

# CITY OF WEST DES MOINES

## COUNCIL AGENDA

**date:** October 5, 2015

**time:** 5:30 P.M.

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| MAYOR .....                              | STEVEN K. GAER      | CITY MANAGER.....  | TOM HADDEN          |
| COUNCILMEMBER AT LARGE .....             | RICK MESSERSCHMIDT  | CITY ATTORNEY..... | RICHARD SCIESZINSKI |
| COUNCILMEMBER AT LARGE .....             | JIM SANDAGER        | CITY CLERK.....    | RYAN JACOBSON       |
| COUNCILMEMBER 1 <sup>ST</sup> WARD ..... | KEVIN L. TREVILLYAN |                    |                     |
| COUNCILMEMBER 2 <sup>ND</sup> WARD ..... | JOHN MICKELSON      |                    |                     |
| COUNCILMEMBER 3 <sup>RD</sup> WARD.....  | RUSS TRIMBLE        |                    |                     |

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**1. Call to Order/Pledge of Allegiance/Roll Call/Approval of Agenda**

**2. Citizen Forum** (Pursuant to City Council Procedural Rules citizen remarks are limited to five minutes under this agenda category - if additional time is desired the Mayor/Council may allow continuation as part of the Other Matters portion of the agenda)

**3. Mayor/Council/Manager Report/Other Entities Update**

**4. Consent Agenda**

- a. Motion - Approval of Minutes of September 21, 2015 Meeting
- b. Motion - Approval of Bill Lists
- c. Motion - Approval of Liquor Licenses:
  - 1. Apple Corps, L.P., d/b/a Applebee's Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class LC Liquor License with Sunday Sales - Renewal
  - 2. Casey's Marketing Company d/b/a Casey's General Store #2297, 108 8<sup>th</sup> Street - Class BC Permit with Sunday Sales - Renewal
  - 3. CEC Entertainment, Inc. d/b/a Chuck E. Cheese's #958, 1431 22<sup>nd</sup> Street - Class BB Permit with Sunday Sales - Renewal
  - 4. Costco Wholesale Corporation d/b/a Costco Wholesale #788, 7205 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
  - 5. Des Moines Golf and Country Club d/b/a Des Moines Golf and Country Club, 1600 Jordan Creek Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, and Outdoor Service Privileges - Renewal
  - 6. The Fresh Market, Inc. d/b/a The Fresh Market, 5901 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - New
  - 7. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5<sup>th</sup> Street - Class B Native Wine Permit with Sunday Sales - New

Council Agenda

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8. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 8, 2015
  9. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 14, 2015
  10. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 15, 2015
  11. Rogers Entertainment, d/b/a Jeremiah Bullfrogs, 1907 EP True Parkway - Class LC Liquor License with Sunday Sales - Renewal
  12. Kountry Manor Antiques Collectables and Gifts, d/b/a Memory Lane Antiques Valley Junction, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
  13. The Noodle Shop, Co. - Delaware, Inc., d/b/a Noodles & Company, 1551 Valley West Drive, Suite 237 - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
  14. Riley Drive Entertainment XII, Inc., d/b/a Saints Pub Jordan Creek, 165 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
  15. Riley Drive Entertainment I, Inc., d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
- d. Motion - Approval of Contracts - Art on the Campus
- e. Motion - Approval to Purchase Integrated Parks and Recreation System Software
- f. Motion - Approval of Contract Addendum - Copier Contract
- g. Motion - Approval of Amendment to Professional Services Agreement - South 50<sup>th</sup> Street Widening
- h. Motion - Approval of Change Order # 1
1. Pine Avenue Improvements - South 8<sup>th</sup> Street to End of Paving
  2. Community Center Interior Renovations
- i. Motion - Approval of Amendment to Existing Policy - Disposition of Excess Real Property
- j. Resolution - Order Construction:
1. 2015 Intake Repair Program
  2. 98<sup>th</sup> Street Improvements - Water Tower to Railroad Tracks
- k. Resolution - Accept Work:
1. 39<sup>th</sup> Street Reconstruction Project
  2. Grand Avenue Tree Cutting
- l. Resolution - Approval of 28E Agreement with Iowa Alcoholic Beverages Division - Iowa Pledge Tobacco Compliance Program

- m. Resolution - Approval of Certificate of Completion - 4125 Westown Parkway
- n. Resolution - Approval of Purchase Agreement and Easements – Dixie Acres Sanitary Sewer Project

**5. Old Business**

- a. Valley South/Watson Center, southeast corner of Westown Parkway and Valley West Drive - Amend the Planned Unit Development (PUD) to Establish Regional Commercial Zoning, Amend Allowed Uses, and Modify Development Regulations - The Shoppes at Valley West, LLC
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- b. Paradise Pointe, northwest corner of South 64<sup>th</sup> Street and Mills Civic Parkway - Amend Specific Plan Language to Allow Projecting Signs within the Development - Jordan Creek Investments
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- c. Sugar Creek Stormwater Connection Fee District - Approval of Amendment - City Initiated
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption

**6. Public Hearings (5:35 p.m.)**

- a. Westport, 33346 V Court - Amend the Comprehensive Plan Land Use Map from Office and Medium Density Residential to Single Family Residential and Designate Single Family Residential on approximately 63 Acres - Westport Development, LLC
  - 1. Resolution - Approval of Comprehensive Plan Land Use Amendment
  - 2. Ordinance - Approval of First Reading
- b. Neff Property, north of Stagecoach Drive, south of Mills Civic Parkway, west of 93<sup>rd</sup> Street - Amend the Comprehensive Plan Land Use Map from Office and Medium Density Residential to Single Family Residential and Designate Single Family Residential on approximately 76 Acres - Dr. Scott and Pamela Neff
  - 1. Resolution - Approval of Comprehensive Plan Land Use Amendment
  - 2. Ordinance - Approval of First Reading
- c. Bridgewood Drive, Northeast of the Bridgewood Drive/Beechtree Lane intersection - Sale and Conveyance of Property – Ryan Companies US, Inc.
  - 1. Resolution - Approval of Sale and Conveyance Property

**7. New Business**

- a. Village of Ponderosa Plat 9, southeast corner of Bluestem Circle and South Prairie View Drive - Subdivide Property into 43 Lots for Single Family Development and Four Outlots - Grayhawk Homes of Iowa, Inc.
  - 1. Resolution - Approval and Release of Final Plat for Recordation
- b. Whisper Rock at Quail Cove, north of Cherrywood Drive, east of I-35, west of South 50<sup>th</sup> Street - Subdivide Property into 18 Lots for Single Family Development - Prairie Building and Development, LLC
  - 1. Resolution - Approval of Preliminary Plat
- c. First Street Redevelopment Master Plan, southwest corner of 1<sup>st</sup> Street and Grand Avenue - Approval of Master Plan of Building and Infrastructure Modifications - First Street, LP
  - 1. Resolution - Approval of Master Plan
- d. Amendment to City Code - Title 5 (Police Regulations), Chapter 3A (Dogs and Cats), Section 3 (License Fee) - Remove License Fee Microchip Reduction - City Initiated
  - 1. Ordinance - Approval of First Reading
- e. Amendment to City Code - Title 6 (Motor Vehicles and Traffic), Chapter 5 (Rules of the Road) - Revise General Traffic Regulations - City Initiated
  - 1. Ordinance - Approval of First Reading

**8. Receive, File and/or Refer**

- a. Amendment to City Code - Title 9 (Zoning), Chapter 10 (Performance Standards) - Establish Regulations Regarding the Implementation of Roll-Up Doors and Windows in Restaurants and Bars - City Initiated (Refer to Plan and Zoning Commission)
- b. Amendment to City Code - Title 9 (Zoning), Chapter 2 (Definitions), Chapter 6 (Commercial, Office, and Industrial Zoning District), and Chapter 10 (Performance Standards) - Establish Definitions, Amend Parking Standards, Amend Use Matrix, and Modify Regulations as Related to Event Venues and Assembly Uses - City Initiated (Refer to Plan and Zoning Commission)

**9. Other Matters**

The City of West Des Moines is pleased to provide accommodations to disabled individuals or groups and encourages their participation in city government. Should special accommodations be required please contact the Clerk's office at least 48 hours in advance, at 222-3600 to have accommodations provided.



September 21, 2015

West Des Moines City Council Proceedings  
Monday, September 21, 2015

Mayor Steven K. Gaer opened the regularly scheduled meeting of the City Council of West Des Moines, Iowa, in the Council Chambers of the West Des Moines City Hall on Monday, September 21, 2015 at 5:30 PM. Council members present were: J. Mickelson, R. Messerschmidt, J. Sandager, and K. Trevillyan.

City Clerk Ryan Jacobson noted staff recommends an amendment to Item 6(g) Dixie Acres Sanitary Sewer, to include change order #1 along with approval to award the contract.

On Item 1. Agenda. It was moved by Trevillyan, second by Sandager approve the agenda as amended.

Vote 15-398: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 2. Public Forum: No one came forward.

On Item 3. Council/Manager/Other Entities Reports:

Todd Ashby, Executive Director of the Des Moines Area Metropolitan Planning Organization (MPO), provided a report to the Mayor and Council, including updates on projects funded through the MPO, the current quality of roadways and bridges throughout the metro, and a proposal for local governments to adopt a complete streets policy.

Council member Sandager reported he attended a meeting of the Metro Advisory Council, where discussion was held on a proposed new terminal at Des Moines International Airport and pending changes to the FAA Reauthorization Bill. He also attended a Development and Planning Subcommittee meeting, where discussion was held on a proposed redevelopment incentive policy. He reported he also participated in last week's economic development bus tour, which was followed by the officials' cookout at Wells Fargo's Jordan Creek campus, where Lieutenant Governor Kim Reynolds presented the City of West Des Moines with a Home Base Iowa designation for the community's commitment to hiring veterans.

Council member Trevillyan reported he and Council member Mickelson will both participate on the selection committee for the Valley Junction Master Plan, and 13 proposals were received. The committee's goal is to have a consultant selected by the end of October.

Council member Messerschmidt reported he attended a Public Works Subcommittee meeting, where discussion was held on water line issues at the West Des Moines Community Center and the need to replace a culvert at Fairmeadows Park. He reported he attended a presentation by staff at Edgewater, where an update was given on development projects throughout the city.

On Item 4. Consent Agenda.

It was moved by Messerschmidt, second by Sandager to approve the consent agenda as presented.

- a. Approval of Minutes of September 8, 2015 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  - 1. Mohamed Ali d/b/a Chicha Shack, 5435 Mills Civic Parkway, Suite 110 - Class LC Liquor License with Sunday Sales - Renewal
  - 2. Clive Jaycees d/b/a Clive Jaycees, 255 81st Street (Valley View Park) - 5-Day Class BB Beer Permit for Thrive Church Food Truck 5K - September 26, 2015
  - 3. Ingersoll Liquor & Beverage Co., d/b/a Ingersoll Wine Merchants, 1300 50th Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
  - 4. Butterface, LLC d/b/a The Keg Stand, 3530 Westown Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
  - 5. Ohana Inc. d/b/a Ohana Steakhouse, 2900 University Avenue, Suite A - Class LC Liquor License with Sunday Sales - Renewal
  - 6. Walnut Brewery, Inc., d/b/a Rock Bottom Brewery, 4508 University Avenue - Class LC Liquor License Extension of Outdoor Service - September 24, 2015
  - 7. Riley Drive Entertainment I, Inc., d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License Extension of Outdoor Service - September 26-27, 2015
  - 8. InterMountain Management, LLC d/b/a TownePlace Suites, 125 South 68th Street - Class LB Liquor License with Sunday Sales - New
  - 9. International Event Center, Inc., d/b/a Val Air, 301 Ashworth Road - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
- d. Approval of Waiver of Alcohol Provisions - Thrive Church Food Truck 5K - Valley View Park, September 26, 2015
- e. Approval of Extended Sound Permit - Tonic Bar West Glen, 5535 Mills Civic Parkway
- f. Approval of Appointment - Civil Service Commission
- g. Approval of Contract Agreement - Snow Removal and Ice Control Services
- h. Approval of Change Order #2 - 2015 Concrete Trail Renovation
- i. Approval of Amendment No. 1 to Relocation and Reimbursement Agreement - MidAmerican Energy Company
- j. Approval to Purchase Wetland Credits - Maffitt Lake Road Improvements - Veterans Parkway to South 8th Street
- k. Approval of FY 2014-15 Iowa Department of Transportation City Street Financial Report
- l. Accept Purchase of Equipment - Flashing Yellow Arrow Traffic Signal Conversion Project
- m. Accept Work - 2015 Concrete Trail Renovation
- n. Approval of Professional Services Agreement:
  - 1. Valley Junction Strategic Planning Research

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2. Ashworth Road Street Light Improvements, Prairie View Drive to 60th Street
- o. Establish Just Compensation and Approve Acquisition of Property:
  1. Ashworth Road Improvements - Phase 1
  2. Walnut Creek Outfall Storm Sewer
  3. South 50th Street Widening
- p. Establish Public Hearing Regarding the Final Design, Site Selection and Consideration of Acquiring Agricultural Property - Ashworth Road Improvements - Phase 1
- q. Approval of Purchase Agreement, Deeds, and Easements - South Grand Prairie Parkway - Wendover Road to Mills Civic Parkway
- r. Acceptance of Property Interests - Pine Avenue Improvements - Veterans Parkway to South 8th Street and South 8th Street Improvements - Army Post Road to Pine Avenue

Vote 15-399: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 5(a) S & F/Karp, northeast corner of South 41st Street and Mills Civic Parkway - Amend the Planned Unit Development (PUD) to Address Development Regulations, initiated by Highgates Plaza, LLC

It was moved by Sandager, second by Trevillyan to consider the second reading of the ordinance.

Vote 15-400: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Trevillyan to approve the second reading of the ordinance.

Vote 15-401: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

It was moved by Sandager, second by Trevillyan to waive the third reading and adopt the ordinance in final form.

Vote 15-402: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 5(b) De Haan Plat of Survey, 1745 Glen Oaks Drive - Approval of Plat of Survey to Create One Single Family Lot, initiated by Doug De Haan

It was moved by Trevillyan, second by Sandager to adopt Resolution - Approval and Release of Plat of Survey, subject to the applicant complying with all applicable City Code requirements.

