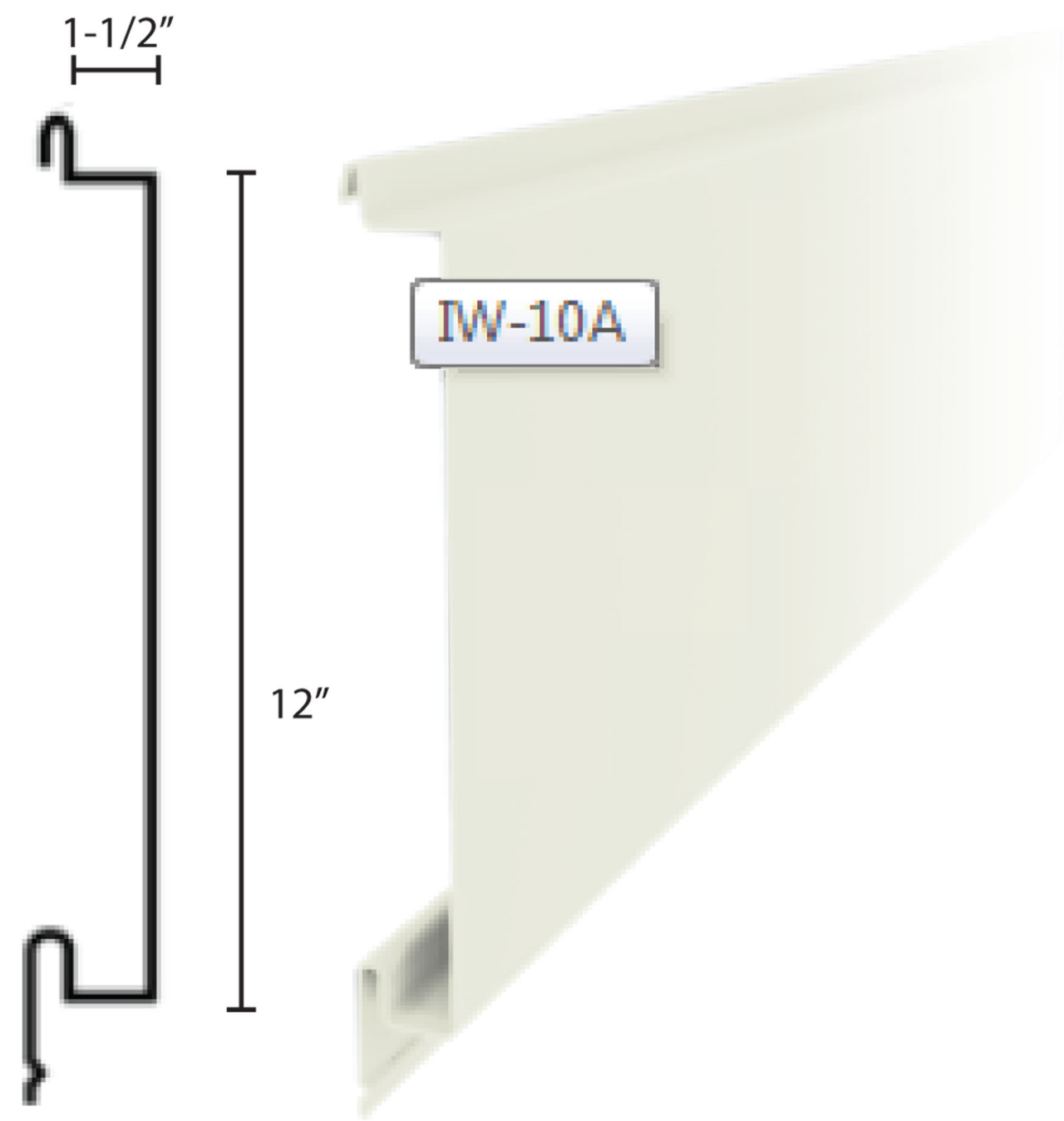
AS1.1 N.T.S.

0 6" 1' 2'

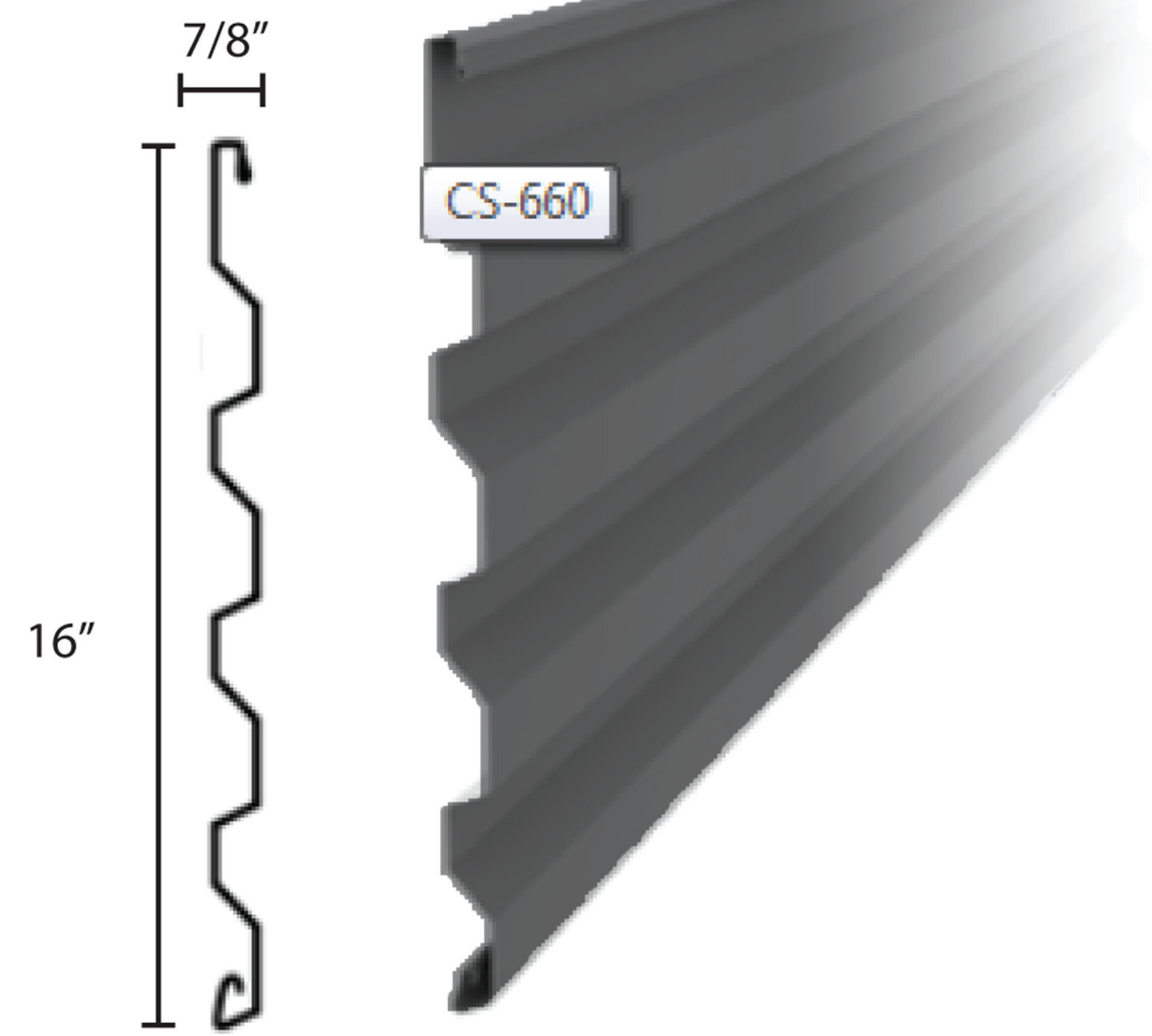


12A SECURITY FENCE - SWING GATE FOR SECURED PARKING  
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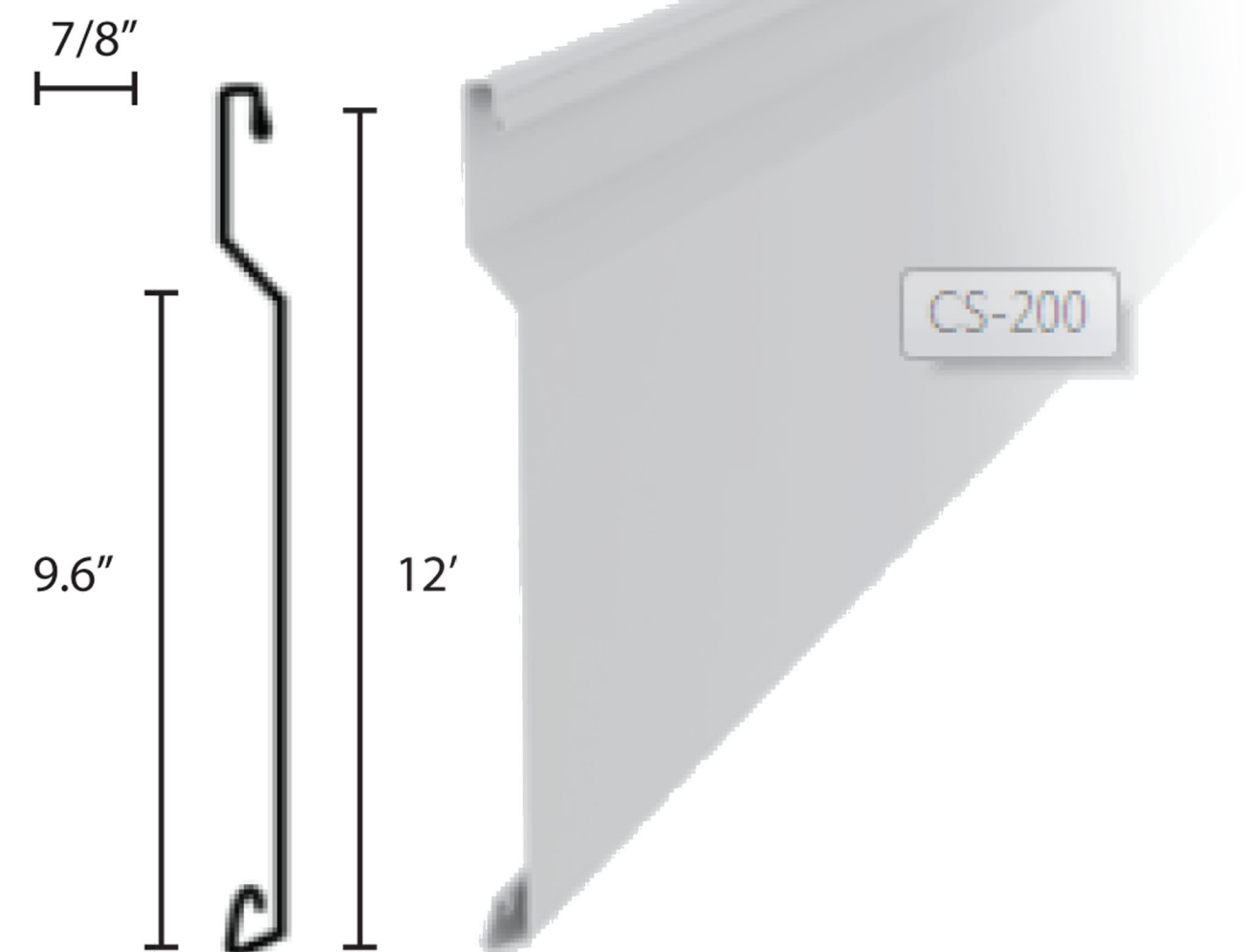




METAL SOFFIT



MP -1



MP -2



MP - 4



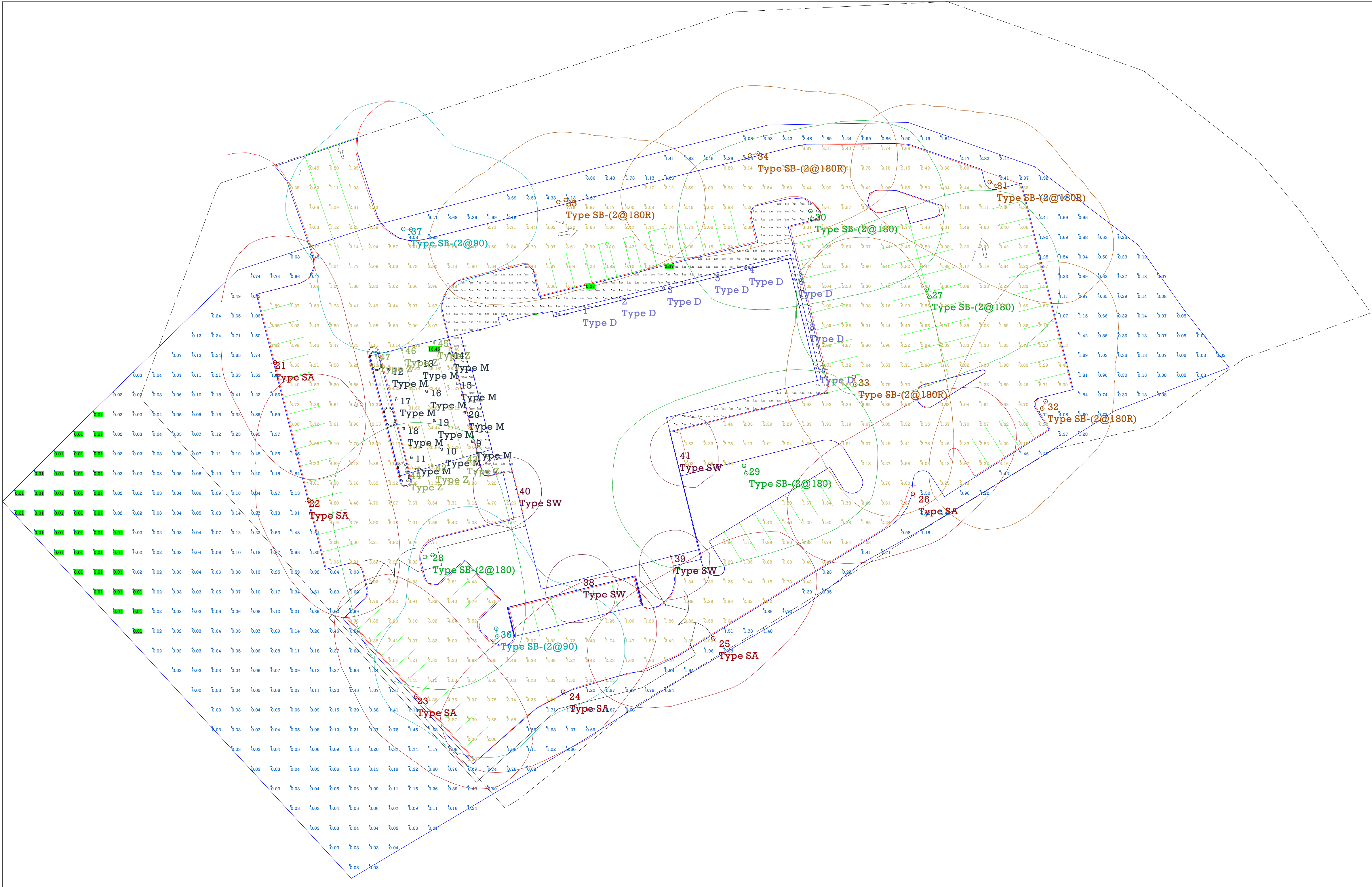
BR-1



BR-2

EXTERIOR MATERIALS & FINISH SCHEDULE				
ID#	DESCRIPTION	MANUFACTURER	MODEL/COLOR	REMARKS
BR-1	UTILITY BRICK 4" x 12"	ENDICOTT TILE LLC.	DARK IRONSPOT	PROVIDE SAMPLE FOR APPROVAL
BR-2	UTILITY BRICK 4" x 12"	ENDICOTT TILE LLC.	GREY BLEND	PROVIDE SAMPLE FOR APPROVAL
MP -1	PREFINISHED METAL WALL PANEL	CENTRIA-CS 660	SUNDANCE 9947 GREY VELVET	FEATURE
MP-2	PREFINISHED METAL WALL PANEL	CENTRIA-CS 200	9917 LIGHT GREY	-
MP-4	PREFINISHED METAL WALL PANEL		FORMABOND II 993 OFF-WHITE	METAL CORE PANEL CANOPY
PT-10	PAINT COLOR	SHERWIN WILLIAMS	SW7067 CITYSCAPE	COLOR MATCHES BR-1
CW-1	ALUMINUM CURTAINWALL SYSTEM	KAWNEER OR APPROVED EQUAL	SYSTEM-1 CLEAR ANODIZED	VERTICAL BUTT GLAZE SYSTEM
SF-1	ALUMINUM STOREFRONT SYSTEM	KAWNEER OR APPROVED EQUAL	T-451 CLEAR ANODIZED	
	METAL SOFFIT	CENTRIA - IW - 10A	993 OFF-WHITE	METAL SOFFIT UNDER CANOPY





Calculation Summary							
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
Canopy Area	Illuminance	Fc	27.57	34.44	16.45	1.68	2.09
Parking and Pavement_Top	Illuminance	Fc	3.65	13.27	0.37	9.86	35.86
Property	Illuminance	Fc	0.64	5.11	0.01	64.00	511.00
Sidewalk	Illuminance	Fc	5.10	28.81	0.24	21.25	120.04
Security Parking	Illuminance	Fc	3.25	7.5	0.5	6.50	15.00
Standard Parking	Illuminance	Fc	3.28	9.8	0.4	8.20	24.50

Luminaire Schedule-LED						
Symbol	Qty	Label	Arrangement	Lum. Lumens	Arr. Watts	LLF
	8	Type D	SINGLE	1075	17.5	0.950
	12	Type M	SINGLE	9224	95	0.950
	6	Type SA	SINGLE	9672	102.5	0.950
	4	Type SB-(2@180)	BACK-BACK	9672	205	0.950
	5	Type SB-(2@180R)	ROTATED OPTICS	9672	205	0.950
	2	Type SB-(2@90)	180 - ROTATED OPTI	9672	205	0.950
	4	Type SW	SINGLE	947	19.8	0.950
	6	Type Z	SINGLE	5254	93.1	0.950

Luminaire Schedule	Description
Type D	Portfolio Recessed Medium Downlight, 1500 Lumens, 10-100% Dimming, 6 Inch Module for Medium Beam Reflector, 80CRI - 3500 CCT, Medium Reflector, Polymer Trim Ring, Specular Clear Finish, 18 Ft Mounting
Type M	McGraw-Edison Concise LED Canopy Fixture, (4) 21 LED LightBARs, 120-277 Volt Electronic Ballast, Type V Square Optics, 14 Ft Mounting Height
Type SA	ANP Lighting 24 Inch Straight Shade Fixture, Clear Lens, 90 Watt 350mA - 120-277 Volt LED Driver, 5000K CCT, Type III Optics, Bronze Color, PA322-1-51 Arm, 5R20E Pole, 20 Ft Mounting Height
Type SB-(2@180)	ANP Lighting 24 Inch Straight Shade Fixture, Clear Lens, 90 Watt 350mA - 120-277 Volt LED Driver, 5000K CCT, Type III Optics, Bronze Color, PA322-2-51 Arm, 5R20E Pole, 20 Ft Mounting Height
Type SB-(2@180R)	ANP Lighting 24 Inch Straight Shade Fixture, Clear Lens, 90 Watt 350mA - 120-277 Volt LED Driver, 5000K CCT, Type III Optics Rotated, Bronze Color, PA322-2-51 Arm, 5R20E Pole, 20 Ft Mounting Height
Type SB-(2@90)	ANP Lighting 24 Inch Straight Shade Fixture, Clear Lens, 90 Watt 350mA - 120-277 Volt LED Driver, 5000K CCT, Type III Optics rotated, Bronze Color, PA322 Arm, 5R20E Pole, 20 Ft Mounting Height
Type SW	Lumark Crosstour LED Wall Mount, Small Door, 20 Watt LED, 5000K CCT, 15 Ft Mounting Height
Type Z	Invue Vision Small Flood, Knuckle Mount, 40 Watt LEDs @ 700 mA, 120-277 Volt Electronic Ballast, Medium Symmetric Rectangular Optics, 14 Ft Mounting Height