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Vote 15-403: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(a) Development Agreement, Westtown V Urban Renewal Area - Development of an Office and Conference Center, initiated by Hy-Vee, Inc. (Continued from August 10, 2015, August 24, 2015, and September 8, 2015)

It was moved by Messerschmidt, second by Sandager to adopt Motion - Continue Public Hearing Indefinitely.

Vote 15-404: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Valley South/Watson Center, southeast corner of Westtown Parkway and Valley West Drive - Amend the Planned Unit Development (PUD) to Establish Regional Commercial Zoning, Amend Allowed Uses, and Modify Development Regulations, initiated by The Shoppes at Valley West, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 4, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members present, the Plan and Zoning Commission recommended City Council approval of the PUD Amendment.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-405: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-406: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Paradise Pointe, northwest corner of South 64th Street and Mills Civic Parkway - Amend Specific Plan Language to Allow Projecting Signs within the Development, initiated by Jordan

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Creek Investments. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 4, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 5-0, with two members present, the Plan and Zoning Commission recommended City Council approval of the Amendment to the Specific Plan Ordinance.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-407: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Sandager, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-408: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Sugar Creek Stormwater Connection Fee District - Approval of Amendment, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 4, 2015 and September 11, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated one correspondence was received by Interchange Partners, LLC and was included with the Council communication.

Mayor Gaer asked if there were any public comments.

Steve Gillotti, Manager of Interchange Partners, LLC, 1709 South 42<sup>nd</sup> Street, expressed opposition to the proposed amendment to the district boundaries to include property owned by Interchange Partners, LLC. He stated the road culverts only pass water under roads, and this district is not a stormwater management district; it is simply a transportation district, which he believes is problematic. He also stated the Interchange Partners property is already connected to a stormwater disposal network, the existing creek system located on private property; therefore he believes the stormwater connection fee district and its downstream culverts will provide no new benefit to the Interchange Partners property.

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Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

Bob Veenstra, Veenstra & Kimm, 3000 Westown Parkway, explained that in stormwater drainage, it's been long recognized that if a City constructs an improvement, even properties upstream that don't connect directly are still receiving a benefit from that property, and upstream property owners still bear some of the responsibility for stormwater even after it has drained off their property. He stated the entire area is considered as a global entity, established as one stormwater connection fee district as opposed to 17 small districts for each of the improvements made. He noted the obligation doesn't rest entirely with the property owners, as the City bears some of the responsibility as well. He also noted that the properties that are only partially in the Sugar Creek watershed will only be charged the fee based on the portion of the property that actually drains into Sugar Creek.

Mayor Gaer noted the City had requested an Attorney General opinion to address this issue.

City Attorney Dick Scieszinski stated that is correct. The Attorney General opinion stated that sanitary sewer fee districts are authorized by the statute, and that source properties upstream can receive a benefit from downstream stormwater improvements, even if they are not physical connected, as the source properties are producing stormwater runoff that has to be transmitted.

Mayor Gaer stated based on the estimates included with the Council communication, the City will covering approximately 25 percent of the total cost for these stormwater improvements.

Council member Trevillyan inquired why the Interchange Partners property was not included when the original stormwater connection fee district was established.

Duane Wittstock, City Engineer, responded there were two errors made on this parcel, one was an issue of notice and the other was by incorrectly informing Mr. Gillotti that the Interchange Partners property would not be in the district, when in reality the property does predominantly fall within the district boundaries. The proposed amendment is a method to rectify the errors.

Council members Mickelson and Sandager both indicated they will vote to approve the first reading tonight, but they want to meet with staff and Mr. Gillotti to learn more information before the ordinance comes back to Council for a second and third reading.

It was moved by Trevillyan, second by Messerschmidt to consider the first reading of the ordinance.

Vote 15-409: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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It was moved by Trevillyan, second by Messerschmidt to approve the first reading of the ordinance.

Vote 15-410: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(e) Mayor Gaer indicated this was the time and place for a public hearing to consider Coachlight Drive Street Improvements - South 88th Street West, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 9, 2015 and September 16, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments.

Marc Abels, representing Hidden Creek, LLC, stated there are two alternatives presented to the Council with one including a water line. His client originally thought the cost estimate for the water line would be lower than it was, and they are no longer requesting the water line alternative. He stated if the proposed special assessment is approved, it will allow for the sale of a 13-acre parcel to Hale Development for the proposed construction of 66 townhomes. He also stated Hidden Creek, LLC has made arrangements to ensure the deficiency assessment will be escrowed immediately or within a reasonably short period of time. He noted the 13-acre parcel at its current valuation is generating \$42.75 per year in property tax revenue to the City, but after the 66 townhomes are completed, the estimated valuation would generate approximately \$90,000 per year in property tax revenue.

Mayor Gaer asked if there were any additional public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Mickelson to adopt Resolution - Approval of Proposed Resolution of Necessity (alternate #1 with water main not included).

Council member Trevillyan inquired about the necessity of this project.

Mr. Abels responded this is a unique situation, as in most cases the developer has ownership of the roadbed, whereas in this case the Coachlight Drive roadbed is not even in the West Des Moines corporate limits. He noted the City has policies against involuntarily annexation and eminent domain, but Hidden Creek, LLC has reached an agreement with the Hickory Knolls property owners to allow for this project to occur, and he stated Coachlight Drive will provide a logical connection with 91<sup>st</sup> Street and he believes it will be classified as a minor collector street.

Duane Wittstock, City Engineer, confirmed that Coachlight Drive will be classified as a minor collector street. He explained the Hickory Knolls properties and their access road are outside the

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West Des Moines corporate limits, and when Whisper Ridge developed, there was an obligation put on Whisper Ridge for their pro rata share of the paving of future Coachlight Drive, but it was unclear who had rights to the access road. He stated this special assessment process, which has been vetted by the Finance and Administration Subcommittee and Public Works Subcommittee, required a compromise between all parties involved. He also stated there is a potential that Coachlight Drive could be extended through the Hickory Knolls development if the parcels should ever be subdivided, but regardless the road will service the Whisper Ridge and Sandals development and will probably branch to the south into the Sandals development and then tie into Mills Civic Parkway in some fashion.

Vote 15-411: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider 2015 Citywide Energy Savings, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 11, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.

It was moved by Sandager, second by Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to ABC Electrical Services.

Council member Mickelson inquired how long staff expects it to take for the anticipated energy savings to make up for the costs of this project.

Duane Wittstock, City Engineer, responded staff expects the energy savings payback to take between two to ten years.

Vote 15-412: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Dixie Acres Sanitary Sewer, initiated by the City of West Des Moines. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 11, 2015 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated none had been received.

Mayor Gaer asked if there were any public comments; hearing none he declared the public hearing closed.



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It was moved by Trevillyan, second by Messerschmidt to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Synergy Contracting, LLC and Approval of Change Order #1.

Vote 15-413: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 7(a) Woodland Hills of West Des Moines Plat 2, southwest corner of Cascade Avenue and South 91st Street - Subdivide Property into 19 Postage Stamp Lots for Detached Townhome Development, initiated by Jerry Bussanmas, LLC

It was moved by Sandager, second by Messerschmidt to adopt Resolution - Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. Once the detention facility is completed, and prior to issuance of an occupancy permit, including temporary occupancy, for the last townhome constructed, a letter and as-built drawings, signed and sealed in accordance with Chapter 6, 193C-6.1(542B) of the Iowa Code shall be submitted to the Planning Division.

Vote 15-414: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 7(b) Eldorado Estates, 1450 South Jordan Creek Parkway - Subdivide Property into 14 Lots for Single Family Development, initiated by Chayce Holdings, LLC

It was moved by Sandager, second by Messerschmidt to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. The Eldorado Estates subdivision sign as depicted on the Landscape Plan is not approved as part of the Preliminary Plat approval. A separate review and approval of a sign permit shall be required to erect the sign. The sign location shall be located such that it does not interfere with the site triangle of the future intersection of Eldorado Point and the street that connects the property to the south; and
2. The landscaping as depicted on the Landscape Plan within the future right-of-way of the street connecting the property to the south shall be removed by the applicant at such time that the dedication of right-of-way is required to connect to the property to the south.

Vote 15-415: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

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On Item 7(c) Village of Ponderosa Plat 9, southeast corner of Blue Stem Circle and South Prairie View Drive - Subdivide Property into 43 Lots, Three Outlots for Private Streets, and One Outlot for Open Space for Single Family Development, initiated by Grayhawk Homes of Iowa, Inc.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Preliminary Plat, subject to the applicant complying with all applicable City Code requirements and the following conditions of approval:

1. In conjunction with the recordation of the Final Plat, the applicant shall execute the appropriate maintenance responsibility agreements for streets, sewers, etc.;
2. Approval and recordation of the associated final plat shall be required prior to issuance of an occupancy permit, including temporary occupancy for any home within the development;
3. Public Improvement Construction plans shall be approved by the City Engineer prior to initiating work for any modifications to public utility lines; and,
4. For any building permit issued prior to approval of the final plat for lots 53, 54, or 55, the building placement and design shall meet all bulk regulations for the future lot being created with Village of Ponderosa Plat 9. It shall be the responsibility of the owner/builder to modify the home, at the owner/builder's expense, if built incorrectly and out of compliance with bulk regulations.

Vote 15-416: Messerschmidt, Mickelson, Sandager, Trevillyan...4 yes  
Motion carried.

On Item 8 - Receive, File and/or Refer: no items

On Item 9 - Other Matters: none

The meeting was adjourned at 6:49 p.m.

Respectfully submitted,

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Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

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Steven K. Gaer, Mayor

641  
4(b)

**CITY OF WEST DES MOINES  
CITY COUNCIL ACTION ITEM**

The following list(s) of municipal expenditures, all of which have been reviewed and authorized by the respective departments as being justified and properly due and the listing of which have been prepared by Finance departmental staff are being submitted to the City Council for approval:

|                          |                    |  |                 |
|--------------------------|--------------------|--|-----------------|
| Regular Bi-Weekly Claims | 10/01/2015         |  | \$3,379,195.85  |
|                          |                    |  | Total \$ Amount |
| EFT Claims               | 10/01/2015         |  | \$405,126.09    |
|                          |                    |  | Total \$ Amount |
| Control Pay              | 10/01/2015         |  | \$254,480.36    |
|                          |                    |  | Total \$ Amount |
| End of Month             | -0-                |  | \$-0-           |
|                          |                    |  |                 |
| Manual Check             | 10/01/2015         |  | \$240,472.84    |
|                          | Claim Listing Date |  | Total \$ Amount |

Approved by the West Des Moines City Council this 5th day of October  
2015

\_\_\_\_\_  
Tim Stiles, Finance Director

\_\_\_\_\_  
Tom Hadden, City Manager

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan Jacobson, City Clerk

Finance and Administration Committee acknowledgement of disbursement of expenditures:

\_\_\_\_\_  
Russ Trimble, Councilmember

\_\_\_\_\_  
Jim Sandager, Councilmember

\_\_\_\_\_  
John Mickelson (alternate)

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| BANK   | VENDOR                   | CHECK# | DATE     | AMOUNT       |
|--------|--------------------------|--------|----------|--------------|
| INAT   | FIRST NATIONALBANK       |        |          |              |
| 26072  | ABACI CONSULTING, INC.   | 202570 | 10/05/15 | 1,375.00     |
| .10647 | ALBRECHT/TODD            | 202571 | 10/05/15 | 60.00        |
| 29481  | ALVINE & ASSOCIATES, INC | 202572 | 10/05/15 | 5,885.50     |
| 28351  | AMERICAN ABSTRACT & TITL | 202573 | 10/05/15 | 630.00       |
| 29314  | AMERICAN SECURITY CORP   | 202574 | 10/05/15 | 3,199.25     |
| 24457  | APWA-IOWA CHAPTER        | 202575 | 10/05/15 | 835.00       |
| 27723  | AQUACLEAR LAKE MANAGEMEN | 202576 | 10/05/15 | 790.00       |
| .10633 | BANKERS TRUST            | 202577 | 10/05/15 | 771.00       |
| 24573  | BANKERS TRUST            | 202578 | 10/05/15 | 10,137.50    |
| .10643 | BEALS/FAY                | 202579 | 10/05/15 | 192.00       |
| 28471  | BECKER/STEVE             | 202580 | 10/05/15 | 946.48       |
| 25207  | BEGLEY/JOHN              | 202581 | 10/05/15 | 132.00       |
| 24522  | BELLER DISTRIBUTING, LLC | 202582 | 10/05/15 | 280.32       |
| 28204  | BERT GURNEY & ASSOCIATES | 202583 | 10/05/15 | 225.07       |
| 29408  | BOISEN/BRYAN             | 202584 | 10/05/15 | 957.00       |
| 29508  | BOLTON & MENK INC        | 202585 | 10/05/15 | 3,543.00     |
| 29508  | BOLTON & MENK INC        | 202586 | 10/05/15 | 1,562.50     |
| 29508  | BOLTON & MENK INC        | 202587 | 10/05/15 | 2,657.50     |
| 29508  | BOLTON & MENK INC        | 202588 | 10/05/15 | 1,227.50     |
| 28011  | BOUND TREE MEDICAL, LLC. | 202589 | 10/05/15 | 19,975.00    |
| 23842  | BRINKMEYER/BLAIN         | 202590 | 10/05/15 | 1,139.03     |
| 27429  | BROCKWAY MECHANICAL & RO | 202591 | 10/05/15 | 109.76       |
| 29900  | BUNGE/ADAM               | 202592 | 10/05/15 | 207.29       |
| .10632 | C AND K INC              | 202593 | 10/05/15 | 7,240.00     |
| 29899  | CAMPBELL/MEREDITH        | 202594 | 10/05/15 | 54.40        |
| 04250  | CARPENTER UNIFORM CO     | 202595 | 10/05/15 | 132.00       |
| 24447  | CDM GOVERNMENT, INC.     | 202596 | 10/05/15 | 884.93       |
| 29897  | CENTRAL IOWA TELEVISION  | 202597 | 10/05/15 | 737.50       |
| .10622 | CENTRUM SOUND SYSTEMS    | 202598 | 10/05/15 | 975.00       |
| 19700  | CENTURYLINK              | 202599 | 10/05/15 | 1,360.80     |
| 19754  | CENTURYLINK              | 202600 | 10/05/15 | 6,139.81     |
| .10635 | CHRISTY/GINA             | 202601 | 10/05/15 | 53,952.78    |
| 05350  | CLIVE POWER EQUIPMENT    | 202602 | 10/05/15 | 750.00       |
| 29008  | COMISKY GLASS & GLAZING  | 202603 | 10/05/15 | 8.24         |
| 25466  | COMMERCIAL APPRAISERS OF | 202604 | 10/05/15 | 18,450.00    |
| 29116  | CONCRETE COMPANY/THE     | 202605 | 10/05/15 | 1,500.00     |
| 28605  | CONCRETE CONNECTION, LLC | 202606 | 10/05/15 | 80,608.24    |
| 25206  | CONCRETE TECHNOLOGIES    | 202607 | 10/05/15 | 31,863.05    |
| 05766  | CONSTRUCTION & AGGREGATE | 202608 | 10/05/15 | 199,394.55   |
| 25920  | CONSTRUCTION MATERIALS,  | 202609 | 10/05/15 | 103.96       |
| 27403  | CONTRACTOR SALES & SERV  | 202610 | 10/05/15 | 225.50       |
| 27090  | CONTROLLED ACCESS CORP   | 202611 | 10/05/15 | 401.63       |
| 05885  | CORELL CONTRACTOR, INC.  | 202612 | 10/05/15 | 294.00       |
| 05885  | CORELL CONTRACTOR, INC.  | 202613 | 10/05/15 | 30.00        |
| 05885  | CORELL CONTRACTOR, INC.  | 202614 | 10/05/15 | 369,563.88   |
| 27442  | CORY/TARRY               | 202615 | 10/05/15 | 1,075,100.15 |
| 26276  | CRETEX CONCRETE PRODUCTS | 202616 | 10/05/15 | 50.00        |
|        |                          | 202617 | 10/05/15 | 200.60       |