Type D



TYPE Z



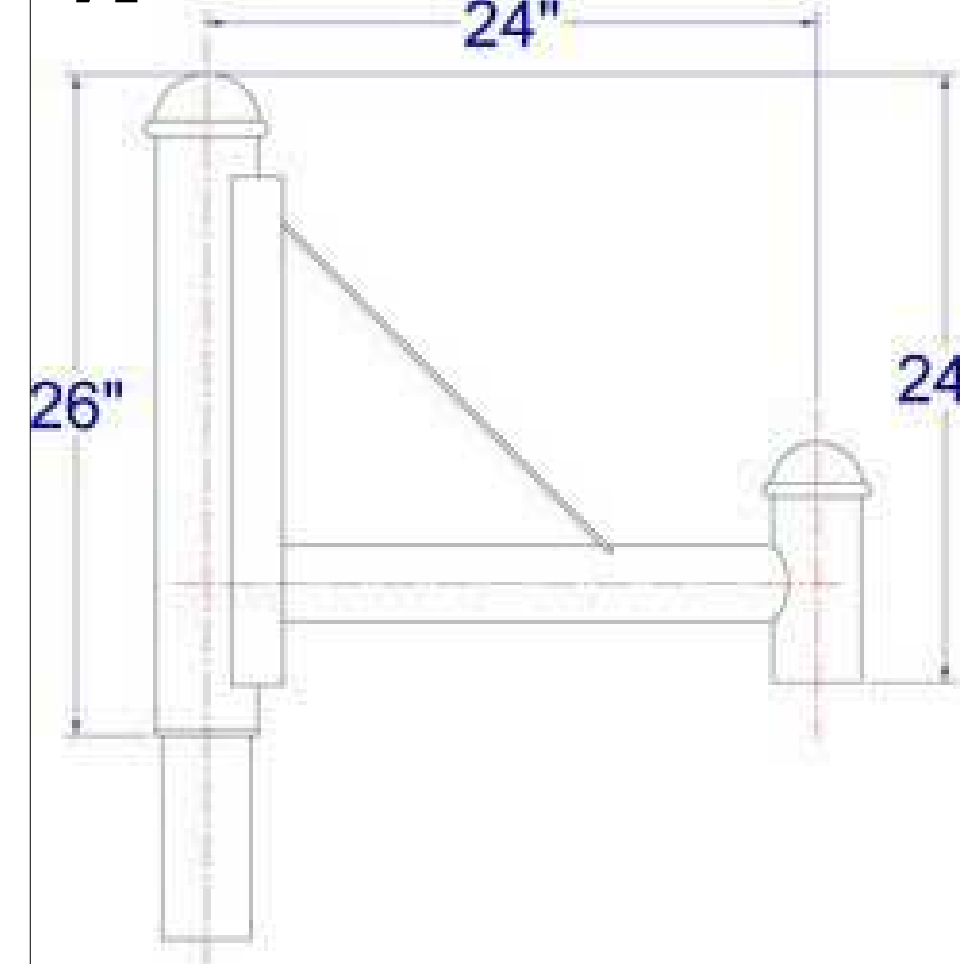
TYPE SW



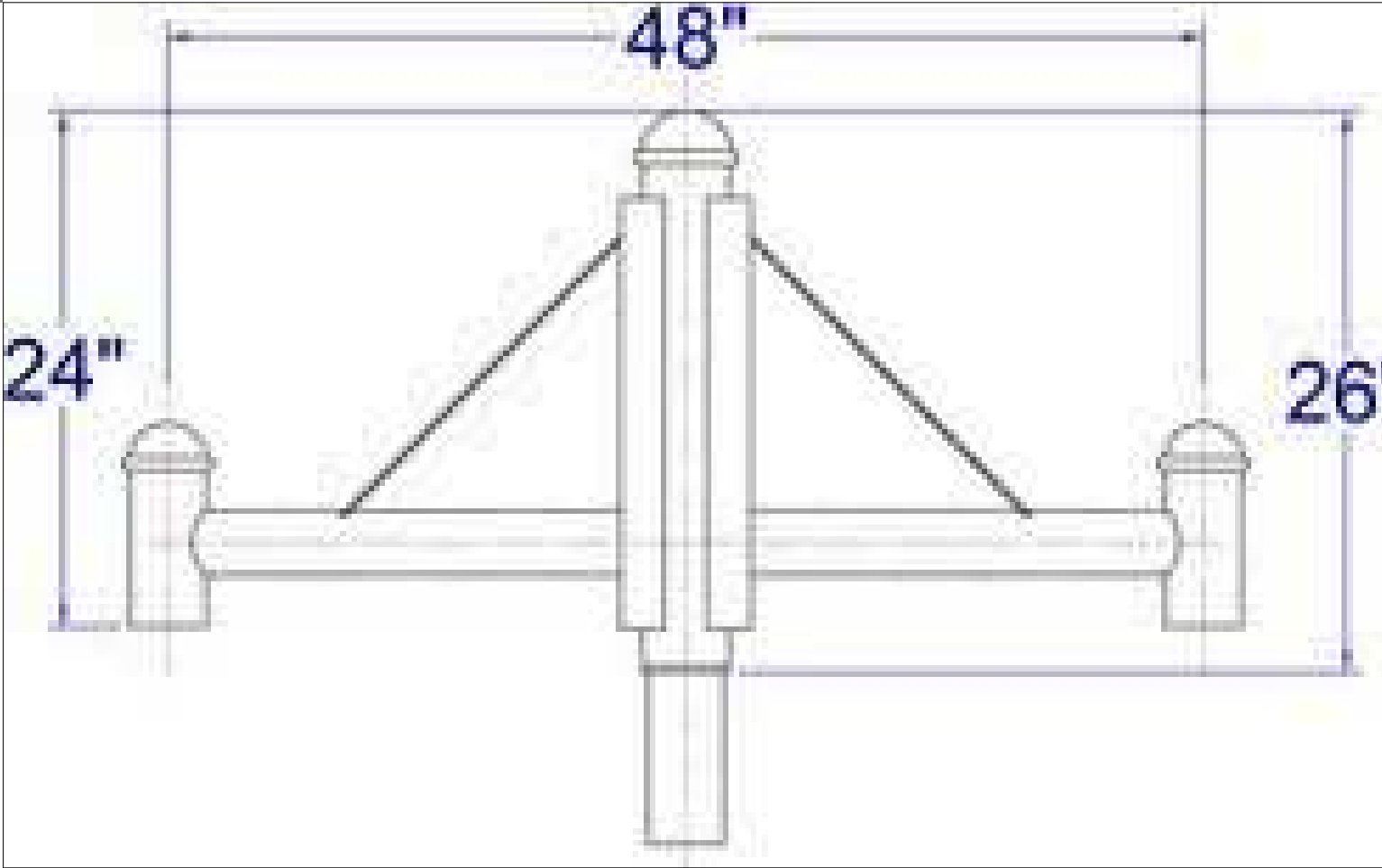
TYPE M



Type SA & SB



Type SA - Arm



Type SB Arm (2 @ 180) (2 @ 90)

Results shown on this lighting design are based on project parameters provided to Architectural Lighting Sales used in conjunction with luminaire test procedures conducted under laboratory conditions. Actual project conditions differing from these design parameters may affect field results. The customer is responsible for verifying compliance with applicable lighting or energy codes. Any changes to the room reflectances and/or obstructions not noted will alter the light levels. Please verify the data listed to assure the accuracy of the report. Values represent an approximation. Calculation grid is set at a workplane height of 2.5 feet.

The IES photometric files used for this analysis were provided by the Manufacturer(s) of the light fixture(s) used on this project. The accuracy of these files are the sole responsibility of the Manufacturer(s).

lighting software  
by Lighting Analysts

Excellence in Illumination  
Engineering Software  
since 1984  
www.agi32.com

sample document  
copyright 2006  
Lighting Analysts, Inc.

Drawing #	Date	Comments
B1	03.23.2012	Standard layout with fixtures to match Omaha City's Standard.
B2	04.10.2012	Revised layout to increase footcandle levels and minimize poles
B3	04.18.2012	Revised layout with new locations for Engineers.

Revisions

Architectural Lighting Sales

2598 Washington Road  
Canonsburg, PA 15317  
P 724.916.2200 F 724.916.2214  
www.archlightinc.com

Contact: H.F. Jenz, Inc.  
Salesperson Contact: Chuck Hatt  
Date: 4/23/2012  
Drawn By: Joshua R. Schaller  
Scale: Not To Scale

Progressive Claim Center  
Omaha, NE

Project Number: 865-33949  
Drawing Revision # Drawing B3

Page 1 of 1





**innovative equipment screens**



**3 generations ahead of the next best solution**



## An affordable solution for equipment screening is finally here...

Envisor equipment screens now offer architects the flexibility to create affordable, elegant, **customized screening solutions** that integrate with their building design, all with **no rooftop penetration**.

Our patented equipment screens also provide a viable solution for **municipal screening code requirements** on everything from HVAC units to



52" Louver Panels

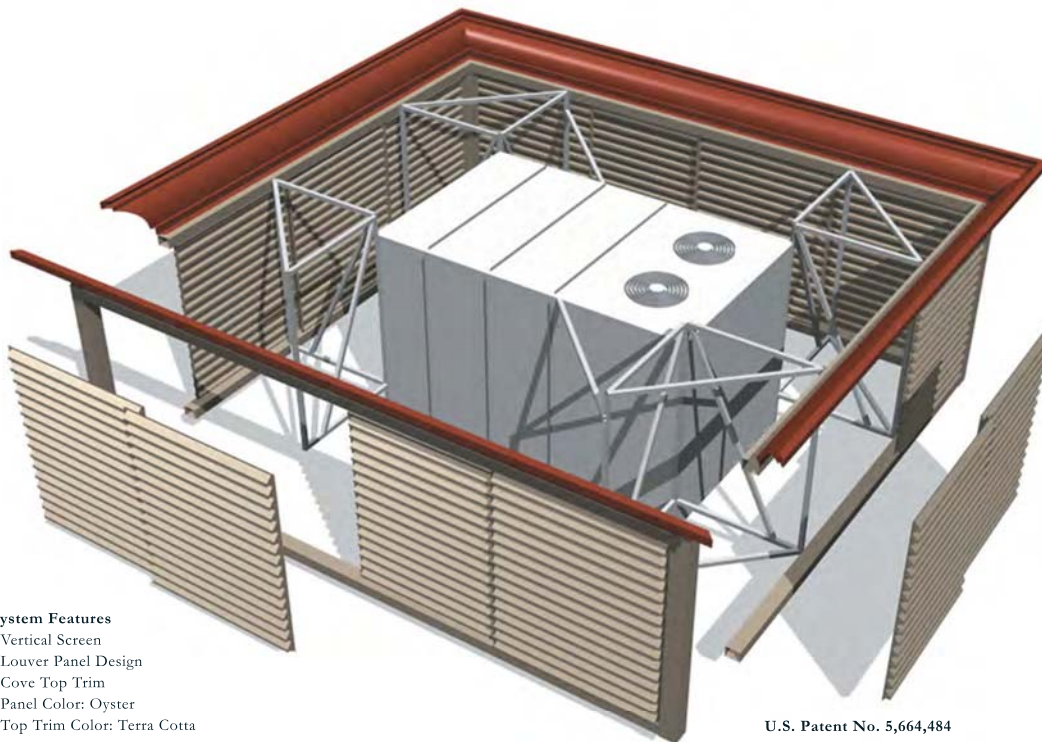


The Ohio State University Foundation - Columbus, Ohio

chillers, air handlers, power exhausts, roof stacks, communication equipment, dumpsters - you name it!

## Customizing a screen to fit your needs is easy...

Simply choose between canted or vertical, decide on a panel design, select a top trim (optional), and pick a color. It's that simple! **We can customize any feature** to your particular design requirements, including custom panel designs, custom colors, and custom top trim designs. If you don't see what you need, tell us what you want. We'll build it for you.



### System Features

- Vertical Screen
- Louver Panel Design
- Cove Top Trim
- Panel Color: Oyster
- Top Trim Color: Terra Cotta

U.S. Patent No. 5,664,484



## Step 1: Choose a Canted or Vertical System



Enviro screens are the perfect alternative to parapet walls and they satisfy even the strictest screening code requirements. Both styles feature our patented attachment method, which secure our screens directly to the equipment with no rooftop penetration. Screen heights are available to screen virtually anything you desire.

## Step 2: Decide on a Panel Design



WIDE RIB



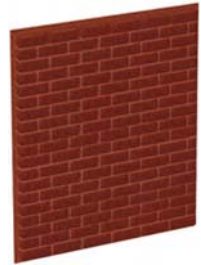
BATTEN



LOUVER



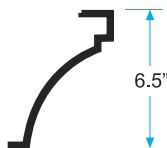
PAN



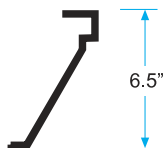
BRICK

Panels are available in **5 standard styles** allowing you to control the project without sacrificing the essential elements of the building design. The panels are constructed of thermoformed high impact ABS with a **co-extruded UV protective layer** on both sides. The panels are held firmly in place using a rust-free, double tracked aluminum rail system. This enables the panels to slide side-to-side for easy access to the unit during servicing and maintenance. Don't see a panel that fits your project? Tell us and we'll make one that you design.

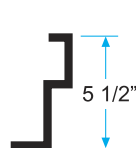
## Step 3: Select a Top Trim (optional)



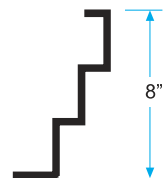
COVE



ALAMO



STEP 1



STEP 2



FLAT

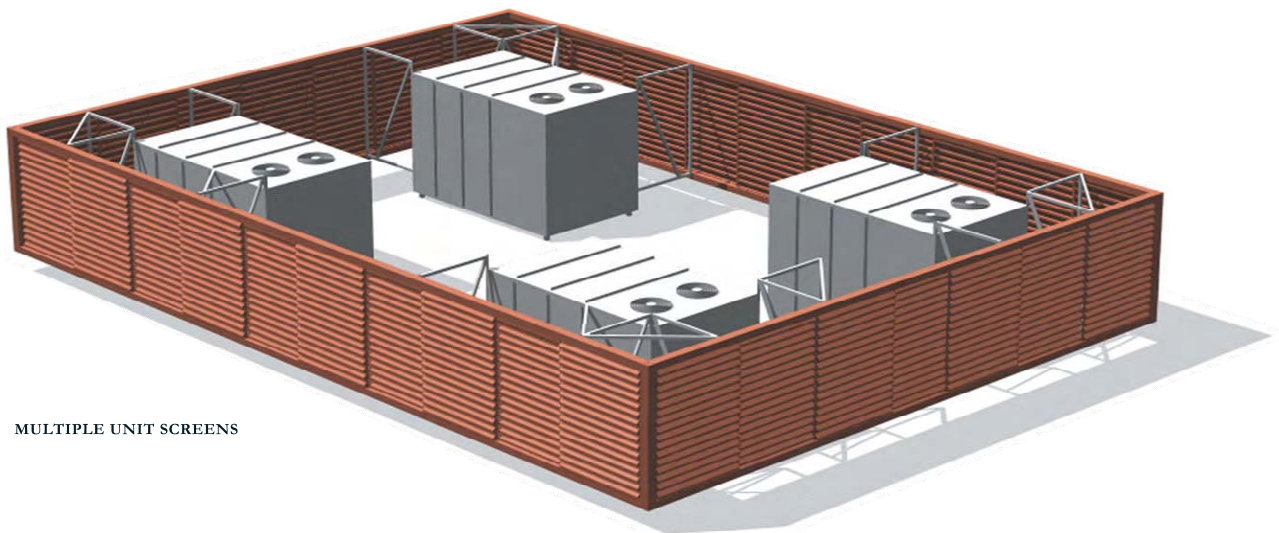
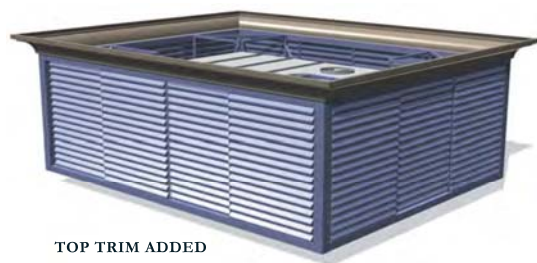
Decorative top trip options offer the flexibility to further customize the elegant appearance of the screens by **picking up on your building design elements** and incorporating those details into the screen itself. Although optional, they offer one more way to make screens part of the design, not part of the problem. We can manufacture any size and shape top trim you create.

## Step 4: Pick a Designer Color



Our designer colors complement most architectural applications, but don't let standard colors limit your creativity. We have the ability to **match to any cross-referenced color specification**. Send us samples to match. We've even matched a color to a rock! *Colors shown are only approximate. Please call for actual samples.*

## Step 5: Custom Designed Solutions



Envisor equipment screens can be manufactured in a limitless combination of shapes and configurations to help reduce cost, add to the aesthetics of a building, or both. Let us design one for you! Just tell us the equipment manufacturer, the model numbers, and the special requirements you might have. Call for a complete design kit today or visit our website at [www.cityscapesinc.com](http://www.cityscapesinc.com).



## **Product Features**

**No Rooftop Penetration**

**Pre-Engineered Screening System**

**Screening Code Solution**

**Attractive Alternative to Parapet Walls**

**Multiple Panel Designs**

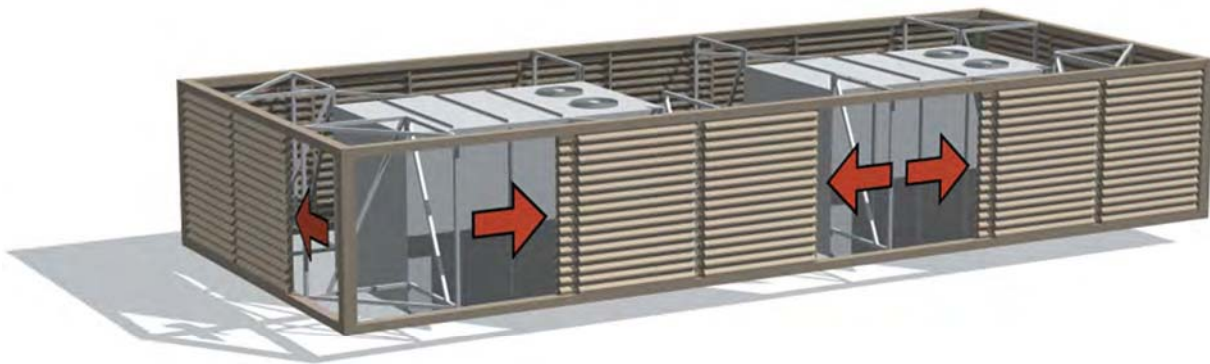
**Designer Top Trim Accents**

**Vertical or Canted Designs**

**Wide Range of Designer Colors**

**Panels Slide for Easy Service Access**

**Custom Design Capabilities**



Our panels are designed to slide side-to-side in either direction for easy access to the equipment for servicing and routine maintenance.



## Equipment Vendors

Commercial HVAC and Chiller Equipment Vendors who have installed ENVISOR Rooftop Equipment Screens include:

**Trane  
Lennox  
York  
Carrier  
Heil  
AAON  
Liebert  
Rheem  
Reznor**

**Hussmann  
Airwise  
Bryant  
McQuay  
BAC  
Hill Phoenix  
Am. Standard  
Munters  
Engineered Air**

## Retail Clients

Some of the clients utilizing ENVISOR Rooftop Equipment screens on their HVAC and Chiller Equipment include:

**Aldi  
AMC Theaters  
Avis  
Best Buy  
Blockbuster  
Costco  
CVS  
Hertz  
Home Depot  
Kohl's  
Lowe's**

**McDonald's  
Meijer  
Mobil Oil  
Muvico  
Rite Aid  
Sam's Club  
Sears  
Target  
Walgreen's  
Wal-Mart  
Wendy's**



by CityScapes International  
4200 Lyman Court  
Hilliard, OH 43026  
Toll Free: 877.727.3367  
Fax: 800.726.4817



[www.cityscapesinc.com](http://www.cityscapesinc.com)



**innovative equipment screens**

**EXHIBIT**

*B*



**3 generations ahead of the next best solution**



## An affordable solution for equipment screening is finally here...

Envisor equipment screens now offer architects the flexibility to create affordable, elegant, **customized screening solutions** that integrate with their building design, all with **no rooftop penetration**.

Our patented equipment screens also provide a viable solution for **municipal screening code requirements** on everything from HVAC units to



52" Louver Panels

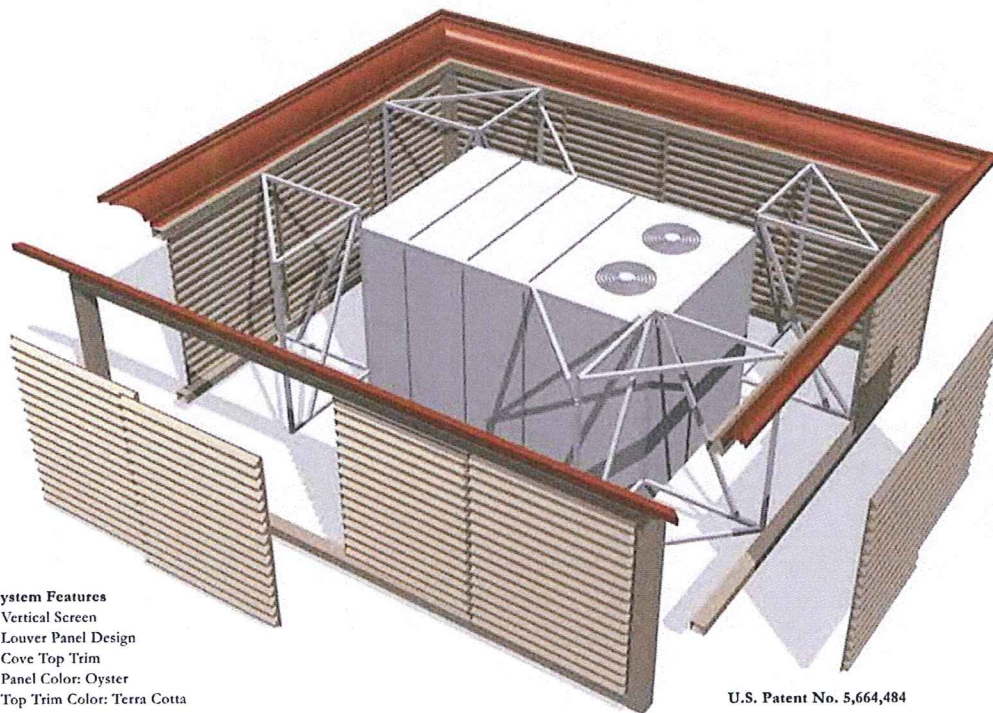


The Ohio State University Foundation - Columbus, Ohio

chillers, air handlers, power exhausts, roof stacks, communication equipment, dumpsters - you name it!

## Customizing a screen to fit your needs is easy...

Simply choose between canted or vertical, decide on a panel design, select a top trim (optional), and pick a color. It's that simple! **We can customize any feature** to your particular design requirements, including custom panel designs, custom colors, and custom top trim designs. If you don't see what you need, tell us what you want. We'll build it for you.

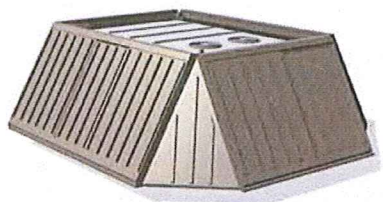


- System Features**
- Vertical Screen
  - Louver Panel Design
  - Cove Top Trim
  - Panel Color: Oyster
  - Top Trim Color: Terra Cotta

U.S. Patent No. 5,664,484

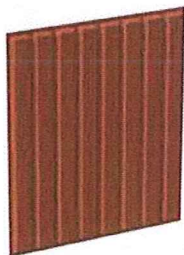


## Step 1: Choose a Canted or Vertical System

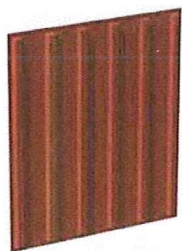


Envisor screens are the perfect alternative to parapet walls and they satisfy even the strictest screening code requirements. Both styles feature our patented attachment method, which secures our screens directly to the equipment with no rooftop penetration. Screen heights are available to screen virtually anything you desire.