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| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT     |
|-------------------------|--------------------------|--------|----------|------------|
| 1NAT FIRST NATIONALBANK |                          |        |          |            |
| .10639                  | CURRY/STEPANIE           | 202618 | 10/05/15 | 50.00      |
| 06400                   | CUSTOM AWARDS            | 202619 | 10/05/15 | 89.00      |
| .10644                  | DALLAS COUNTY            | 202620 | 10/05/15 | 94,100.00  |
| 06550                   | DALLAS COUNTY RECORDER   | 202621 | 10/05/15 | 1,147.00   |
| .10651                  | DAVIS ESTATES LTD        | 202622 | 10/05/15 | 76,000.00  |
| 27867                   | DE LAGE LANDEN           | 202623 | 10/05/15 | 4,362.60   |
| 27503                   | DEPARTMENT OF ADMIN SERV | 202624 | 10/05/15 | 3,500.00   |
| 27898                   | DEPT. OF PUBLIC DEFENSE  | 202625 | 10/05/15 | 450.00     |
| 29827                   | DES MOINES EMBASSY CLUB/ | 202626 | 10/05/15 | 60.00      |
| 07080                   | DES MOINES IRON AND SUPP | 202627 | 10/05/15 | 93.69      |
| 24936                   | DES MOINES RIFLE/REVOLVE | 202628 | 10/05/15 | 200.00     |
| .10650                  | DOWLING/DAVID            | 202629 | 10/05/15 | 34.00      |
| 29492                   | DOWLING/CONNIE           | 202630 | 10/05/15 | 285.00     |
| 08300                   | EARL MAY SEED AND NURSER | 202631 | 10/05/15 | 249.75     |
| 23025                   | EDMONDSON/JERRY          | 202632 | 10/05/15 | 910.00     |
| 24746                   | ELDER CORPORATION        | 202633 | 10/05/15 | 374,572.65 |
| 24746                   | ELDER CORPORATION        | 202634 | 10/05/15 | 111,815.00 |
| 26083                   | EMSI RC                  | 202635 | 10/05/15 | 56.00      |
| .10623                  | ERICKSON/EMILY           | 202636 | 10/05/15 | 347.59     |
| 29821                   | FEH ASSOCIATES INC       | 202637 | 10/05/15 | 7,550.70   |
| 28912                   | FERGUSON ENTERPRISES, IN | 202638 | 10/05/15 | 23.67      |
| .10642                  | FLOREN/JASON             | 202639 | 10/05/15 | 100.00     |
| 28746                   | GBA SYSTEMS INTEGRATORS, | 202640 | 10/05/15 | 2,558.00   |
| 29004                   | GERLEMAN/BRIAN           | 202641 | 10/05/15 | 175.00     |
| 10750                   | GRAINGER INC             | 202642 | 10/05/15 | 188.86     |
| 10800                   | GRAYBAR ELECTRIC CO INC  | 202643 | 10/05/15 | 44.80      |
| 10800                   | GRAYBAR ELECTRIC CO INC  | 202644 | 10/05/15 | 270.08     |
| 10950                   | GRIMES ASPHALT & PAVING  | 202645 | 10/05/15 | 228.66     |
| 25728                   | HAHN/JENNIFER            | 202646 | 10/05/15 | 2,000.00   |
| 29804                   | HARDSCAPE SOLUTIONS OF I | 202647 | 10/05/15 | 1,532.45   |
| .10624                  | HARRISON TRUCK CENTERS   | 202648 | 10/05/15 | 1,135.55   |
| 28647                   | HARTPENCE/LAWRENCE       | 202649 | 10/05/15 | 69.58      |
| .10648                  | HERNANDEZ-LIMKE CONSTANC | 202650 | 10/05/15 | 422.50     |
| 25625                   | HEWLETT-PACKARD COMPANY  | 202651 | 10/05/15 | 212.25     |
| 28212                   | HIGHLAND PRODUCTS GROUP, | 202652 | 10/05/15 | 1,259.66   |
| 11547                   | HODNE/BRET               | 202653 | 10/05/15 | 1,045.39   |
| 25706                   | HOME INC.                | 202654 | 10/05/15 | 13,450.00  |
| .10629                  | HOMETOWN POLICE DEPT     | 202655 | 10/05/15 | 177.00     |
| .10641                  | HOMEG/HOLLY              | 202656 | 10/05/15 | 50.00      |
| .10638                  | HUMMEL/RUTH              | 202657 | 10/05/15 | 50.00      |
| 23611                   | HY VEE, INC.             | 202658 | 10/05/15 | 35.91      |
| 29898                   | INTERNATIONAL INSTITUTE  | 202659 | 10/05/15 | 195.00     |
| 25995                   | IOWA ASSN MUNICIPAL UTIL | 202660 | 10/05/15 | 250.00     |
| 27364                   | IOWA ASSN OF PROFESSIONA | 202661 | 10/05/15 | 50.00      |
| 26535                   | IOWA DEPT OF ADMIN SERVI | 202662 | 10/05/15 | 250.00     |
| 12760                   | IOWA DEPT OF TRANSPORTAT | 202663 | 10/05/15 | 147.50     |
| 29832                   | IOWA NATIVE TREES & SHRU | 202664 | 10/05/15 | 900.00     |
| 13100                   | IOWA PRISON INDUSTRIES   | 202665 | 10/05/15 | 495.72     |

| BANK    | VENDOR                     | CHECK# | DATE     | AMOUNT     |
|---------|----------------------------|--------|----------|------------|
| 13110   | IOWA SIGNAL INC.           | 202666 | 10/05/15 | 2,240.20   |
| 28265   | JACK DELEON CONSTRUCTION   | 202667 | 10/05/15 | 23,121.00  |
| 28046   | JACOBSON SUPPLY, LLC       | 202668 | 10/05/15 | 3,612.00   |
| 26599   | JASONS DELI                | 202669 | 10/05/15 | 1,133.84   |
| 29532   | JEFFREY L BRUCE & COMPAN   | 202670 | 10/05/15 | 6,674.87   |
| 28066   | JOHN HEMRY LLC             | 202671 | 10/05/15 | 3,500.00   |
| 28521   | JOINER CONSTRUCTION CO.,   | 202672 | 10/05/15 | 112,456.25 |
| 29529   | KABEL BUSINESS SERVICES    | 202673 | 10/05/15 | 634.50     |
| 29438   | KALDENBERG'S PBS LANDSCA   | 202674 | 10/05/15 | 776.25     |
| -106225 | KEILEY/JOHN                | 202675 | 10/05/15 | 159.60     |
| 29395   | KINGS LANDING LLC          | 202676 | 10/05/15 | 23,561.15  |
| 28301   | KLAHN/RICHARD              | 202677 | 10/05/15 | 132.00     |
| 29378   | KLOCKE'S EMERGENCY VEHIC   | 202678 | 10/05/15 | 299.35     |
| 29890   | KOCH/LARRY                 | 202679 | 10/05/15 | 198.00     |
| 29896   | KRUEGER/DOUG               | 202680 | 10/05/15 | 590.00     |
| 28536   | KUM & GO L.C.              | 202681 | 10/05/15 | 300.00     |
| 2/7669  | KUTAK ROCK LLP             | 202682 | 10/05/15 | 1,305.30   |
| 23394   | LACTINA/WENDY              | 202683 | 10/05/15 | 528.00     |
| 10626   | LARRY'S WINDOW SERVICE,    | 202684 | 10/05/15 | 300.00     |
| 28610   | LEAGUE OF MINNESOTA        | 202685 | 10/05/15 | 150.00     |
| 28376   | LT LEON ASSOCIATES, INC    | 202686 | 10/05/15 | 17,712.50  |
| -10646  | LUMSDEN/MARK               | 202687 | 10/05/15 | 416.30     |
| 26065   | LYNCH/NATHANIEL            | 202688 | 10/05/15 | 8.60       |
| 29889   | MACDONALD LETTER SERVICE   | 202689 | 10/05/15 | 804.97     |
| 26066   | MCDONOUGH/ELAINE           | 202690 | 10/05/15 | 110.00     |
| 14900   | MEDITACOM                  | 202691 | 10/05/15 | 11.47      |
| 29208   | MENARDS                    | 202692 | 10/05/15 | 35.85      |
| 2/7678  | MERCY WEST PHARMACY        | 202693 | 10/05/15 | 332.32     |
| 13030   | MID AMERICAN SIGNAL, INC   | 202694 | 10/05/15 | 7,152.00   |
| 13030   | MIDAMERICAN ENERGY         | 202695 | 10/05/15 | 50,691.97  |
| 13030   | MIDAMERICAN ENERGY         | 202696 | 10/05/15 | 4,552.11   |
| 13030   | MIDAMERICAN ENERGY         | 202697 | 10/05/15 | 201.97     |
| 13030   | MIDAMERICAN ENERGY         | 202698 | 10/05/15 | 13.33      |
| 13028   | MIDAMERICAN - DM-WDM TL    | 202699 | 10/05/15 | 64,693.20  |
| 13027   | MIDAMERICAN - CLIVE-WDM TL | 202700 | 10/05/15 | 50.00      |
| 13029   | MIDAMERICAN-WDM-WAUKEE T   | 202701 | 10/05/15 | 442.07     |
| 25992   | MIDWEST ALARM SERVICES     | 202702 | 10/05/15 | 25.04      |
| 24912   | MIDWEST AUTO FIRE SPRINK   | 202703 | 10/05/15 | 469.68     |
| -106227 | MIDWEST COMFORT            | 202704 | 10/05/15 | 355.50     |
| 2/7748  | MITCHELL/RANDY             | 202705 | 10/05/15 | 5,912.00   |
| -10645  | MORALES/MARIELY            | 202706 | 10/05/15 | 176.00     |
| 28543   | MPS ENGINEERS              | 202707 | 10/05/15 | 8.60       |
| 28398   | MPI DISTRIBUTING, INC.     | 202708 | 10/05/15 | 319,778.64 |
| 15625   | MUNICIPAL SUPPLY INC       | 202709 | 10/05/15 | 37.03      |
| 29062   | MUNSTINGER/JEFF            | 202710 | 10/05/15 | 713.00     |
| 25307   | MURPHY TRACTOR & EQUIPME   | 202711 | 10/05/15 | 132.00     |
| 26825   | MUSCO LIGHTING, LLC        | 202712 | 10/05/15 | 8,000.00   |
|         |                            | 202713 | 10/05/15 | 1,710.00   |

| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT    |
|-------------------------|--------------------------|--------|----------|-----------|
| INAT FIRST NATIONALBANK |                          |        |          |           |
| 265772                  | NATIONAL ALLIANCE        | 202714 | 10/05/15 | 571.44    |
| 26539                   | NORTHERN TOOL & EQUIPMEN | 202715 | 10/05/15 | 69.99     |
| 28438                   | OWENS & MINOR            | 202716 | 10/05/15 | 401.53    |
| 28970                   | PALMER GROUP             | 202717 | 10/05/15 | 1,613.43  |
| 29182                   | PALMER'S DELI AND MARKET | 202718 | 10/05/15 | 191.30    |
| 29733                   | PARKER/SATONITUS         | 202719 | 10/05/15 | 50.00     |
| 28548                   | PER MAR SECURITY         | 202720 | 10/05/15 | 273.25    |
| 27539                   | POLK COUNTY EXTENSION    | 202721 | 10/05/15 | 105.00    |
| 03300                   | POLK COUNTY RECORDER     | 202722 | 10/05/15 | 27.00     |
| -10637                  | POWELL/SHARON            | 202723 | 10/05/15 | 50.00     |
| 29560                   | PRO WASTE SERVICES LLC   | 202724 | 10/05/15 | 166.82    |
| 27654                   | PUMP IT UP               | 202725 | 10/05/15 | 112.00    |
| 29540                   | RAHE/ALAN                | 202726 | 10/05/15 | 100.00    |
| 25142                   | RANK/GARY                | 202727 | 10/05/15 | 117.43    |
| 17302                   | RDG PLANNING & DESIGN    | 202728 | 10/05/15 | 389.50    |
| 25260                   | RESERVE ACCOUNT          | 202729 | 10/05/15 | 4,000.00  |
| 29269                   | RHINE GROUP FIREARMS     | 202730 | 10/05/15 | 592.00    |
| 29815                   | RITTER/MCKINLAE          | 202731 | 10/05/15 | 24.15     |
| 25241                   | ROSS CHEMICAL            | 202732 | 10/05/15 | 242.14    |
| 17625                   | ROY'S TOWING AND RECOVER | 202733 | 10/05/15 | 250.00    |
| 27811                   | ROYER/KATIE              | 202734 | 10/05/15 | 66.00     |
| 28751                   | RUSZKOWSKI/KRIS          | 202735 | 10/05/15 | 4.48      |
| -10636                  | SADLER/DEREK             | 202736 | 10/05/15 | 1,500.00  |
| -10652                  | SAFE KIDS IOWA STATE     | 202737 | 10/05/15 | 1,713.48  |
| 22400                   | SCHILDBERG CONSTRUCTION  | 202738 | 10/05/15 | 1,005.12  |
| 18392                   | SIMPLEX GRINNELL         | 202739 | 10/05/15 | 350.00    |
| 24711                   | SKOLD DOOR & FLOOR CO.   | 202740 | 10/05/15 | 323.35    |
| -10640                  | SORENSEN/WENDY           | 202741 | 10/05/15 | 50.00     |
| 29643                   | SPECIALTY GRAPHICS INC   | 202742 | 10/05/15 | 371.00    |
| 29901                   | SPONSORED PROGRAMS ACCOU | 202743 | 10/05/15 | 109.62    |
| 27422                   | SPRINT                   | 202744 | 10/05/15 | 329.27    |
| 28390                   | STAIERT/MICHAEL          | 202745 | 10/05/15 | 2.13      |
| 28720                   | STATE SAVINGS BANK       | 202746 | 10/05/15 | 14,955.04 |
| 29657                   | STEIMEL/MICHAEL          | 202747 | 10/05/15 | 66.00     |
| -10634                  | STEPHENSON/LUCINDA       | 202748 | 10/05/15 | 186.61    |
| 25053                   | SUPERIOR PRINTING & PROM | 202749 | 10/05/15 | 1,155.50  |
| 28433                   | SWINTON/ASHLEE           | 202750 | 10/05/15 | 1,012.50  |
| 28396                   | SYN-TECH SYSTEMS, INC.   | 202751 | 10/05/15 | 2,299.50  |
| 28828                   | SYSTEM WORKS, LLC        | 202752 | 10/05/15 | 9,480.00  |
| -10653                  | TAYLOR/BILLY             | 202753 | 10/05/15 | 96.17     |
| -10628                  | TAYLOR/KIM               | 202754 | 10/05/15 | 422.50    |
| -10631                  | TESDELL ELECTRIC         | 202755 | 10/05/15 | 204.10    |
| 22692                   | TRANSIT WORKS            | 202756 | 10/05/15 | 198.45    |
| 83413                   | UNITED PARCEL SERVICE    | 202757 | 10/05/15 | 198.45    |
| 29379                   | UPS STORE/THE            | 202758 | 10/05/15 | 57.93     |
| 24542                   | US POSTAL SERVICE        | 202759 | 10/05/15 | 19.72     |
| 20250                   | VEENSTRA & KIMM INC      | 202760 | 10/05/15 | 925.00    |
| 20250                   | VEENSTRA & KIMM INC      | 202761 | 10/05/15 | 5,024.92  |
|                         |                          |        |          | 780.00    |

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| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT       |
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| INAT FIRST NATIONALBANK |                          |        |          |              |
| 20250                   | VEENSTRA & KIMM INC      | 202762 | 10/05/15 | 14,581.94    |
| 20250                   | VEENSTRA & KIMM INC      | 202763 | 10/05/15 | 17,875.60    |
| 20250                   | VEENSTRA & KIMM INC      | 202764 | 10/05/15 | 9,258.93     |
| 20250                   | VEENSTRA & KIMM INC      | 202765 | 10/05/15 | 3,419.00     |
| 19725                   | VERIZON WIRELESS         | 202766 | 10/05/15 | 4,702.25     |
| 26262                   | VERTTER EQUIPMENT        | 202767 | 10/05/15 | 1,777.48     |
| 29220                   | VISTON SERVICE PLAN      | 202768 | 10/05/15 | 272.08       |
| 28355                   | WEGLARZ/NEILL            | 202769 | 10/05/15 | 2.47         |
| 24691                   | WESTSIDE APPLIANCE PARTS | 202770 | 10/05/15 | 286.42       |
| 29050                   | MEX BANK                 | 202771 | 10/05/15 | 654.42       |
| .10630                  | WIESE/RON                | 202772 | 10/05/15 | 22.15        |
| FIRST NATIONALBANK      |                          |        |          | 3,379,195.85 |

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| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT     |
|-------------------------|--------------------------|--------|----------|------------|
| 1NAT FIRST NATIONALBANK |                          |        |          |            |
| 90016                   | A TEAM APPAREL           | 8814   | 10/05/15 | 491.40     |
| 90074                   | A TECH, INC.             | 8815   | 10/05/15 | 518.55     |
| 90023                   | ARNOLD MOTOR SUPPLY, LLP | 8816   | 10/05/15 | 934.45     |
| 90068                   | BAUER BUILT              | 8817   | 10/05/15 | 316.00     |
| 90172                   | BAYLESS/RON              | 8818   | 10/05/15 | 242.00     |
| 90029                   | BROWN TRAFFIC PRODUCTS   | 8819   | 10/05/15 | 3,414.00   |
| 90067                   | DESIGN ALLIANCE, INC.    | 8820   | 10/05/15 | 7,793.45   |
| 90077                   | ESHelman/JERRY           | 8821   | 10/05/15 | 145.00     |
| 90010                   | FOTH INFRASTRUCTURE & EN | 8822   | 10/05/15 | 19,932.97  |
| 90010                   | FOTH INFRASTRUCTURE & EN | 8823   | 10/05/15 | 232,896.04 |
| 90159                   | HENNING/CLAUDIA          | 8824   | 10/05/15 | 6,685.00   |
| 90053                   | IOWA COMMUNITIES         | 8825   | 10/05/15 | 2,871.00   |
| 90065                   | KECK, INC.               | 8826   | 10/05/15 | 4,540.13   |
| 90061                   | KIRKHAM, MICHAEL, & ASSO | 8827   | 10/05/15 | 5,156.61   |
| 90061                   | KIRKHAM, MICHAEL, & ASSO | 8828   | 10/05/15 | 1,300.00   |
| 90006                   | MCCURE ENGINEERING COMP  | 8829   | 10/05/15 | 2,528.00   |
| 90164                   | MCCUBBIN/COURTNEY        | 8830   | 10/05/15 | 307.00     |
| 90087                   | MIDWEST WHEEL            | 8831   | 10/05/15 | 93.25      |
| 90008                   | SHIVE-HATTERY            | 8832   | 10/05/15 | 20,984.80  |
| 90008                   | SHIVE-HATTERY            | 8833   | 10/05/15 | 9,953.10   |
| 90008                   | SHIVE-HATTERY            | 8834   | 10/05/15 | 145.00     |
| 90106                   | STERNQUIST CONSTRUCTION  | 8835   | 10/05/15 | 81,120.50  |
| 90002                   | WEST BANK HUMAN SVCS     | 8836   | 10/05/15 | 1,082.34   |
| 90128                   | WITGRAAF/JASON           | 8837   | 10/05/15 | 34.50      |
| 90142                   | YEAGER/LEMAR             | 8838   | 10/05/15 | 1,641.00   |
|                         | FRST NATIONALBANK        |        |          | 405,126.09 |

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|       | CHECK# | DATE     | AMOUNT    |
|-------|--------|----------|-----------|
| 70018 | 202509 | 10/05/15 | 4,107.14  |
| 70018 | 202510 | 10/05/15 | 3,529.60  |
| 70018 | 202511 | 10/05/15 | 1,167.48  |
| 70003 | 202512 | 10/05/15 | 1,189.80  |
| 70055 | 202513 | 10/05/15 | 3,994.38  |
| 70158 | 202514 | 10/05/15 | 1,136.02  |
| 70268 | 202515 | 10/05/15 | 1,172.20  |
| 70007 | 202516 | 10/05/15 | 17,000.00 |
| 70017 | 202517 | 10/05/15 | 1,665.13  |
| 70187 | 202518 | 10/05/15 | 123.00    |
| 70117 | 202519 | 10/05/15 | 46.80     |
| 70117 | 202520 | 10/05/15 | 15,342.50 |
| 70009 | 202521 | 10/05/15 | 1,230.40  |
| 70235 | 202522 | 10/05/15 | 767.72    |
| 70067 | 202523 | 10/05/15 | 4,973.80  |
| 70068 | 202524 | 10/05/15 | 1,553.40  |
| 70039 | 202525 | 10/05/15 | 1,293.53  |
| 70161 | 202526 | 10/05/15 | 460.84    |
| 70146 | 202527 | 10/05/15 | 51.10     |
| 70062 | 202528 | 10/05/15 | 8,580.00  |
| 70062 | 202529 | 10/05/15 | 12,394.83 |
| 70062 | 202530 | 10/05/15 | 1,237.17  |
| 70062 | 202531 | 10/05/15 | 58,605.50 |
| 70062 | 202532 | 10/05/15 | 11,234.25 |
| 70062 | 202533 | 10/05/15 | 13,916.55 |
| 70062 | 202534 | 10/05/15 | 6,433.35  |
| 70194 | 202535 | 10/05/15 | 113.37    |
| 70239 | 202536 | 10/05/15 | 71.92     |
| 70167 | 202537 | 10/05/15 | 37.64     |
| 70178 | 202538 | 10/05/15 | 70.00     |
| 70006 | 202539 | 10/05/15 | 410.90    |
| 70078 | 202540 | 10/05/15 | 273.68    |
| 70284 | 202541 | 10/05/15 | 191.06    |
| 70079 | 202542 | 10/05/15 | 2,857.66  |
| 70276 | 202543 | 10/05/15 | 2,565.90  |
| 70047 | 202544 | 10/05/15 | 1,688.34  |
| 70107 | 202545 | 10/05/15 | 76.44     |
| 70046 | 202546 | 10/05/15 | 607.62    |
| 70076 | 202547 | 10/05/15 | 610.64    |
| 70011 | 202548 | 10/05/15 | 15,265.11 |
| 70278 | 202549 | 10/05/15 | 171.17    |
| 70069 | 202550 | 10/05/15 | 41.45     |
| 70057 | 202551 | 10/05/15 | 900.00    |
| 70057 | 202552 | 10/05/15 | 30,957.25 |
| 70057 | 202553 | 10/05/15 | 7,561.58  |
| 70057 | 202554 | 10/05/15 | 9,833.00  |
| 70234 | 202555 | 10/05/15 | 135.47    |
| 70205 | 202556 | 10/05/15 | 461.39    |

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CITY OF WEST DES MOINES IOWA  
 GI540R-V07.27 PAGE 2

| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT     |
|-------------------------|--------------------------|--------|----------|------------|
| 1MAT FIRST NATIONALBANK |                          |        |          |            |
| 70026                   | STIVERS FORD             | 202557 | 10/05/15 | 2,049.73   |
| 70089                   | STRYKER SALES CORPORATIO | 202558 | 10/05/15 | 1,880.93   |
| 70016                   | TEAM SERVICES            | 202559 | 10/05/15 | 130.50     |
| 70016                   | TEAM SERVICES            | 202560 | 10/05/15 | 106.62     |
| 70016                   | TEAM SERVICES            | 202562 | 10/05/15 | 508.93     |
| 70016                   | TEAM SERVICES            | 202563 | 10/05/15 | 456.88     |
| 70016                   | TEAM SERVICES            | 202564 | 10/05/15 | 98.50      |
| 70016                   | TEAM SERVICES            | 202565 | 10/05/15 | 116.87     |
| 70080                   | TOMPKINS INDUSTRIES      | 202566 | 10/05/15 | 409.81     |
| 70013                   | TRANS IOWA EQUIPMENT CO  | 202567 | 10/05/15 | 483.37     |
| 70051                   | WORLDPOINT BCC, INC.     | 202568 | 10/05/15 | 1,818.74   |
| 70188                   | ZEE MEDICAL SERVICE INC  | 202569 | 10/05/15 | 151.60     |
| FIRST NATIONALBANK      |                          |        |          |            |
|                         |                          |        |          | 254,480.36 |

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CITY OF WEST DES MOINES IOWA  
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| BANK                    | VENDOR                   | CHECK# | DATE     | AMOUNT   |
|-------------------------|--------------------------|--------|----------|----------|
| 1NAT FIRST NATIONALBANK |                          |        |          |          |
| 28986                   | BIG CREEK MARINA         | 202501 | 09/25/15 | 1,937.50 |
| 29667                   | GAME ON, LLC             | 202502 | 09/25/15 | 700.00   |
| 29665                   | KING/JEREMY              | 202503 | 09/25/15 | 800.00   |
| 29670                   | LITTLE PRINCESS PARTIES  | 202504 | 09/25/15 | 900.00   |
| 29226                   | MOONLIGHT AMUSEMENTS, LL | 202505 | 09/25/15 | 1,100.00 |
| 28520                   | OTTING/LEANNE            | 202506 | 09/25/15 | 200.00   |
| 29666                   | SERENITY BALLOON ADVENTU | 202507 | 09/25/15 | 750.00   |
| FIRST NATIONALBANK      |                          |        |          |          |
|                         |                          |        |          | 6,387.50 |
| ***                     |                          |        |          |          |

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CITY OF WEST DES MOINES IOWA  
GL540R-V07.27 PAGE 1

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1NAT FIRST NATIONALBANK

.10649 FLEMING'S PRIME STEAKHOU 202508 09/30/15 9,276.80

FIRST NATIONALBANK 9,276.80 \*\*\*

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CITY OF WEST DES MOINES IOWA  
GL540R-V07.27 PAGE 1

BANK VENDOR

CHECK# DATE AMOUNT

1NAT FIRST NATIONALBANK

29875 OVERTON/GREGORY

202500 09/23/15 45,385.00

FIRST NATIONALBANK

45,385.00

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BANK VENDOR

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90015 EMC RISK SERVICES  
FIRST NATIONALBANK

CHECK# DATE

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AMOUNT

800682 10/02/15

13,433.57

13,433.57

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CITY OF WEST DES MOINES IOWA  
GL540R-V07.27 PAGE 1

| BANK                    | VENDOR              | CHECK# | DATE     | AMOUNT     |
|-------------------------|---------------------|--------|----------|------------|
| 1NAT FIRST NATIONALBANK |                     |        |          |            |
| 24822                   | WELLMARK BLUE CROSS | 800680 | 09/17/15 | 96,621.39  |
| 24822                   | WELLMARK BLUE CROSS | 800681 | 09/24/15 | 69,368.58  |
| FIRST NATIONALBANK      |                     |        |          | 165,989.97 |

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**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:** Approval of Liquor Licenses

**DATE:** October 5, 2015

**FINANCIAL IMPACT:** None

**BACKGROUND:** In accordance with the Iowa Code Section 123.1 and the West Des Moines City Code Title 3, Business and Licensing, Chapter 2, Beer and Liquor Control, the following licenses have been investigated and reviewed by the WDM Police Department and, when necessary, by Building Inspection and/or Fire Department staff, and are presented to the City Council for approval. Copies of license applications are available, for your review, in the Office of the City Clerk.