## Step 2: Decide on a Panel Design



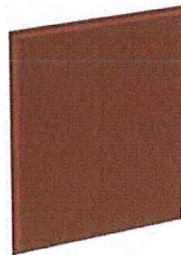
WIDE RIB



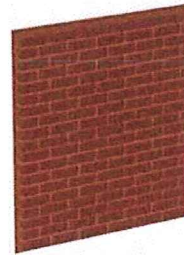
BATTEN



LOUVER



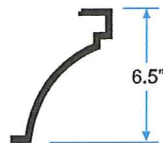
PAN



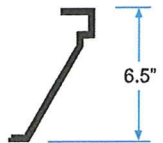
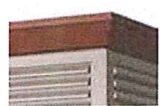
BRICK

Panels are available in 5 standard styles allowing you to control the project without sacrificing the essential elements of the building design. The panels are constructed of thermoformed high impact ABS with a co-extruded UV protective layer on both sides. The panels are held firmly in place using a rust-free, double tracked aluminum rail system. This enables the panels to slide side-to-side for easy access to the unit during servicing and maintenance. Don't see a panel that fits your project? Tell us and we'll make one that you design.

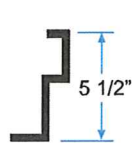
## Step 3: Select a Top Trim (optional)



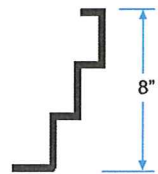
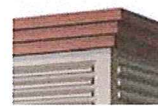
COVE



ALAMO



STEP 1



STEP 2



FLAT

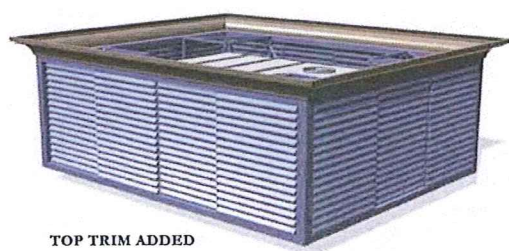
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## Step 4: Pick a Designer Color

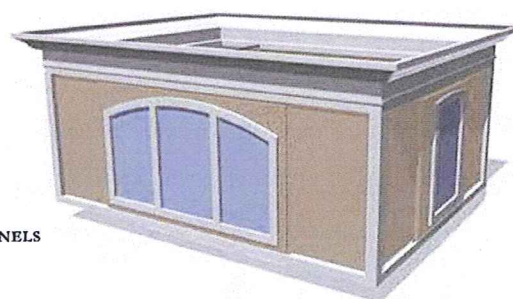


Our designer colors complement most architectural applications, but don't let standard colors limit your creativity. We have the ability to **match to any cross-referenced color specification**. Send us samples to match. We've even matched a color to a rock! *Colors shown are only approximate. Please call for actual samples.*

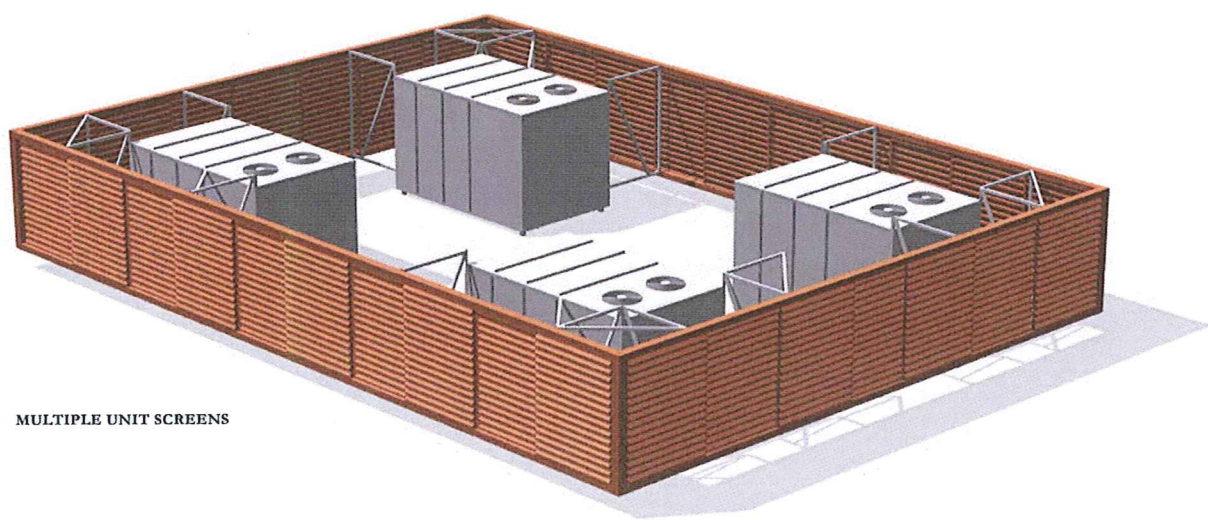
## Step 5: Custom Designed Solutions



TOP TRIM ADDED



CUSTOM PANELS



MULTIPLE UNIT SCREENS

Envisor equipment screens can be manufactured in a limitless combination of shapes and configurations to help reduce cost, add to the aesthetics of a building, or both. Let us design one for you! Just tell us the equipment manufacturer, the model numbers, and the special requirements you might have. Call for a complete design kit today or visit our website at [www.cityscapesinc.com](http://www.cityscapesinc.com).





## **Product Features**

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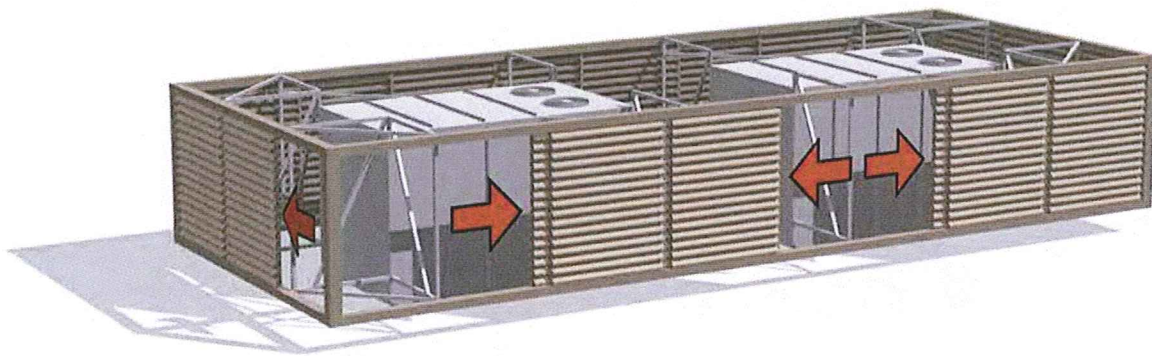
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**Vertical or Canted Designs**

**Wide Range of Designer Colors**

**Panels Slide for Easy Service Access**

**Custom Design Capabilities**



Our panels are designed to slide side-to-side in either direction for easy access to the equipment for servicing and routine maintenance.



## Equipment Vendors

Commercial HVAC and Chiller Equipment Vendors who have installed ENVISOR Rooftop Equipment Screens include:

Trane  
Lennox  
York  
Carrier  
Heil  
AAON  
Liebert  
Rheem  
Reznor

Hussmann  
Airwise  
Bryant  
McQuay  
BAC  
Hill Phoenix  
Am. Standard  
Munters  
Engineered Air

## Retail Clients

Some of the clients utilizing ENVISOR Rooftop Equipment screens on their HVAC and Chiller Equipment include:

Aldi  
AMC Theaters  
Avis  
Best Buy  
Blockbuster  
Costco  
CVS  
Hertz  
Home Depot  
Kohl's  
Lowe's

McDonald's  
Meijer  
Mobil Oil  
Muvico  
Rite Aid  
Sam's Club  
Sears  
Target  
Walgreen's  
Wal-Mart  
Wendy's



by CityScapes International  
4200 Lyman Court  
Hilliard, OH 43026  
Toll Free: 877.727.3367  
Fax: 800.726.4817



[www.cityscapesinc.com](http://www.cityscapesinc.com)

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
INTERLOCAL COOPERATION AGREEMENT - ♦ IT SERVICES	RESOLUTION ORDINANCE RECEIVE/FILE	SHEILA LINDBERG FINANCE DIRECTOR

**SYNOPSIS**

A resolution has been prepared authorizing a two year extension of the Interlocal Cooperation Agreement with Sarpy County for Information Technology services.

**FISCAL IMPACT**

The FY11/12 and future budgets will provide funding for this agreement.

**RECOMMENDATION**

Approval.

**BACKGROUND**

Sarpy County has provided IT services for the City since July 1, 2006 and the working relationship has been successful. The recommended extension will allow the IT Committee to accomplish some of the bigger projects in the IT Strategic Plan with the assistance of Sarpy IT staff members who were an integral part of the process.

Currently, the total annual hours are at 1,000 with additional hours billed at \$50 per hour. The proposed extension has lowered the total hours to 750 with additional hours to be billed at \$75 per hour. The average annual hours have been approximately 450.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING EXECUTION OF A TWO (2) YEAR EXTENTION OF THE INTERLOCAL COOPERATION AGREEMENT BETWEEN SARPY COUNTY AND THE CITY OF LA VISTA FOR INFORMATION TECHNOLOGY SERVICES.

WHEREAS, the City Council has determined that a need exists to contract for Information Technology Services; and

WHEREAS, Sarpy County has the resources and technology to provide said Information Technology Services; and

WHEREAS, Sarpy County has been an integral part of the IT Strategic Plan projects and the continuity of services is important for accomplishment of some larger IT Strategic Plan projects;

NOW, THEREFORE, BE IT RESOLVED, by the Mayor and City Council of the City of La Vista, Nebraska, that the interlocal agreement between Sarpy County and the City of La Vista regarding Information Technology Services for the City of La Vista two (2) year extension until June 30, 2014 is hereby approved subject to review by the City Attorney as to form, and that the Mayor and City Clerk are hereby authorized to execute said agreement on behalf of the City of La Vista.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

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



**INTERLOCAL COOPERATION AGREEMENT**

This Interlocal Cooperation Agreement is made and entered into by and between the County of Sarpy, State of Nebraska (hereinafter "County"), and the City of LaVista, located in the County of Sarpy, State of Nebraska (hereinafter "City"), pursuant to the authority granted the parties under Neb. Rev. Stat. §13-801, *et seq.*, Reissue 1997.

WHEREAS, County is a duly existing body politic and corporate, created by the laws of the State of Nebraska; and,

WHEREAS, pursuant to the Interlocal Cooperation Act, Neb. Rev. Stat. §13-801, *et seq.* (Reissue 1997), the Parties entered into an agreement by which the County agreed to cause the County's Information Services Department perform certain services to the City in consideration of the City's payment for those services, said agreement being effective as of July 1, 2006; and,

WHEREAS, the parties wish to extend the term of said agreement; and,

WHEREAS, the parties wish to modify the Statement of Work.

NOW, THEREFORE, IN CONSIDERATION OF THE ABOVE AND FOREGOING, IT IS AGREED:

1. The previous agreement between the parties which commenced July 1, 2006, is hereby extended for a period of two year, and shall be effective until June 30, 2014.
2. The Statement of Work and Service Level Agreement: Section VII: Miscellaneous is hereby modified to, "Additional work after 750 hours will be billed at \$75 per hour in increments of 1/4 hour (15 minutes) billed on a monthly basis."
3. The remaining terms and conditions of said prior Agreement shall remain unchanged.

**EXECUTED IN DUPLICATE** this \_\_\_\_ day of \_\_\_\_\_, 2012.

**CITY OF LAVISTA, NEBRASKA,**  
A Body Politic and Corporate.

(SEAL)

\_\_\_\_\_  
Mayor

ATTEST:

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

**COUNTY OF SARPY, NEBRASKA,**  
A Body Politic and Corporate.

(SEAL)

\_\_\_\_\_  
Chairman,  
Board of Commissioners of  
Sarpy County, Nebraska

ATTEST:

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

ITEM D

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
MUTUAL AID AGREEMENT – NEBRASKA WARN	◆ RESOLUTION ORDINANCE RECEIVE/FILE	JOE SOUCIE PUBLIC WORKS DIRECTOR

**SYNOPSIS**

A resolution has been prepared authorizing the Mayor to execute a Mutual Aid Agreement for a Water and Wastewater and Stormwater Mutual Aid Program known as Nebraska WARN.

**FISCAL IMPACT**

There is no cost to the city.

**RECOMMENDATION**

Approval

**BACKGROUND**

The Water and Wastewater and Stormwater Mutual Aid Program is established to provide a method whereby water, wastewater, and stormwater departments sustaining physical damage from natural or man-made disasters can obtain emergency assistance, in the form of personnel, equipment, materials and other associated services necessary, from other water, wastewater, and stormwater departments. The purpose of this Agreement is to formally document such program to be known as Nebraska WARN.

The Nebraska WARN shall not collect dues, taxes or any type of revenue from the participating utilities. The Nebraska WARN shall not own property, personnel, equipment, and materials/supplies provided which are reimbursable expenses. Any party may at any time by written notice terminate participation in the program.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA AUTHORIZING THE MAYOR TO EXECUTE A MUTUAL AID AGREEMENT FOR A PROGRAM KNOWN AS NEBRASKA WARN.

WHEREAS, the City desires to enter into a Mutual Aid Agreement for a Water and Wastewater and Stormwater Mutual Aid Program know as Nebraska WARN; and

WHEREAS, the Mutual Aid Program provides a method whereby water, wastewater, and stormwater departments sustaining physical damage from natural or man-made disasters can obtain emergency assistance, in the form of personnel, equipment, and materials and other associated services necessary from other water, wastewater, and stormwater departments; and

WHEREAS, the Mutual Aid Agreement shall remain effective until January 31, 2058 or until such time as the City would give written notice of termination of participation;

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of the City of La Vista, Nebraska, hereby authorize the Mayor to execute a Mutual Aid Agreement for a water and wastewater and stormwater mutual aid program known as Nebraska WARN.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

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



# NEBRASKA WARN WATER AND WASTEWATER AND STORMWATER MUTUAL AID AGREEMENT

## PURPOSE

The Water and Wastewater and Stormwater Mutual Aid Program is hereby established to provide a method whereby water, wastewater, and stormwater departments sustaining physical damage from natural or man made disasters can obtain emergency assistance, in the form of personnel, equipment, and materials and other associated services necessary, from other water, wastewater, and stormwater departments. The purpose of this Agreement is to formally document such program. The title of this agreement shall be the Nebraska WARN.

## PARTIES

This Mutual Aid Agreement ("Agreement") is entered into by, \_\_\_\_\_, that by the signatures on duplicate original copies of this Agreement has consented to the terms of this Agreement. Any utility that has signed this Agreement and submitted a copy to the location designated by the Nebraska WARN governance Board is a party to this Agreement. Eligible participants shall be limited to any political subdivision of the State of Nebraska that owns and/or operates a water, wastewater and/or stormwater system.

## PROCEDURE

- In the event that a particular utility becomes a damaged utility, the following procedure shall be followed to the best extent possible:
- The Damaged utility may contact the Authorized representative of one or more of the Participating Utilities and provide them with the following information:
  - A general description of the damage sustained;
  - The part of the water/wastewater/stormwater system for which assistance is needed;
  - The amount and type of personnel, equipment, materials and supplies needed and a reasonable length of time they will be needed;
  - The present weather conditions and the forecast for the next twenty-four hours; and
  - A specific time and place for a representative of the damaged utility to meet the personnel and equipment of the assisting utility; and
  - The identification of work conditions and special constraints such as availability of fuel supplies, lodging/meal support, medical facilities, security, communications, etc.
- When contacted by a damaged utility, the authorized representative of a participating utility shall assess his utility's situation to determine whether it is capable of

providing assistance. No participating utility shall be under any obligation to provide assistance to a damaged utility. If the authorized representative determines that the Assisting utility is capable of and willing to provide assistance, the assisting utility shall so notify the authorized representative of the damaged utility and providing the following information to the best extent possible:

- A complete description of the personnel, equipment and materials to be furnished to the damaged utility;
  - The estimated length of time the personnel, equipment and materials will be available;
  - The work experience and ability of the personnel and the capability of the equipment to be furnished;
  - The name of the person or persons to be designated as supervisory personnel; and
  - The estimated time when the assistance provided will arrive at the location designated by the authorized representative of the damaged utility.
- The personnel and equipment of the assisting utility shall remain, at all times, under the direct supervision and control of the designated supervisory personnel of the assisting utility. In instances where only equipment is provided by the assisting utility, the ownership of said equipment shall remain with the assisting utility and said equipment shall be returned to the assisting utility immediately upon request. Representatives of the damaged utility shall suggest work assignments and schedules for the personnel of the assisting utility; however, the designated supervisory personnel of the assisting utility shall have the exclusive responsibility and authority for assigning work and establishing work schedules for the personnel of the assisting utility. The designated supervisory personnel shall maintain daily personnel time records and a log of equipment hours, be responsible for the operation and maintenance of the equipment furnished by the assisting utility, and report work progress to the damaged utility.
  - Unless otherwise agreed to, the damaged utility must provide food and housing for the personnel of the assisting utility from the time of departure from their regularly scheduled work location until the time of return to their regularly scheduled work location. The food and shelter provided shall be subject to the approval by the Assisting utility's supervisory personnel. If not approved, food and shelter must be provided and paid for as determined by mutual agreement.
  - The damaged utility must provide communications between the personnel of the Assisting utility and the damaged utility.
  - When providing assistance under this Agreement, the damaged utility and assisting utility shall be organized and shall function under the National Incident Management System.

## REIMBURSABLE EXPENSES

To the best extent possible, the terms and conditions governing reimbursement for any assistance provided under this Agreement shall be agreed to prior to the providing of such assistance and shall be in accordance with the following provisions:

- **PERSONNEL** – During the period of assistance, the assisting utility shall continue to pay its employees according to its then prevailing rules and regulations. The damaged utility shall reimburse the Assisting utility for all direct and indirect payroll costs and expenses incurred during the period of assistance, including, but not limited to, employee pensions and benefits.
- **EQUIPMENT** – The assisting utility shall be reimbursed for the use of its equipment during the Period of Assistance according to the Schedule of Equipment Rates established and published by FEMA. If an assisting utility uses an alternate basis of rates for equipment listed on the FEMA Schedule of equipment rates, it shall provide such rates to the damaged utility prior to providing assistance. Rates for equipment not referenced on the FEMA Schedule of Equipment Rates shall be developed based on actual recovery of costs.
- **MATERIALS AND SUPPLIES** – The assisting utility shall be reimbursed for all materials and supplies furnished by it and used or damaged during the period of assistance, unless such damage is caused by negligence of the assisting utility's personnel. The measure of reimbursement shall be the replacement cost of the materials and supplies used or damaged, plus ten percent of such cost. In the alternative, the parties may agree that the damaged utility will replace, with a like kind and quality, as determined by the Assisting utility, the materials and supplies used or damaged.

## PAYMENT

Unless mutually agreed otherwise, the assisting utility shall bill the requesting utility for all expenses not later than 45 days following the period of assistance. Unless mutually agreed otherwise, the requesting utility shall pay the bill in full not later than 90 days following the billing date.

## INSURANCE

Each participating utility shall bear the risk of its own actions, as it does with its day-to-day operations, and determine for itself what kinds of insurance, and in what amounts, it should carry.



## INDEMNIFICATION

The utility requesting assistance shall indemnify, defend and hold harmless any assisting utility against any and all claims, demands and damages or expenses, including attorneys fees, arising out of or resulting from the performance of the contract that results in bodily injury, sickness, disease, death, or to injury to or destruction of tangible property, including the loss of use resulting therefrom and is caused in whole or in part by the assisting utility or anyone for whose acts any of them may be liable. However, this provision will not require the requesting utility to indemnify or hold harmless the assisting utility for any losses, claims, damages, and expenses arising out of or resulting from the gross negligence of the assisting utility.

## GOVERNANCE AND VOTING

The Nebraska WARN shall be governed by a Board of up to 11 persons selected by the participating utilities. One time in a 12 month period, the Board shall send a Board nomination form to all Nebraska WARN participating utilities. Following the submission of nominations, the Board shall send a ballot of Board candidates to all Nebraska WARN participating utilities. Each participating utility shall be entitled to complete one ballot. The persons receiving the most votes on the returned ballots shall be the Nebraska WARN Board. Board members do not have to be staff or elected officials of a participating utility.

## BOARD DUTIES

The Board shall have the authority to govern the general operations of the Nebraska WARN. The Board shall have the authority to appoint one or more Nebraska WARN administrators to assist in the general operations of the Nebraska WARN.

## FUNDING AND PROPERTY OWNERSHIP

The Nebraska WARN shall not collect dues, taxes or any type of revenue from the participating utilities. The Nebraska WARN shall not own property.

## TERM AND DURATION

This Agreement shall become effective as to each party on the date such party executes the Agreement and shall continue in force and remain binding until said party terminates the agreement. Termination of participation in this Agreement by a party shall not affect the continued operation of this Agreement between and among the remaining parties. This agreement shall remain effective until January 31, 2058.

### TERMINATION

Any Party may at any time by written resolution or notice given to the administrator to decline to participate in the provision of mutual aid. The party shall give written notice of termination of participation in this Agreement.

**NOW, THEREFORE, in consideration of the covenants and obligations contained herein, the Participating Utility listed here, as a Participating Utility duly executes this Water/ Wastewater/Stormwater Mutual Aid Agreement this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.**

---

Name of Utility

---

Authorized Representative

# NeWARN Member Contact Information

System Name: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Phone #: \_\_\_\_\_

Cell Phone #: \_\_\_\_\_

Secondary Phone #: \_\_\_\_\_

E-Mail Address: \_\_\_\_\_

Local Emergency  
Management Contact  
(LEMC): \_\_\_\_\_

LEMC Phone #: \_\_\_\_\_



**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
GOLF CAR LEASE	◆ RESOLUTION ORDINANCE RECEIVE/FILE	SCOTT STOPAK RECREATION DIRECTOR

**SYNOPSIS**

A resolution has been prepared to approve a lease-to-own agreement between the City and Exchange Bank for five (5) 2012 Club Car Electric Golf Cars in an amount not to exceed \$17,520.00 over 42 months.