1. Apple Corps, L.P., d/b/a Applebee's Neighborhood Grill & Bar, 6190 Mills Civic Parkway - Class LC Liquor License with Sunday Sales - Renewal
2. Casey's Marketing Company d/b/a Casey's General Store #2297, 108 8th Street - Class BC Permit with Sunday Sales - Renewal
3. CEC Entertainment, Inc. d/b/a Chuck E. Cheese's #958, 1431 22nd Street - Class BB Permit with Sunday Sales - Renewal
4. Costco Wholesale Corporation d/b/a Costco Wholesale #788, 7205 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal
5. Des Moines Golf and Country Club d/b/a Des Moines Golf and Country Club, 1600 Jordan Creek Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, and Outdoor Service Privileges - Renewal
6. The Fresh Market, Inc. d/b/a The Fresh Market, 5901 Mills Civic Parkway - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - New
7. Envision Homes, LLC d/b/a Heart of Iowa Marketplace, 211 5th Street - Class B Native Wine Permit with Sunday Sales - New
8. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 8, 2015
9. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 14, 2015
10. Hy-Vee, Inc. d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway - Transfer Location Temporarily to 1236 Jordan Creek Parkway (SpringHill Suites) - October 15, 2015
11. Rogers Entertainment, d/b/a Jeremiah Bullfrogs, 1907 EP True Parkway - Class LC Liquor License with Sunday Sales - Renewal
12. Kountry Manor Antiques Collectables and Gifts, d/b/a Memory Lane Antiques Valley Junction, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
13. The Noodle Shop, Co. - Delaware, Inc., d/b/a Noodles & Company, 1551 Valley West Drive, Suite 237 - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
14. Riley Drive Entertainment XII, Inc., d/b/a Saints Pub Jordan Creek, 165 South Jordan Creek Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
15. Riley Drive Entertainment I, Inc., d/b/a Tonic Bar, 5535 Mills Civic Parkway - Class LC Liquor License with Carryout Wine, Sunday Sales, Outdoor Service, and Catering Privileges - Renewal

**OUTSTANDING ISSUES** (if any): None

**RECOMMENDATION:** Motion to approve the issuance of liquor licenses in the City of West Des Moines.

**Lead Staff Member:** Ryan T. Jacobson, City Clerk

**STAFF REVIEWS**

|                        |                              |
|------------------------|------------------------------|
| Department Director    | Ryan T. Jacobson, City Clerk |
| Appropriations/Finance |                              |
| Legal                  |                              |
| Agenda Acceptance      | (m) for RJ                   |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:** Motion – Approval of Contracts for “Art on the Campus”  
Public Arts Advisory Commission

**DATE:** October 5, 2015

**FINANCIAL IMPACT:** \$19,500 which is included in the FY 15-16 budget. \$1,500 per work of art.

**BACKGROUND:** The WDM Public Arts Commission is sponsoring the fourth annual temporary art exhibit “Art on the Campus” from April 15, 2016 to November 15, 2016. Eleven Iowa artists submitted twenty-seven entries for the exhibition.

An “Art on the Campus” selection committee meeting was held on Thursday, September 16, 2015, to review the proposals. The committee reviewed, evaluated and scored each proposal narrowing it down to thirteen which is the number of concrete pad sites available.

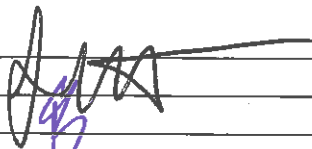
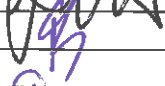
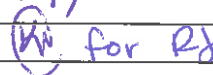
The WDM Public Arts Advisory Commission reviewed and approved the selection committee’s recommendations on September 24. A map of the locations is also attached to this communication form.

**OUTSTANDING ISSUES:** None

**RECOMMENDATION:** Motion to approve the contracts recommended by the WDM Public Arts Commission for “Art on the Campus”.

**Lead Staff Member:** Greg Hansen, Superintendent of Recreation 

**STAFF REVIEWS**

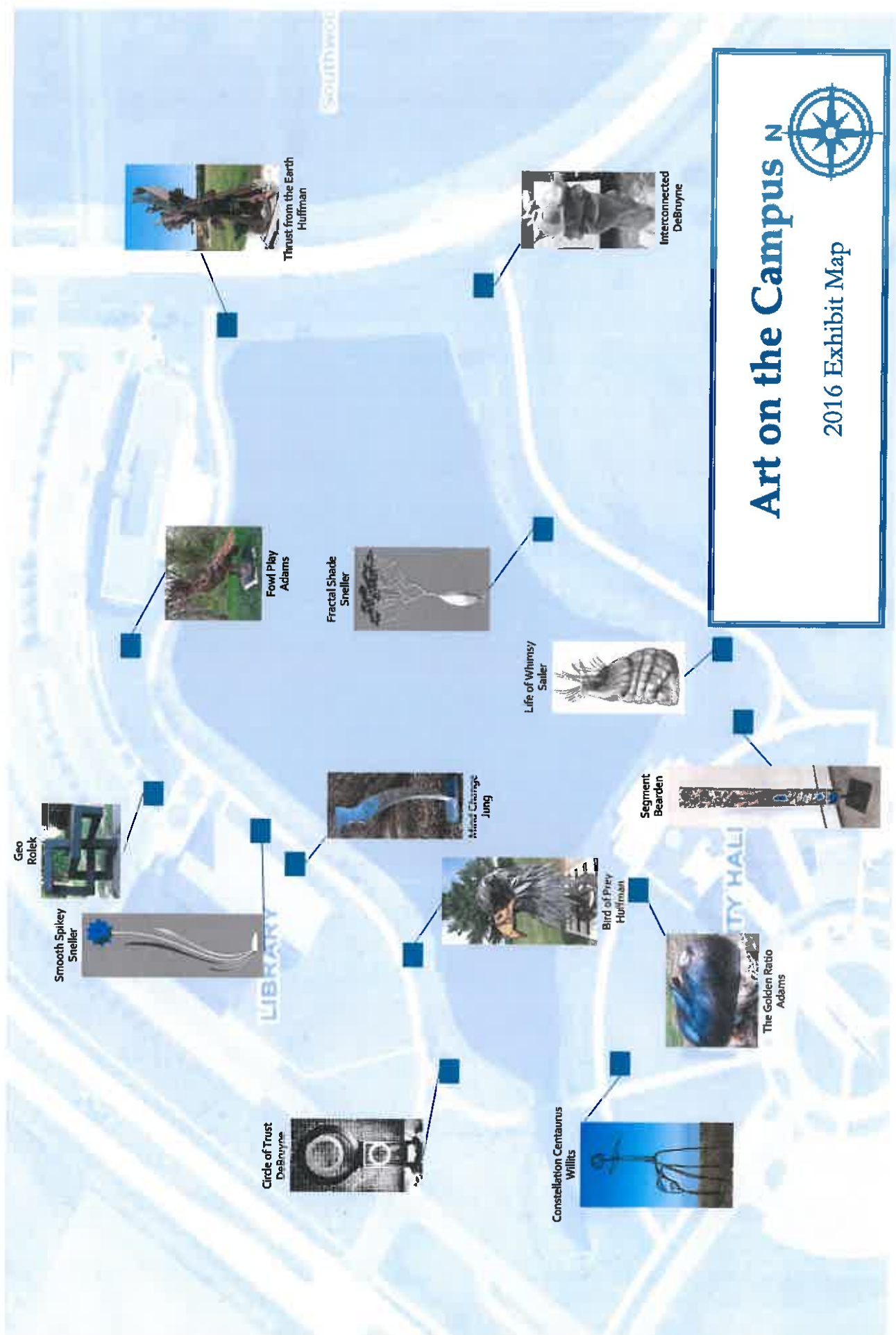
|                        |  |
|------------------------|--|
| Department Director    |         |
| Appropriations/Finance |         |
| Legal                  |  |
| Agenda Acceptance      |  for RJ |

**PUBLICATION(S)** (if applicable)

|                       |  |
|-----------------------|--|
| Published In          |  |
| Dates(s)<br>Published |  |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |     |    |       |
|----------------|-----|----|-------|
| Committee      |     |    |       |
| Date Reviewed  |     |    |       |
| Recommendation | Yes | No | Split |



Geo Rolek



Smooth Spiky Sneller



Circle of Trust DeBruyne



Island George Jung



Bird of Prey Huffman



The Golden Ratio Adams

Constellation Centaurus Willits



Fractal Shade Sneller



Fowl Play Adams



Thrust from the Earth Huffman



Life of Whimsy Sailer



Segment Bearden



Interconnected DeBruyne



# Art on the Campus N

2016 Exhibit Map



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and V. Skip Willits, whose principal address is 820 3<sup>rd</sup> Street, Camanche, Iowa 52730 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for a seven (7) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$1,500.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$1,500.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

**ARTICLE 3: TIME OF PERFORMANCE**

**3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

**3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

**3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

**3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

**ARTICLE 4: WARRANTIES**

**4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

**4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;

- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des



Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- 1) if to the City, to:

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

- 2) if to the Artist, to:

V. Skip Willits  
820 3<sup>rd</sup> Street  
Camanche, IA 52730

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach

hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

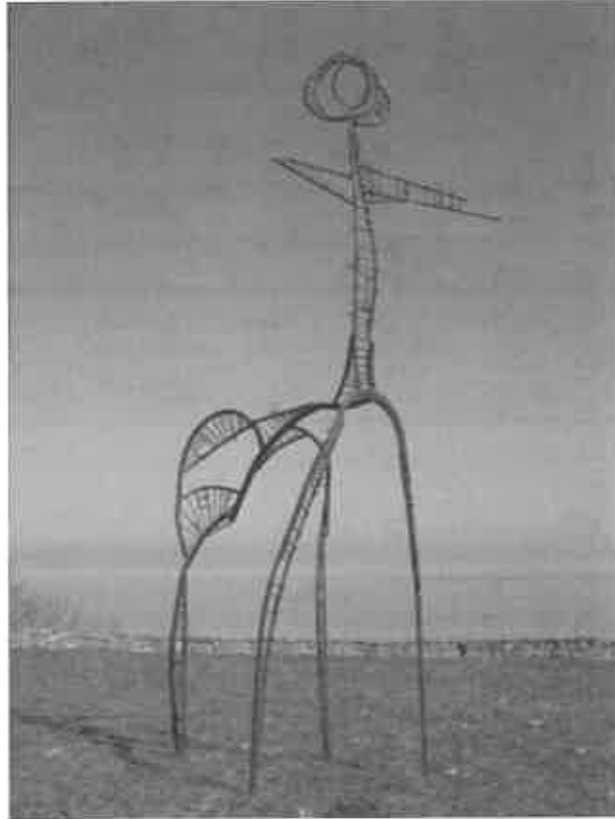
**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

Exhibit A

"Constellation Centaurus" by V. Skip Willits

"In the night sky between the Southern Cross and Hydra glows Centaurus. This is my rendering of it. Connecting the dots, so to speak."



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the “City”) and Tim Adams, whose principal address is 404 E. Second Street, Webster City, Iowa 50595 (hereinafter referred to as the “Artist”).

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the “Art Work”), which has been conceived and designed by Artist, to be installed on the City’s property at the City/School Campus (hereinafter referred to as the “Site”), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist’s Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City’s property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for an eight (8) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City’s permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist’s intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$3,000.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$3,000.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;

- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des



Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

**ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

**Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

**1) if to the City, to:**

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

**2) if to the Artist, to:**

Tim Adams  
404 E. Second Street  
Webster City, IA 50595

**ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

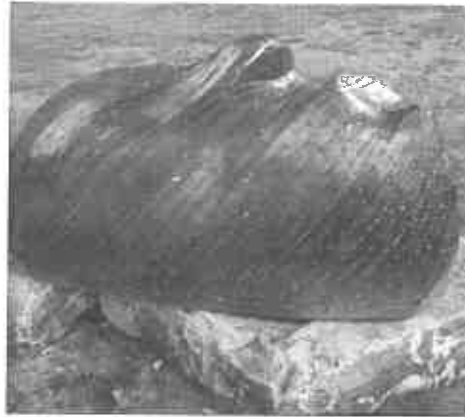
**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

**Exhibit A**

**"The Golden Ratio" by Tim Adams**

"The sculpture was constructed using dimensions and proportions based on "The Golden Ratio". The strips of steel were sized using the "Golden Ratio" so they could be formed to the contour of the face. The golden ratio also is called the golden mean, divine proportion, divine section, golden proportion, golden cut, and golden number. The golden rectangle, in which the ratio of the longer side to the shorter side is the golden ratio--It is widely believed and accepted that this proportion is the most aesthetically pleasing to mankind."



**Exhibit B**

**"Fowl Play" by Steven Huffman**

"This sculpture was created using scraps of steel remaining from other sculpture pieces! Abstract representation from a bird recognizable from a distance. Up close the view can see the conglomeration of pieces used to create the piece."



**CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
2016 Art on the Campus – Art Exhibition  
AGREEMENT BY AND BETWEEN CITY AND ARTIST**

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Steven Huffman, whose principal address is PO Box 99, Ottumwa, Iowa 52501 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for an eight (8) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$3,000.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$3,000.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;

- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des



Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

**1) if to the City, to:**

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

**2) if to the Artist, to:**

Steven Huffman  
PO Box 99  
Ottumwa, IA 52501

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

**Exhibit A**

**"Thrust from the Earth" by Steven Huffman**

**"Thrust from the Earth displays an upward movement bringing forth hidden and buried parts of the earth."**



**Exhibit B**

**"Bird of Prey" by Steven Huffman**

**"This sculpture of the eagle displays "The Mind, Strength, and Vision". A cord of three is not to be broken."**





**CITY OF WEST DES MOINES PUBLIC ART PROGRAM**  
**2016 Art on the Campus – Art Exhibition**  
**AGREEMENT BY AND BETWEEN CITY AND ARTIST**

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Stephanie Sailer, whose principal address is 1159 Club Rd. N.E., Swisher, Iowa 52338 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for a seven (7) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$1,500.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$1,500.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- 1) if to the City, to:

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

- 2) if to the Artist, to:

Stephanie Sailer  
1159 Club Rd. NE  
Swisher, IA 52338

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

Exhibit A

"Life of Whimsy" by Stephanie Sailer

"Life of Whimsy is a sculpture based on the opening of a seed pod. The form feels heavy, weighted to the ground, connected to the earth. Yet, the bulbous layers and emerging tendrils give it a sense of playfulness, bringing back memories of exploration as a child, finding these beautiful forms that were so easy to miss. The world found at this micro scale can feel so other-worldly, bizarre and breathtaking, similar to finding yourself on an alien planet or in a great imaginary tale."



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2016, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and James Bearden, whose principal address is 1725 Grand Avenue, Des Moines, Iowa 50309 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for a seven (7) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

### **1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

### **1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

## **ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

### **2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$1,500 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$1,500 credit towards the final purchase price.

### **2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

### **2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

## **7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

## **7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

## **7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

## **ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

## **ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

### **9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

### **9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

## **ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- 1) if to the City, to:

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

- 2) if to the Artist, to:

James Bearden  
1725 Grand Avenue  
Des Moines, IA 50309

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

Exhibit A

"Segment" by James Bearden

"My work is other-worldly, and I view this "Segment" as something that has emerged from the earth. I've pierced the steel and inserted areas of color and interest within the steel tubing."



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Hilde DeBruyne, whose principal address is 3264 Cumming Road, Cumming, Iowa 50061 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for a seven (7) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$3000 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$3000 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- 1) **if to the City, to:**

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

- 2) **if to the Artist, to:**

Hilde DeBruyne  
3264 Cumming Rd.  
Cumming, IA 50061

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

**Exhibit A**

**"Circle of Trust" by Hilde DeBruyne**

**"Circle of Trust is a geometric sculpture, symbolizing one of the most important values in a relationship."**



**Exhibit B**

**"Interconnected" by Hilde DeBruyne**

**"Interconnected is a contemporary sculpture, hand built in clay. It invites the viewer into the fascinating world of nature where everything relates to each other: leaves, branches, birds, rivers all intertwine."**



**CITY OF WEST DES MOINES PUBLIC ART PROGRAM**  
**2016 Art on the Campus – Art Exhibition**  
**AGREEMENT BY AND BETWEEN CITY AND ARTIST**

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Eric Rolek, whose principal address is 750 SE Parker Drive, Waukee, Iowa 50263 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for an eight (8) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$1,500.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$1,500.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

**ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

**Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

**1) if to the City, to:**

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

**2) if to the Artist, to:**

Eric Rolek  
750 SE Parker Drive  
Waukee, IA 50263

**ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

Exhibit A

"Geo" by Eric Rolek

"GEO is a sculpture that intrigues perceptions from the observer. Sharp angles and negative spaces reveal endless new interpretations when observing the sculpture from various angles. The cantilever form is constructed from one continuous line that develops the illusion portrayed by GEO."



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Carlos Jung, whose principal address is 7820 Drake Street, Clive, Iowa 50325 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for an eight (8) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$1,500.00 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$1,500.00 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

**ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

**Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

**1) if to the City, to:**

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

**2) if to the Artist, to:**

Carlos Jung  
7820 Drake Street  
Clive, IA 50325

**ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs, successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies,

obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

**Exhibit A**

**"Mind Change" by Carlos Jung**

The sculpture title "Mind Change" is a descendant of the Michael Jackson song, "Man in the Mirror", suggesting change as we look and examine ourselves.



CITY OF WEST DES MOINES PUBLIC ART PROGRAM  
**2016 Art on the Campus – Art Exhibition**  
AGREEMENT BY AND BETWEEN CITY AND ARTIST

This Agreement, made this 5th day of October, 2015, by and between the City of West Des Moines, a municipal corporation organized and existing under the laws of the State of Iowa, (hereinafter referred to as the "City") and Michael Sneller, whose principal address is 1647 26<sup>th</sup> Street NW, Cedar Rapids, IA 52405 (hereinafter referred to as the "Artist").

**WITNESSETH:**

**WHEREAS**, the City desires to hold a summer art exhibit which will include a certain work of art described in Exhibit A attached hereto and incorporated herein by this reference (the "Art Work"), which has been conceived and designed by Artist, to be installed on the City's property at the City/School Campus (hereinafter referred to as the "Site"), West Des Moines, Iowa; and

**WHEREAS**, the Artist desires to loan the Art Work to the City for a time period specified in this Agreement, and upon installation by Artist and Artist's Team, City desires to provide insurance coverage for the Art Work, from the time of installation of the Art Work until the time of removal of the Art Work from the City's property, pursuant to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises and undertakings contained herein, the parties agree as follows:

**ARTICLE 1: SCOPE OF SERVICES**

**1.1 General**

- a) The Artist shall perform all services and furnish all supplies, materials, and equipment as deemed necessary for the completion, transportation, and installation of the Art Work at the Site.
- b) The Artist shall inspect the existing substrate and construction of the concrete slab to which the Art Work is to be attached and notify the City of any issues.
- c) The Artist shall meet with the City as deemed necessary to coordinate the installation and removal of the Art Work.
- d) The Artist shall loan the Art Work to the City for a seven (7) month time period beginning on April 15, 2016, and ending on November 15, 2016.
- e) If the City or another buyer desires to purchase said Art Work to add to the City's permanent Public Art collection, or the private collection of the individual, the purchase price shall not be greater than the price indicated on the Artist Application for said Art Work.
- f) If said Art Work is sold to a private collector, 15% of the total purchase price received will be donated by the Artist to the City.

**1.2 Delivery and Installation**

- a) The Artist shall notify the City when the Artist is ready to deliver and install the Art Work at the Site designated by the City.
- b) The Artist agrees to notify the City no fewer than seven (7) days prior to the Artist's intended time of delivery to determine the exact schedule of delivery and installation.

- c) The Artist shall deliver and install the completed Art Work at the Site no later than April 15, 2016, and shall remove the Art Work from said Site no later than November 30, 2016.
- d) The City shall be responsible for preparing the Site to allow the Artist to prepare for the timely installation of the Art Work.
- e) The Artist shall be responsible for all expenses, labor, and equipment necessary for the installation and removal of the Art Work.
- f) If the Art Work will be affixed to the City-provided pads, then the Artist shall affix the Art Work to the City-provided pads using tamper-resistant locking bolts.

**1.3 Risk of Loss**

- a) The risk of loss or damage to the Art Work shall be borne by the Artist until final installation is complete. After the complete installation of the Art Work, the risk of loss or damage to the Art Work shall be borne by the City during the loan period provided for in this Agreement, subject to the limitation on damages contained in Section 5.2 herein.

**1.4 Indemnity**

- a) The Artist agrees to indemnify and hold harmless the City from any liabilities, willful or non-willful acts of negligence by the Artist or the Artist's agents, or any or all elements of loss, theft, mutilation, vandalism or other damage (including those caused by acts of God) that may befall the Art Work during any activities related to the planning, creation, or delivery of the Art Work.
- b) Upon installation of the Art Work, the City shall, subject to the limitation on damages contained in Section 5.2 herein, indemnify and hold harmless the Artist from claims or liabilities relating to the maintenance of the Site at which the Art Work is installed, which claims or liabilities arise from and after the date of installation of the Art Work.
- b) The Artist shall indemnify and hold the City harmless from any and all costs, claims, liabilities or damages in any manner related to the Artist's breach of the representations and warranties set forth in Article 4 of this Agreement.

**ARTICLE 2: COMPENSATION AND PAYMENT SCHEDULE**

**2.1 Fixed Fee**

- a) The City shall pay the Artist a stipend of \$3,000 which shall constitute full compensation for all fees, services, expenses, and materials to be performed and furnished by the Artist under this Agreement. The fee shall be paid in full within thirty (30) days after final installation of the Art Work at a location specified by the City.
- b) If the City decides to purchase the Art Work following the stated loan period, the stipend outlined in Section 2.1(a) will serve as a \$3,000 credit towards the final purchase price.

**2.2 Artist's Expenses**

- a) The Artist shall be responsible for the payment of all mailing or shipping charges on submissions to the City, the cost of transporting the Art Work to the Site, and the costs of all travel by the Artist and the Artist's agents and employees necessary for the proper performance of the services required under this Agreement.

**2.3 Invoices**

- a) The Artist shall submit an invoice to the City for payment as described in section 2.1. The invoice shall be on stationary, may not be submitted electronically, and must be signed and dated by the Artist.

## **ARTICLE 3: TIME OF PERFORMANCE**

### **3.1 Duration**

- a) The services to be required of the Artist as set forth in Article 1 shall be completed in accordance with the schedule for installation and removal of the Art Work as proposed by the Artist and approved by the City pursuant Section 1.2(c), provided that such time limits may be extended or otherwise modified by written agreement between the Artist and the City.

### **3.2 Installation Delays**

- a) If, when the Artist is ready for installation of the Art Work, the Artist is delayed from installing the Art Work within the time specified in the schedule as a result of the construction of the Site not being sufficiently complete to reasonably permit installation of the Art Work, the City shall provide storage, or reimburse the Artist for reasonable transportation and storage costs incurred for the period between the time provided in the schedule for commencement of installation and the date upon which the Site is sufficiently complete to permit installation of the Art Work.

### **3.3 Early Completion of Artist Services**

- a) The Artist shall bear any transportation and storage costs resulting from the completion of the Artist's services prior to the time provided in the schedule for installation.

### **3.4 Time Extensions**

- a) The City shall grant a reasonable extension of time to the Artist in the event that there is a delay on the part of the Artist in performing its obligations under this Agreement, or if conditions beyond the Artist's control or Acts of God render timely performance of the Artist's services impossible or unexpectedly burdensome. Likewise, the Artist shall grant a reasonable extension of time to the City in the event that there is a delay on the part of the City in performing its obligations under this Agreement, or if conditions beyond the City's control or Acts of God render timely performance of the City's services impossible or unexpectedly burdensome. Failure to fulfill contractual obligations due to conditions beyond either party's reasonable control will not be considered a breach of contract, provided that such obligations shall be suspended only for the duration of such condition.

## **ARTICLE 4: WARRANTIES**

### **4.1 Warranties of Title**

- a) The Artist represents and warrants that:
  - 1) The Art Work is solely the result of the artistic effort of the Artist;
  - 2) Except as otherwise disclosed in writing to the City, the Art Work is unique and original and does not infringe upon any copyright;
  - 3) The Art Work, or a duplicate thereof, has not been accepted for sale elsewhere;
  - 4) The Art Work is free and clear of any liens from any source whatever.

### **4.2 Warranties of Quality and Condition**

- a) The Artist represents and warrants, except as otherwise disclosed to the City in writing in connection with the submission of the Application and pursuant to Article 1, that:
  - 1) The execution and fabrication of the Art Work will be performed in a workmanlike manner;



- 2) The Art Work, as fabricated and installed, will be free of defects in material and workmanship, including any inherent defects or qualities which cause or accelerate deterioration of the Art Work; and
- b) In the event that the City purchases the Art Work, the warranties described in this Section 4.2 shall survive for a period of five (5) years after the final acceptance of the Art Work. The City shall give notice to the Artist of any observed breach with reasonable promptness. The Artist shall, at the request of the City, and at no cost to the City, cure reasonably and promptly the breach of any such warranty which is curable by the Artist and which cure is consistent with professional conservation standards (including, for example, cure by means of repair or re-fabrication of the Art Work).

## **ARTICLE 5: INSURANCE**

### **5.1 Artist Insurance**

- a) The Artist and all employees of the Artist shall maintain insurance to protect the Artist from claims under workers' compensation acts; claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the Artist's employees or of any person other than the Artist's employees; and from claims for damages because of injury to or destruction of tangible property; including loss of use resulting there from; and from claims arising out of their performance of professional services caused by errors, omissions, or negligent acts for which the Artist is legally liable.
- b) The Artist shall provide proof of insurance to the City upon installation of the art exhibit.

### **5.2 City/Art Exhibit Insurance**

- a) Through the duration of the period that the Art Work is loaned to the City for the art exhibit, as identified in Section 1.1(d), the City will provide a maximum of \$8,000.00 in property loss and liability insurance coverage for the Art Work. The Artist acknowledges and agrees that the maximum amount that shall be paid to the Artist in damages related to any aspect of this Agreement shall be the price for the Art Work indicated on the Artist Application, or the \$8,000.00 insurance limit, whichever amount is lower.

## **ARTICLE 6: REPRODUCTION RIGHTS**

### **6.1 General**

- a) The Artist retains all rights under the Copyright Act of 1976, 17 U.S.C., 101 et. seq., and all other rights in and to the Art Work including ownership and possession. The Artist grants to the City the right to photograph and reproduce images of the Art Work for promotional and educational purposes.

### **6.2 Notice**

- a) All reproductions by the City shall contain a credit to the Artist and a copyright notice substantially in the following form: © [Artist's Name], year of publication.

## **ARTICLE 7: ARTIST'S RIGHTS**

### **7.1 Identification**

- a) The City shall, at its expense, prepare and install at the Site a plaque identifying the Artist, the title of the Art Work, the year of completion, and the City of West Des

Moines Public Art Program; and shall reasonably maintain such notice to the extent as may be practicable.

**7.2 Maintenance**

- a) The City recognizes that maintenance of the Art Work on a regular basis is essential to the integrity of the Art Work. The Artist shall submit reasonable maintenance recommendations to the City, and the City shall take such action to reasonably assure that the Art Work is properly maintained and protected, taking into account the Artist's recommendations.

**7.3 Alteration of the Work**

- a) The City agrees that it will not intentionally damage, alter, modify, or change the Art Work without the prior written approval of the Artist.

**7.4 Record**

- a) The City shall maintain a record of this Agreement and the location and disposition of the Art Work.

**ARTICLE 8: ARTIST AS INDEPENDENT CONTRACTOR**

- a) The Artist shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of the City. The Artist shall not be supervised by any employee or official of the City, nor shall the Artist exercise supervision over any employee or official of the City.

**ARTICLE 9: ASSIGNMENTS, TRANSFER, SUBCONTRACTING**

**9.1 Transfer of Agreement**

- a) Neither this Agreement nor any interest herein shall be transferred by the Artist.