**FISCAL IMPACT**

The FY 11/12 Golf Fund budget includes \$4,380.00 for the proposed lease agreement. In future fiscal years, funds will need to be budgeted for the remaining lease-to-own payments.

**RECOMMENDATION**

Approval.

**BACKGROUND**

The new cars will be replacing five (5) 2004 Club Car Electric Golf Cars that will be traded in. There are nineteen (19) cars in our fleet.

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

A RESOLUTION OF THE MAYOR AND CITY COUNCIL OF THE CITY OF LA VISTA, NEBRASKA, AUTHORIZING THE LEASE-TO-OWN OF FIVE ELECTRIC CLUB CAR GOLF CARS FOR LA VISTA FALLS GOLF COURSE FROM EXCHANGE BANK, KEARNEY, NEBRASKA, IN AN AMOUNT NOT TO EXCEED \$17,520.00 OVER 42 MONTHS.

WHEREAS, the City Council has deemed that a need exists to purchase additional golf cars for La Vista Falls Golf Course; and

WHEREAS, the City did appropriate funds in the FY 11/12 Golf Fund budget for said lease-to-own; and

WHEREAS, the Finance Director and Golf Course Manager have obtained suitable financing for this lease through Exchange Bank, Kearney, Nebraska; 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 purchase over \$5,000.00.

NOW, THEREFORE, BE IT RESOLVED, that the Mayor and City Council of La Vista, Nebraska, do hereby authorize the lease-to-own agreement for nine Electric Club Car Golf Cars for La Vista Falls Golf Course from Exchange Bank, Kearney, Nebraska, in an amount not to exceed \$17,520.00 and in form and content satisfactory to the City Administrator.

PASSED AND APPROVED THIS 1ST DAY OF MAY, 2012.

CITY OF LA VISTA

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

ATTEST:

\_\_\_\_\_  
Pam Buethe, CMC  
City Clerk

### Commercial Lease

Lessor: Exchange Bank  
3110 Second Avenue  
Kearney, NE 68847  
(308) 237-7711  
Fax: (308) 237-0178

Lessee: City of La Vista  
Address: 8116 Parkview Blvd  
La Vista, NE 68128  
Phone : 402-331-4343  
Fax : 402-331-4375

Lessee (which means and includes the undersigned Lessee and any co-Lessee(s) jointly and severally) hereby leases from the Lessor the equipment described below (hereinafter referred to as Equipment) for a term of **42** months from the effective date of this Lease, subject to the terms and conditions set forth below, delivery and acceptance of said Equipment being acknowledged, Lessee agrees Lessor owns said equipment and agrees to execute any financing statement required to perfect and protect the security interest of Lessor until all obligations of the Lessee shall have been fulfilled.

**Equipment:**

<u>Quantity</u>	<u>Description</u>	<u>Model</u>	<u>Serial Number</u>
5	2012 Club Car 48v Electric Golf Cars (Beige)		*TBD*

**Rental Payments :** For value received, Lessee agrees to pay to the Lessor or its Assignee, a total rental payment in the sum of **\$17,520.00**, in U.S. dollars, according to the payment schedule as set forth below. Lessee agrees to pay any personal property, sales or use taxes that may be applicable. **Seasonal** payments due as follows:

**24 Seasonal payments of \$730.00 each over a 42 month period, with payments due on the fifteenth day of months, (April, May, June, July, August and September). In years of (2012, 2013, 2014, and 2015).**

Lessee shall have the right but not the obligation to purchase the equipment from Lessor for a buyout of \$1.00 at the end of lease term. You do not have the option to purchase upon default of early termination. In the event of default, the Lessee understands its responsibility to return all above stated equipment and its accessions, at its own cost, to the Lessor.

#### Insurance

Liability insurance for bodily injury and property damage is the responsibility of the Lessee. Physical damage and liability insurance is required by the Lessor in connection with this lease. Lessor reserves the right to reject any insurer offered by the Lessee for any reasonable cause. The Lessee is required to furnish Lessor insurance coverage for liability purposes in the minimum amount of **\$500,000** for a combined single limit for bodily injury and property damage. The Lessee agrees to have Lessor named as an additional insured with respect to liability coverage. Physical damage insurance in the amount of the cash value of the Equipment is to be provided by the Lessee. A minimum of thirty days written notice of cancellations is to be given to Lessor. Violation of the above insurance requirements may be cause for cancellation of the Lease.

#### Restricted Use

Lessee shall keep the equipment in the county of its residence, or in the counties in which it normally operates unless Lessor, in writing, permits its removal.



### **Warranty**

Lessor makes no representations or warranties with respect to the Equipment in this Lease. Any warranties provided by Lessor on the Equipment shall be given to Lessee under separate agreement, the receipt whereof is hereby acknowledged by Lessee. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED BY LESSOR.

### **Delinquency Charges & Late Fees**

Lessee hereby agrees to pay a late fee of the greater of \$10.00 or interest on the late payment amount computed at a 16 % rate on all payments past due more than 10 days.

### **Additional Terms and Conditions**

The additional terms and conditions set forth in this Agreement are a part of this Lease and are incorporated herein by this reference.

#### **Lessee Responsibility :**

- a) Lessee assumes all risks, and will pay all costs and expenses of any character, arising from the use, possession, or maintenance of said equipment.
- b) Lessee shall be responsible for and pay the cost of all necessary repairs, maintenance, and replacements, and Lessor shall not be obligated to, nor called upon by Lessee to furnish, to make or pay for any repairs to or upon the Equipment (except under the provisions of the manufacturers warranty), and all replacement parts, additions, and accessories incorporated in or affixed to any of the Equipment shall become a part thereof, and title thereto shall vest in the Lessor.
- c) If any Equipment hereby leased is destroyed, lost, or stolen, Lessee shall not be relieved of its obligation to pay the full rental herein provided for the full term of this Lease. If Equipment is damaged, there shall be no reduction in the amount payable hereunder, and Lessee shall immediately have such damage repaired at its cost and expense, in which event Lessor, upon completion of such repairs, shall pay to Lessee such sum as shall be paid to Lessor from insurance on account of such damage.
- d) Lessee shall keep the Equipment free of all liens, taxes including personal property taxes, encumbrances and seizure or levy; shall not use same illegally, shall not damage, abuse, misuse, abandon or lose said Equipment; shall not part with possession thereof, whether voluntarily or involuntarily or transfer any interest therein; shall keep said Equipment insured in such amounts and with such insurer as may be acceptable to Lessor with any loss payable to Lessor as its interest in the Equipment may appear.

**Lessee Default :** Time is of the essence of this Lease and if Lessee fails to comply with any terms and conditions hereof or defaults in the payment of any payment hereunder or under any renewal or renewals hereof, or in the payment of interest or defaults in the payment of any payment due under any other indebtedness or contract held by the Lessor or Assignee, or if proceedings are instituted against Lessee under any bankruptcy or insolvency law or Lessee makes an assignment for the benefit of creditors or if for any reason the Lessor deems itself insecure, and so declares, all payments heretofore made by the Lessee shall be retained by the Lessor and all indebtedness hereunder shall become immediately due and payable, with or without notice, together with all expenses of collection by suit or otherwise, and Lessor may, without notice or demand, take possession of the Equipment set forth and described in this Lease or any additions to, replacements of, or any proceeds from said Equipment or may render the property unusable or Lessor may require Lessee to assemble the Equipment and make it available at a place designated by Lessor. Lessor may sell the retaken Equipment at public or private Sale in accordance with Uniform Commercial Code or applicable state or provincial law. After deducting reasonable expenses for retaking, repairing, holding, preparing for sale, other selling expenses including attorney fees and legal expenses, the remaining proceeds of Sale shall be credited upon the amount of indebtedness remaining unpaid hereunder, and Lessee agrees to pay any deficiency upon demand by Lessor, any surplus however, shall be paid to Lessee. Said retaking or repossession shall not be deemed a rescission of the Lease. Lessor may exercise any other rights and remedies provided by applicable law.

**Failure to Return as Extension of Lease :** If upon expiration of the Lease term the Lessee does not return the Equipment to the Lessor, at its place of business or other designated place, the Lessee shall pay a pro rata amount of the rental stated herein until the Equipment is returned. The unauthorized holding of the Equipment shall not be considered as an extension of the Lease term.

**Expiration of Lease :** This Lease shall expire on the date shown herein unless otherwise renewed or extended by the parties to this Lease. The time of expiration shall be deemed to be 12:01 AM on the date referenced herein.

**Assignment by Lessee :** Lessee shall not assign, transfer, sublet or lease all or any portion of the Equipment or its rights under this Lease, and will not pledge, mortgage or otherwise encumber the Equipment, without the prior written consent of Lessor.

**Right of Lessor to Pay :** If Lessee fails or refuses to pay any charges, costs or expenses required hereunder, including the cost or premium for insurance coverage, Lessor may at its option, pay the same and thereafter, Lessee shall be obligated to Lessor for the amount thereof, and shall pay the same to Lessor, immediately upon demand.

**Indemnification of Lessor :** Lessee hereby assumes liability for and agrees to indemnify and hold harmless, Lessor and its employees, agents and assignees, from any and all liabilities, obligations, losses, damages, injuries, claims, penalties, actions, suits, costs, demands and expenses, including legal expenses and attorney's fees of every kind and nature, related to or arising out of or in connection with this Lease or the enforcement thereof, or related to or arising out of the use, maintenance, condition or operation of the Equipment during the term of this Lease. Said assumption and indemnification shall continue in full force and effect not withstanding the termination of this Lease whether by expiration of the Lease term, operation of law or otherwise.

**Right of Inspection :** Lessor shall have the right to inspect the Equipment during the term of this Lease at any reasonable time and upon reasonable notice to Lessee.

**Intent :** This Agreement is, and is intended to be, a Lease, and nothing herein shall be construed as conveying to Lessee any right, title or interest in the Equipment or its proceeds except as Lessee.

**Assignment by Lessor :** Lessor may assign this Lease and in the event of such assignment, Lessee shall perform all promises herein contained to such Assignee as the owner hereof. After Lessee received notice of assignment hereof, Lessee shall make all payments hereunder direct to the holder hereof and Lessor shall not be the agent of the holder for transmission of payments or otherwise.

**Waiver, Modification, Etc. :**

- a) No waivers or modifications hereof shall be valid unless written upon or attached to this Lease. Waiver or condonation of any breach or default hereunder shall not constitute a waiver of any other or subsequent breach or default. Payments received by Lessor are to be applied first to delinquent interest or fees and then to principal.
- b) The remedies provided for herein are not exclusive and any action to enforce payment shall not waive or affect any of the holder's rights to have recourse to the property.
- c) Any provision of this Lease prohibited by the laws of any state, the United States, any province of Canada shall be ineffective to the extent of such prohibition without invalidating the remaining portion of the Lease.
- d) Each maker, endorser, guarantor and surety hereon severally waives presentment, demand, protest, and notice of non-payment and all defenses of want of diligence in collection and bringing suit. This Lease shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assignees.
- e) Lessee authorizes Lessor to insert the identification and/or model numbers of the Equipment set forth in this Lease for the purposes of identifying said Equipment. The Lessor may correct patent errors herein.