**9.2 Subcontracting by Artist**

- a) The Artist may subcontract portions of the services to be provided hereunder relating to the installation of the Art Work at the Artist's expense provided that said subcontracting shall not negatively affect the design, appearance, or visual quality of the Art Work and shall be carried out under the personal supervision of the Artist. The Artist must obtain approval from the City prior to hiring any subcontractor who will assist with the installation process. This approval may be achieved via electronic correspondence.

**ARTICLE 10: TERMINATION**

If either party to this Agreement shall willfully or negligently fail to fulfill in a timely and proper manner, or otherwise violate, any of the covenants, agreements, or stipulations material to this Agreement, the other party shall thereupon have the right to terminate this Agreement by giving written notice to the defaulting party of its intent to terminate specifying the grounds for termination. The defaulting party shall have thirty (30) days after receipt of the notice to cure the default. If the default is not cured, then this Agreement shall terminate. In the event of default by the City, the City shall promptly compensate the Artist for all services performed by the Artist prior to termination. In the event of default by the Artist, all finished and unfinished drawings, sketches, photographs, and other work products prepared and submitted or prepared for submission by the Artist under this Agreement shall at the City's option become its property, provided that no right to fabricate or execute the Art Work shall pass to the City and the City shall compensate the Artist pursuant to Article 2 for all services performed by the Artist prior to

termination; or the Artist shall refund all amounts paid by the City in exchange for all finished and unfinished related Art Works. Notwithstanding the previous sentence, the Artist shall not be relieved of liability to the City for damages sustained by the City by virtue of any breach of this Agreement by the Artist, and the City may reasonably withhold payments to the Artist until such time as the exact amount of such damages due the City from the Artist is determined.

#### **ARTICLE 11: COMPLIANCE**

- a) The Artist shall be required to comply with Federal, State, and City statutes, ordinances, and regulations applicable to the performance of the Artist's services under this Agreement.

#### **Article 12: Notices**

- a) All notices, requests, demands and other communications which are required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given upon the delivery or receipt thereof, as the case may be, if delivered personally or sent by registered or certified mail, return receipt requested, postage prepaid, as follows:

- 1) if to the City, to:

Allison Ullestad, Recreation Coordinator  
City of West Des Moines  
P.O. Box 65320  
West Des Moines, IA 50265

- 2) if to the Artist, to:

Michael Sneller  
1647 26<sup>th</sup> Street NW  
Cedar Rapids, IA 52405

#### **ARTICLE 13: MISCELLANEOUS**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all negotiations, preliminary agreements and all prior and contemporaneous discussions, agreements and understandings of the parties in connection with the subject matter hereof. No amendment, change or modification of any of the terms, provisions or conditions of this Agreement shall be effective unless made in writing and signed or initialed by all parties. Waiver of any provision of this Agreement shall not be deemed a waiver of future compliance therewith and such provision shall remain in full force and effect. In the event any provision of this Agreement is held invalid, illegal or unenforceable, in whole or in part, the remaining provisions of this Agreement shall not be affected thereby and shall continue to be valid and enforceable. This Agreement shall be governed by and construed in accordance with the laws of the State of Iowa. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective legal representatives, heirs,

successors and permitted assigns. Nothing in this Agreement, express or implied, is intended to confer upon any party, other than the parties hereto (and their respective heirs, legal representatives, successors and permitted assigns), any rights, remedies, obligations or liabilities under or by reason of this Agreement. In addition to any other remedies available at law or in equity to the parties hereto with respect to a breach hereof, the parties hereto each reserve the right to enforce this Agreement by specific performance. The titles or captions of paragraphs in this Agreement are provided for convenience of reference only, and shall not be considered a part hereof for purposes of interpreting or applying this Agreement and such title or captions do not define, limit, extend, explain or describe the scope or extent of this Agreement or any of its terms or conditions. Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine or neuter gender, according to the context. Each of the parties hereto hereby irrevocably waives all right to trial by jury in any action, proceeding or counterclaim arising out of or relating to this Agreement.

This agreement is executed on day and year first written above.

**ARTIST**

\_\_\_\_\_

\_\_\_\_\_  
Social Security Number  
Or Federal Tax ID Number

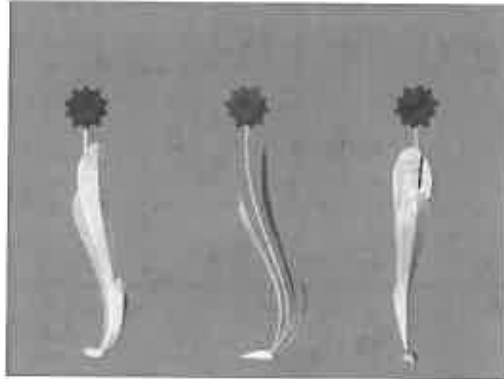
**CITY**

\_\_\_\_\_  
Gary Scott, City of West Des Moines

Exhibit A

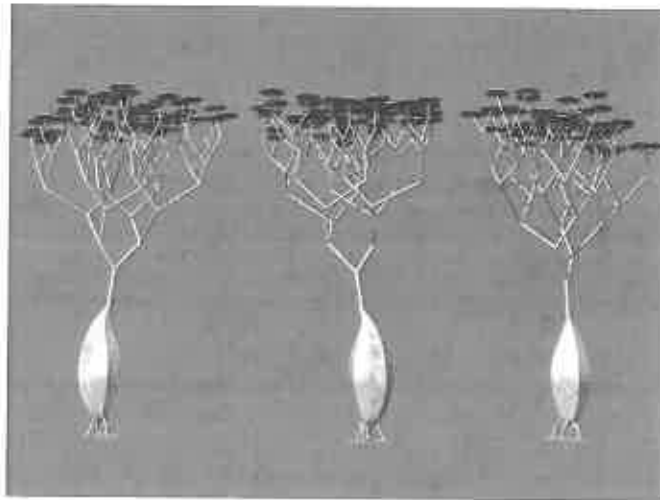
**“Smooth Spikey” by Michael Sneller**

**“A mix of a pokey geometric flower with curving rounded leaves to resemble a plant that you might find growing along the highway.”**



**“Fractal Shade” by Michael Sneller**

**“A branching piece that will provide shade for those passing by.”**



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:** Approval of Purchase and Payment  
Integrated Parks and Recreation System Software

**DATE:** October 5, 2015

**FINANCIAL IMPACT:** Up to \$61,150.00 has been budgeted in FY 15-16 for completion of this project in account number 0600.50.7753.7790. Estimated cost of the recommended proposal is \$61,125.00.

**BACKGROUND:** The existing software package, Active's CLASS, used by Parks and Recreation to manage program registration, scheduling, tracking and reporting is in the process of being phased out by the vendor in 2017. Because of the long lead time required to convert to a new system while maintaining existing customer service levels, the Parks and Recreation department needs to start the process of implementing a new solution this fall.

The Superintendent of Recreation, Enterprise Applications Manager, and the Parks and Rec staff developed a Request for Proposal (RFP) to replace the existing Active CLASS software system and distributed it to potential software vendors on February 20, 2015. Responses were due on March 18, 2015. Five vendors submitted responses to the RFP.

The review team evaluated each proposal. Active Network, Vermont Systems, and PerfectMind were selected as finalists. The finalists gave presentations to the review team in May 2015. PerfectMind was selected as the preferred vendor. The PerfectMind legal contract verbiage has been reviewed and negotiated by the City Attorney's Office, and its estimated cost is within the allocated budget.

**EVALUATION OF PROPOSALS:**

Proposals were evaluated on eight different processes consisting of program registration, facility reservation/scheduling, membership/pass management, league/tournament scheduling, point of sale inventory control, trip management, incident reports and internet/on-line/mobile applications. Staff scored PerfectMind the highest of all the vendors and had 100% consensus for being the finalist for the project.

PerfectMind can be consistently and easily implemented across all our sites for all functions without requiring separate programs. Currently, CLASS is used for the majority of services. Sportsman is used for the aquatic center passes, and Excel spreadsheets still perform operations for dog park and archery permits.

PerfectMind offers industry specific CRM (Customer Relationship Management) with built in best practices for quick marketing automation while supporting all browsers and devices that encourage social sharing. Public users who have become engaged in Parks and Recreation programs will be able to share their activities with people in their social media networks (Facebook and Twitter).

PerfectMind will provide easy adaptability to growth. PerfectMind's Platform as a Service (PaaS) provides the ability to customize and create new functions in the future. All of the software and service applications are cloud based using Amazon Web Services.

Vermont Systems submitted a base price of \$84,721.00. Active submitted a base price of \$20,500.00, with a customer loyalty credit of \$17,968.00, for a final base price of \$2,522.00. Active submitted the lowest bid but is not the product that we are recommending. One of the major issues is Active's variable pricing which is based on a percentage of Parks and Recreation revenue, ultimately leading to increased costs and budgeting difficulties.

The project time line is approximately one year after the contract is signed. The goal is to bring the system online in time for November 2016 registration. PerfectMind is also able to integrate with the new accounting software system.

**OUTSTANDING ISSUES** (if any): None

**RECOMMENDATION:** Approval of purchase and payment for the installation of the proposed Integrated Parks and Recreation System Software from PerfectMind.

**Lead Staff Member:** Darrel Greifzu – Enterprise Applications Manager, Information Technology Services

**STAFF REVIEWS**

|                        |   |               |
|------------------------|---|---------------|
| Department Director    | Mark Lumsden, Director, IT Services & CIO | <i>ML</i>     |
| Appropriations/Finance | Tim Stiles                                | <i>TS</i>     |
| Legal                  |   |               |
| Agenda Acceptance      | <i>kn</i>                                 | <i>for RS</i> |

**PUBLICATION(S)** (if applicable)

|                    |                             |
|--------------------|-----------------------------|
| Published In       | The Des Moines Register     |
| Dates(s) Published | <i>2/20/15 and 03/06/15</i> |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |                            |    |  |
|----------------|----------------------------|----|--|
| Committee      | Finance and Administration |    |  |
| Date Reviewed  | September 23, 2015         |    |  |
| Recommendation | Yes                        | No |  |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE:** October 5, 2015

**ITEM:** Motion – Contract Addendum to Laser Resources Copier Contract - I. T. Services

**FINANCIAL IMPACT:** Additional cost of \$695 per month for 36 months/ \$25,020 over the term of the contract. This cost will be spread across several departmental accounts with the generic pattern of 0100.xx.xxxx.4.3650.

**BACKGROUND:** The ITS Department recommends that the City of West Des Moines agree to amend the copier contract with LaserResources to add two laser printers and four copiers to the contract schedule. The laser printers will replace 2 Hewlett Packard laser printers used at Station 21 and Station 19 to print envelopes. The current printers are about ten years old and are starting to have numerous hardware failures. The copier replacement will swap out four of the remaining older Minolta copiers at Station 18, Station 22, Community and Economic Development, and Public Works and allow staff to consistently deploy productivity applications via the copiers and simplify training to use those functions. Amending the contract to lease the two printer replacement units shifts the maintenance responsibility to LaserResources.

**OUTSTANDING ISSUES** (if any): None

**RECOMMENDATION:**

Motion - Contract Addendum to Laser Resources Copier Contract - I. T. Services

**Lead Staff Member:** Darrel Greifzu, Enterprise Applications Manager, IT Services

**STAFF REVIEWS**

|                        |                        |
|------------------------|------------------------|
| Department Director    | Mark Lumsden <i>ML</i> |
| Appropriations/Finance | Tim Stiles <i>TS</i>   |
| Legal                  |                        |
| Agenda Acceptance      | <i>PK for RJ</i>       |

**PUBLICATION(S)** (if applicable)

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |                            |    |  |
|----------------|----------------------------|----|--|
| Committee      | Finance and Administration |    |  |
| Date Reviewed  | September 23, 2015         |    |  |
| Recommendation | Yes                        | No |  |



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:**

**DATE: October 5, 2015**

Motion - Approving Amendment No. 1 to Professional Services Agreement  
South 50<sup>th</sup> Street Widening  
Mills Civic Parkway to E.P. True Parkway  
HR Green, Inc.

**FINANCIAL IMPACT:**

The original Professional Services Agreement was awarded to HR Green, Inc. in the amount of \$685,000.00. Amendment No. 1 increases the amount of the contract by \$12,000.00 for basic services for a total cost of \$697,000.00. The amendment also includes an additional \$4,000 in resident consultant services for a total of \$194,000.00. All costs for these services can be paid from budgeted account no. 4103.75.820.6.7920 with the ultimate funding intended to come from a Surface Transportation Program grant and general obligation bonds.

**BACKGROUND:**

During a routine review of traffic accident history, staff determined that the number of accidents at the intersection of Mills Civic Parkway and South 50<sup>th</sup> Street could possibly be reduced if the median on the west leg of the intersection were narrowed to improve sight distance and minimize the offset. Since South 50<sup>th</sup> Street will be closed for construction in 2016, it would be an opportune time to construct these median modifications. This item was discussed at the Public Works Council Committee meeting on August 31, 2015. The Committee members concurred with staff recommendation to narrow the existing median to improve sight distance and lessen the distance and time required to turn through the intersection. With the modifications in place, the eastbound to northbound left turn lanes could be converted to dual left turn lanes in the future if warranted by the traffic volume.

HR Green is working on the design for the widening of South 50th Street between Mills Civic Parkway and E.P. True Parkway. Approval of Amendment No. 1 includes costs for the revised design plan preparation and construction period services necessary to complete the project.

**RECOMMENDATION:**

City Council Adopt:

- Motion Approving Amendment No. 1 to the Professional Services Agreement.

Lead Staff Member: Duane C. Wittstock, P.E., L.S., City Engineer *pcw*

**STAFF REVIEWS**

|                        |  |
|------------------------|--|
| Department Director    | Duane C. Wittstock, City Engineer            |
| Appropriations/Finance | Tim Stiles, Finance Director <i>TS</i>       |
| Legal                  | Richard Scieszinski, City Attorney <i>RS</i> |
| Agenda Acceptance      | <i>RW for RS</i>                             |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                    |    |       |
|----------------|--------------------|----|-------|
| Committee      | Public Works       |    |       |
| Date Reviewed  | September 28, 2015 |    |       |
| Recommendation | Yes                | No | Split |

**AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES**  
**50<sup>th</sup> Street Widening, Mills to E.P. True**  
**WDM Project Number: 0510-061-2015**  
**AMENDMENT No.1**

**THIS AMENDMENT** made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2015, by and between, the **CITY OF WEST DES MOINES, IOWA**, a municipal corporation, hereinafter referred to as the "City", and **HR GREEN, INC.** (Fed. I.D. # 42-0927178), a professional corporation incorporated and licensed under the laws of the State of Iowa, party of the second part, hereinafter referred to as "Consultant" hereby amends the original Agreement dated June 29<sup>th</sup>, 2015 to include:

**Scope of Services:**

The Basic Services of the Consultant included in the original Scope of Services are amended to include survey, preliminary design, final design and construction services for a new double left turn lane for east-bound traffic at Mills Civic.