**Possession Clause :** The Lessee further agrees that upon default or noncompliance with any term or provision of this Agreement that the Lessor shall be entitled to the immediate physical possession of the leased item(s), without notice to Lessee, and by its signature hereon expressly authorizes the Lessor to enter the property or premises of the Lessee to obtain such possession. The Lessee agrees to hold the Lessor harmless from any civil liability which may arise from the Lessor's efforts at repossession of the



leased item(s) and to pay any and all costs or expenses incurred by the Lessor when retaking possession of such items.

**Additional Provisions :** Any expressed warranties and representations apart from the rental terms set forth are the sole responsibility of the Manufacturer's or the Distributor and are not warranties or representations of the Lessor.

Neither party admits or alleges that this lease is a secured transaction. Both parties intend that it shall be treated and construed as a true lease. But in case a court of competent jurisdiction ever determines that this lease is not a "true lease", then the parties agree that the leased goods shall be and are pledged by the lessee to the lessor as security for the promises of the lessee to make the payments and complete the performance required of lessee pursuant to this lease.

**Notice to Lessee**

- 1) Caution - Do not sign this lease before you thoroughly read all terms and conditions including attached exhibits contained in this lease or if this lease contains any blank spaces even if so advised.
- 2) You are entitled to an exact and completely filled in copy of this lease when you sign it. Keep it to protect your legal rights.

Lessee acknowledges that a fully completed copy of this lease executed by the Lessee and Lessor has been delivered to it at the time of signing.

Dated this \_\_\_\_\_, 2012

The foregoing Lease is hereby accepted :

Exchange Bank (Lessor)

City of La Vista (Lessee)

by: \_\_\_\_\_

by: \_\_\_\_\_

\_\_\_\_\_  
Title

\_\_\_\_\_  
Title



## ACCEPTANCE CERTIFICATE

This is an Acceptance Certificate (this "Certificate") dated \_\_\_\_\_, 2012 by City of La Vista ("Lessee"). This Certificate shall be made a part of the Commercial Lease Agreement #11811.

Lessee states that Lessee has received and read the Lease dated \_\_\_\_\_, 2012 and all of the schedules and attachments thereto, and understands that the goods are accepted by Lessee pursuant to said lease.

I, Doug Kindig, Mayor, certify that

1). I am a duly authorized and appointed officer, employee or agent of Lessee, and make this Certificate on behalf of Lessee.

2.) The following Items of Equipment have been (a) fully and completely delivered/installed, (b) tested by Lessee (to the extent Lessee deems appropriate in order to make this Certificate), © put into use on or as of the Commencement Date, and (d) accepted by Lessee, and Lessee hereby waives any right to revoke its acceptance with respect thereto:

### DESCRIPTION OF ITEMS OF EQUIPMENT:

**5 – 2012 Club Car 48v Electric Golf Cars (Beige); SN's: TBD**

**NOTICE:** By signing below I am accepting all terms of the "Equipment Lease Agreement: and understand: we, the Lessee is responsible for any personal property, sales/use tax that may be applicable or imposed upon the Lessor on this lease.

**\*\*\*Lessee states that the goods described in the lease were received on \_\_\_\_\_, 2012\*\*\***

IN WITNESS WHEREOF, Lessee has signed this Certificate as of the date set forth below.

Witness: \_\_\_\_\_

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

Title: \_\_\_\_\_

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

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

**CITY OF LA VISTA  
MAYOR AND CITY COUNCIL REPORT  
MAY 1, 2012 AGENDA**

<b>Subject:</b>	<b>Type:</b>	<b>Submitted By:</b>
FIELD USAGE FEES	◆ DISCUSSION ORDINANCE RECEIVE/FILE	SCOTT STOPAK RECREATION DIRECTOR

**SYNOPSIS**

Representatives from the La Vista Youth Baseball Association (La Vista Panthers) attended the February 21, 2012 City Council meeting to request that Council consider reducing the City's field use fees . Council directed staff to prepare a response to their presentation which is attached and being presented for discussion.

**FISCAL IMPACT**

Field usage fees are \$40.00 for two hours of use by any non-City of La Vista sponsored team.

**RECOMMENDATION**

Review level of service provided and usage fees to determine appropriate levels of both. It is further recommended that a single fee be established for all non-City sponsored use regardless of residency. Field use fees for baseball, softball, soccer and flag football generated \$32,677.00 in FY11.

**BACKGROUND**

As noted in the synopsis, the La Vista Panthers, a private youth baseball program not affiliated with the La Vista Recreation Department, has requested a reduction in their field usage fees. At the February 21, 2012 City Council meeting representatives of the program presented Council with information obtained through their research of neighboring communities.

Council directed staff to review the documentation in order to ensure like comparisons and provide additional information if necessary. The results are identified in the following documents:

- 2012 Preparation Information & Summary of Neighboring Jurisdictions (Narrative)
- 2012 Baseball/Softball Field Fee Comparison
- 2012 Field Preparation Costs

**City of La Vista**  
**Field Preparation Information &**  
**Summary of Neighboring Jurisdictions**  
**2012**

At the February 21, 2012 City Council meeting the La Vista Panthers, a private youth baseball program addressed the Mayor and Council about the City's field usage fees. Specifically, they have requested a reduction in their field usage fees.

The City has always strived to provide its citizens with quality opportunities for recreation and as a result, the Recreation Department offers a variety of youth and adult sports. Upon registering for a City sponsored sport team, the registrants receive a variety of services including equipment, uniforms, game scheduling, paid officials and practice/game field usage. Both the practice fields and the game fields are maintained on a daily basis.

Non-City sponsored private programs requesting to utilize City fields are charged a usage fee of \$40.00 for two hours for games or practices. This covers only a portion of field up-keep costs, which includes bases, pitching rubber, home plate, dragging, chalking and mowing, as well as restroom facilities, lights, fertilizing, pest control, employee salaries and benefits. The City's costs are estimated at approximately \$80.17 per field per day.

It is difficult to compare La Vista's field usage fees with fees charged by other cities and private clubs, because of the significant differences in services. While the usage fees identified in the La Vista Panthers 2012 report for surrounding area fields appear to be accurate when looking at the various websites, after conducting further research and personally contacting directors of these different organizations, it has been determined that the fees stated on-line do not represent the actual fees charged. The actual fees charged are much closer in alignment with the City of La Vista fees. Following is an explanation of the differences in fees and services. Also included is a Baseball/Softball Field Fee Comparison chart.

**City of La Vista**

- Provides fields for non-City sponsored (private) teams at a fee of \$40/2 hours for practices and games.
- Fields are maintained on a daily basis by our Public Works Department.
- Maintenance includes regular mowing, fertilization, pest control, dragging and chalking.
- Lighting, bases, pitching rubbers and home plates are provided by the City.
- Restroom facilities are provided and maintained by the City.

**City of Omaha**

- Provides fields at a fee of \$60/2 hours for games, and \$7.50/hour extra for usage of field lights.
- Provides fields at a fee of \$5.00 per practice.
- Practice fields are dragged a maximum of once per week.
- Grass is mowed on an as-needed basis.
- Bases, pitching rubber and home plates must be provided by the individual teams who use the field for practices.
- Restroom facilities are not available at all fields.



- Fields are maintained by the City.

#### **Millard Athletic Association (MAA)**

- MAA is a private youth sports league.
- MAA sublets fields from the City of Omaha at a rate of \$2.50/hour.
- MAA sponsored teams have unlimited usage of fields for games and practices at no charge.
- Non-MAA sponsored teams pay MAA a usage fee of \$55 per game.
- MAA is responsible for the maintenance and upkeep of the fields.

#### **City of Council Bluffs**

- Council Bluffs Recreation Department teams are charged \$4/hour for practices which is in addition to the registration fees. (Games are included in registration).
- Non-recreation department teams are charged \$14/hour for practices; \$50/day for games, and an extra \$30 for lights.
- Fields are maintained by the City.

#### **City of Bellevue**

- City of Bellevue does not charge for practices or games for Bellevue Recreation Department teams.
- For private teams, the City of Bellevue charges \$25 for practice or games, plus \$25/hour for lights.
- Fields are maintained by the City.

#### **City of Papillion**

- Offers limited recreation youth sports as soccer, baseball, and softball are provided by PRO (Papillion Recreation Organization).
- Follows an "80/20" rule. If your team is 80% Papillion residents and/or Papillion-La Vista school district students, the team will be a "recognized" team.
- Recognized teams pay a fee of \$2 per child per year for Papillion residents/students.
- Recognized teams pay a fee of \$10 per child per year for non-residents/students.
- Non-recognized teams pay a fee of \$40/2 hours for field usage.
- Fields are maintained by the City.

#### **City of Gretna**

- Does not provide any recreation department sports.
- City owned fields available for use by private youth sport clubs.
- City does not maintain any of the fields.
- Maintenance is entirely the responsibility of the private clubs.

**CITY OF LA VISTA**  
**Recreation Department**  
**Baseball/Softball Field Fee Comparison**  
**2012**

	City of La Vista	City of Omaha	Millard Athletic Assoc.	City of Council Bluffs	City of Bellevue	City of Papillion *	City of Gretna
** Recreation Dept. Sponsored Teams - Practices	\$0.00	n/a	n/a	\$4.00	\$0.00	n/a	n/a
** Recreation Dept. Sponsored Teams - Games	\$0.00	n/a	n/a	\$0.00	\$0.00	n/a	n/a
** Non-Recreation Dept. and/or Private Teams - Practices	\$40.00	\$5.00	\$55.00	\$14.00	\$25.00	\$40.00	n/a
** Non-Recreation Dept. and/or Private Teams - Games	\$40.00	\$60.00	\$55.00	\$50/Day	\$25.00	\$40.00	n/a
Recognized Teams - 80/20 Rule	n/a	n/a	n/a	n/a	n/a	\$2.00/\$10.00	n/a
Non-Recognized Teams	n/a	n/a	n/a	n/a	n/a	\$40.00	n/a
*** Lighting (per hour)	\$0.00	\$7.50/hr	\$0.00	\$30.00	\$25.00/hr	\$0.00	n/a
Maintenance/Field Prep Responsibility	City	City	M.A.A.	City	City	City	Private Clubs

Field Usage (per 2 hours unless otherwise stated)

\* City of Papillion bases their fees on resident/non-resident and school district affiliation for "recognized teams" and "non-recognized teams"

\*\* Some cities are without recreation dept. youth sports, and allow private club teams to utilize and manage fields.

\*\*\* City of La Vista lighting is built into the registration and/or fee.

**CITY OF LA VISTA  
Recreation Department  
Baseball/Softball Field Preparation Costs  
2012**

	<u>Per Field</u>	<u>Totals</u>
Parks Salary/Benefits	\$40.27	\$40.27
PT Labor	\$21.50	\$21.50
Rec Salary/Benefits	\$6.24	\$6.24
Material (fertilizer/insect control)	\$0.08	\$0.08
Utilities	\$0.30	\$0.30
Aggregate/Chips/Paint	\$0.94	\$0.94
General Maintenance-Labor	\$6.76	\$6.76
GM-Materials	\$0.15	\$0.15
Equipment	\$3.91	\$3.91
Total	\$80.17	\$80.17