**Project Schedule;**

The time of completion of the professional services for under this amendment shall be as follows;

|     |  |                                 |
|-----|--|---------------------------------|
| I.  | Basic Services of the Consultant             |                                 |
|     | A. Authorization to Proceed                  | September 2015                  |
|     | B. Concept Statement                         | September 2015                  |
|     | C. NEPA                                      | September 2015                  |
|     | D. Preliminary Survey and Mapping            | September 2015                  |
|     | E. Preliminary Plan Submittal                | October 20, 2015                |
|     | F. Check Plan Submittal                      | December 1, 2015                |
|     | G. Easements                                 | September 2015 – December, 2015 |
|     | H. Final Plan Submittal and Development Cert | December 22, 2015               |
|     | I. Contracts Turn In                         | January 5, 2016                 |
|     | J. Project Letting                           | March 15, 2016                  |
|     | K. Construction Administration               | April, 2016 – November 2016     |
| II. | Resident Consultant Services                 | April, 2016 – November 2016     |

In consideration for these services, the City agrees to adjust the compensation for services performed by the Consultant. These fees are based on the standard hourly rates of the Engineer's personnel actually engaged in the performance of the services, plus direct out-of-pocket costs for expenses incurred by personnel who are actually engaged in the work and other direct costs. The total Cost Plus Not-to-Exceed fees for the professional engineering services as described in this amendment are as follows:

|                                |                     |              |
|--------------------------------|---------------------|--------------|
| Basic Services of the Engineer | Increased Total by: | \$ 12,000.00 |
| Resident Engineering           | Increased Total by: | 4,000.00     |

THIS AMENDMENT is subject to all provisions of the original Agreement.

THIS AMENDMENT, together with the original Agreement represents the entire and integrated AGREEMENT between the City and Engineer.

THIS AMENDMENT executed the day and year written above.

**HR GREEN, INC.**

**CITY OF WEST DES MOINES, IOWA**

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

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

David J. Moermond, Vice President

Ryan T. Jacobson, City Clerk




**Legend**

 PROPOSED AREA



**VICINITY MAP  
EB MILLS CIVIC LEFT TURN LANE**



0 125 250  
  
Feet  
1 inch = 250 feet



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:**

**DATE: October 5, 2015**

Motion – Approving Change Order #1  
Pine Avenue Improvements – South 8<sup>th</sup> Street to End of Paving  
Elder Corporation

**FINANCIAL IMPACT:**

Contract Summary:

| Description           | Amount                 | Date Approved   | Remarks |
|-----------------------|------------------------|-----------------|---------|
| Construction Contract | \$ 3,550,476.10        | August 10, 2015 |         |
| Change Order 1        | \$ 118,272.00          | Pending         |         |
| <b>Total</b>          | <b>\$ 3,668,748.10</b> |                 |         |

Cost for this change order items will be paid from budgeted account no. 4260.77.820.6.7910 with the ultimate funding intended to come from the Alluvion TIF.

**BACKGROUND:**

The Pine Avenue Improvements from South 8<sup>th</sup> Street to End of Paving project requires grading and shaping adjacent to the Microsoft Alluvion site. Microsoft security has specific requirements for the grades adjacent to their perimeter security fence. Microsoft has requested the City revise the design to accommodate these requirements. Change Order #1 revises the contract to include quantities for grading and shaping the security fence berm.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:

- Motion Approving Change Order #1 for the Pine Avenue Improvements – South 8<sup>th</sup> Street to End of Paving project.

**Lead Staff Member: Duane Wittstock, P.E., L.S., City Engineer**

**STAFF REVIEWS**

|                        |                                    |
|------------------------|------------------------------------|
| Department Director    | Duane Wittstock, City Engineer     |
| Appropriations/Finance | Tim Stiles, Finance Director       |
| Legal                  | Richard Scieszinski, City Attorney |
| Agenda Acceptance      | <i>(Handwritten initials)</i>      |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                    |    |       |
|----------------|--------------------|----|-------|
| Committee      | Public Works       |    |       |
| Date Reviewed  | September 28, 2015 |    |       |
| Recommendation | Yes                | No | Split |



**CITY OF WEST DES MOINES**

ENGINEERING SERVICES  
 4200 Mills Civic Parkway  
 West Des Moines, IA 50265-0320  
 (515) 222-3620 Fax (515) 273-0602

**CHANGE ORDER**

**Distribution:**

Owner  X   
 Engineer  X   
 Contract  X   
 Other \_\_\_\_\_

Contractor: **Elder Corporation**  
**5088 E. University Avenue**  
**Des Moines, IA 50317**

|                              |   |                 |
|------------------------------|---|-----------------|
| Project Title                | Pine Avenue Improvements - S. 8th Street to End of Paving |                 |
| WDM Project File Number      | 0510-047-2014   |                 |
| Purchase Order Number        | 4260-03   |                 |
| Orig. Contract Amount & Date | \$3,550,476.10  | August 10, 2015 |
| Change Order Number          | 1   |                 |
| Date                         | September 25, 2015  |                 |

**THE CONTRACT IS CHANGED AS FOLLOWS:** The project requires grading and shaping adjacent to the Microsoft Alluvion site. Microsoft security has specific requirements for the grades adjacent to their perimeter fence. At the request of Microsoft, the City has revised the design to accommodate these requirements. The change order below adjusts the excavation quantity at the unit prices bid to accomplish the work.

| Item         | Description                              | Unit | Unit Price | Quantity Adjustment | Value Adjustment    |
|--------------|--|------|------------|---------------------|---------------------|
| CO 1.1       | Excavation, Class 10, Roadway and Borrow | CY   | \$8.00     | 14,784.000          | \$118,272.00        |
|              |  |      |            |                     |                     |
|              |  |      |            |                     |                     |
|              |  |      |            |                     |                     |
| <b>TOTAL</b> |  |      |            |                     | <b>\$118,272.00</b> |

| <b>CHANGE ORDER SUMMARY</b>  |                       |
|--|-----------------------|
| The Original Contract Sum was  | \$3,550,476.10        |
| Net Change by previously authorized Change Orders  | \$0.00                |
| The Contract Sum prior to This Change Order was  | \$3,550,476.10        |
| The Contract Sum will be Increased by this Change Order in the amount of   | \$118,272.00          |
| <b>The new Contract Sum including this Change Order will be</b>  | <b>\$3,668,748.10</b> |
| Aggregate Change Order as a percent of Original Contract (if the aggregate is \$10,000, or greater than 5% of the original contract, whichever is greater, all signatures through the full Council are required) | 3.33%                 |
| The Contract Time will be changed by   | 0 Days                |
| The date of Final Completion as of the date of this Change Order therefore is  | November 20, 2015     |

**NOT VALID UNTIL SIGNED BY THE CONTRACTOR, OWNER'S REPRESENTATIVE (If applicable) AND OWNER**

|   |  |   |
|---|--|---|
| <b>Contractor:</b><br>Elder Corporation | <b>Recommended By:</b><br>HR Green, Inc. | <b>Checked By:</b><br>City of West Des Moines |
| Signature:                              | Signature:                               | Signature:                                    |
| Name:                                   | Name:                                    | Name: Duane C. Wittstock, P.E., L.S.          |
| Title:                                  | Title:                                   | Title: City Engineer                          |
| Date:                                   | Date:                                    | Date:   |

Owner: City of West Des Moines

|  |   |         |            |
|--|---|---------|------------|
| <input type="checkbox"/> <input checked="" type="checkbox"/> | \$2,500 Department Director   | X _____ | Date _____ |
| <input type="checkbox"/>                                     | \$2,501 to 5,000 City Manager   | X _____ | Date _____ |
| <input type="checkbox"/>                                     | \$5001 to 10,000 PW Council Committee scheduled for agenda on November 10, 2014 |         | Date _____ |
| <input type="checkbox"/> <input checked="" type="checkbox"/> | \$10,000 City Council approved or ratified at Council meeting on                |         | Date _____ |



PINE AVE. AND S. 8TH STREET  
WEST DES MOINES, IOWA  
PROJECT NO. 0510-079-2014



0 FEET 500

PROJECT LOCATION: 



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:**

**DATE: October 5, 2015**

Motion – Approving Change Order #1  
Community Center Interior Renovations  
Covenant Construction Services

**FINANCIAL IMPACT:**

Contract Summary:

| Description           | Amount         | Date Approved | Remarks                                  |
|-----------------------|----------------|---------------|--|
| Construction Contract | \$ 585,549.00  | July 27, 2015 | Base Bid & Alternate 1                   |
| Change Order 1        | Unknown        | Pending       |  |
| <b>Total</b>          | <b>Unknown</b> |               | Construction Cost Estimate: \$648,851.00 |

Costs for the change order can be paid from budgeted account number 6554.75.840.6.7920 (Community Center - Renovation). At this point in time, staff does not anticipate the need for a budget amendment to accommodate the cost of Change Order 1. The budget for this entire project including design fees is \$1,100,000.00. Other pending costs include miscellaneous construction phase costs (testing, etc.), furniture, new interior signage, and IT/data equipment.

**BACKGROUND:**

On July 27, 2015 the City Council awarded the construction contract to Covenant Construction Services for the interior renovation of the Community Center including new restrooms facilities on both floors. The Contractor has completed the demolition phase of the project. Upon inspection of the existing water service after demolition, several deficiencies were discovered that will require additional work to address. A larger water service with backflow prevention is required to protect the City’s water system and provide adequate volume and pressure to the improved restroom facilities. There are currently two alternatives being considered that would meet this criteria. A final determination has not been made at this time. Construction cannot proceed until these issues are resolved. Due to time constraints, staff is recommending that the Council authorize the City Manager the authority to negotiate and approve Change Order 1 on the Council’s behalf as well as the additional cost incurred for design services. This process will allow the contractor to restart construction as soon as possible to mitigate schedule delays and possible additional cost for remobilization and winter work.

The terms of the Change Order will be identified as soon as possible and the impact on the cost and schedule will be provided to the City Council when available.

**OUTSTANDING ISSUES:** None

**RECOMMENDATION:**

City Council Adopt:

- Motion authorizing the City Manager to negotiate and approve Change Order #1 and the associated design services cost.

**Lead Staff Member:** Gary Scott, FASLA and Linda Schemmel, AIA *LS*

**STAFF REVIEWS**

|                        |  |
|------------------------|--|
| Department Director    | Gary Scott, Director of Parks and Recreation <i>GS</i> |
| Appropriations/Finance | Tim Stiles, Finance Director                           |
| Legal                  | Richard Scieszinski, City Attorney <i>RS</i>           |
| Agenda Acceptance      | <i>for RS</i>  |

**PUBLICATION(S)** (if applicable)

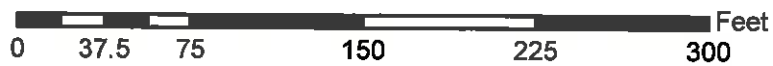
|                    |     |
|--------------------|-----|
| Published In       | N/A |
| Dates(s) Published |     |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |     |    |       |
|----------------|-----|----|-------|
| Committee      | N/A |    |       |
| Date Reviewed  |     |    |       |
| Recommendation | Yes | No | Split |



**Location Map  
Community Center - 217 5th Street**





**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Motion - Approval of amendment to policy regarding the disposition of excess real property acquired for capital improvement projects by City of West Des Moines

**FINANCIAL IMPACT:** None at this time

**SYNOPSIS:**

On March 18, 2013 the City Council adopted the following policy for the disposition of real property determined to be excess by the City:

“Real property and/or real property interests acquired for a federal, state or locally funded capital improvement project and subsequently determined by the City of West Des Moines to constitute excess property shall not be disposed of in any manner until completion of the capital improvement project and acceptance by the City. Disposition of the property shall be done in accordance with all applicable laws and regulations.”

On June 24, 2013, in order to clarify the timing and manner regarding the disposition of City-owned real property, the City Council added the following provisions to the policy:

1. City staff will provide a recommendation to the Public Works City Council Subcommittee identifying property that is or which may become surplus property.
2. City staff will provide information and a recommendation to the Public Works City Council Subcommittee indicating when the property will no longer be needed by the City.
3. City staff will identify the disposal process that should be followed. This will include the applicable law that must be followed based upon the manner in which the property was acquired (i.e., voluntary acquisition or eminent domain) and the type of funding used for the acquisition (federal, state or local funds).
4. City staff will recommend to the Public Works City Council Subcommittee what interest, if any, the City should retain in the property or what conditions should be imposed related to disposition of the property. These conditions may include, but not be limited to, retaining short or long term easements for utility locations, future construction or storage. The imposition of conditions related to the disposition of property will be based upon each specific situation.
5. Upon receiving City staff recommendations, the Public Works City Council Subcommittee will provide a recommendation to the full City Council regarding disposal of the surplus property.

On January 13, 2014 the City Council amended the policy by incorporating the following provision:

“When multiple properties are required to be offered to the previous owners, the property owners will be given the opportunity to come together and make a good faith effort to select an appraiser from the Iowa Department of Transportation approved list to appraise all the properties, and if they do not do so in a timely manner, the City will select the appraiser and the appraised value will be accepted by all parties as the final fair market value for repurchase. Disposition of the property shall be done in accordance with all applicable laws and regulations.”



In conjunction with the disposition of three properties declared to be excess property by the City on October 28, 2013, the City implemented this policy but encountered significant logistical, legal and political difficulties.

Of primary concern with the continued implementation of this policy will be the difficulty of obtaining an appraisal when there are more than two or three prior property owners involved. Experience has shown that each property owner is compelled to provide unsolicited input to the appraiser. The prior property owner may also raise an issue regarding the credibility of the appraisal and the manner in which it was prepared if the established fair market value differs from the property owner’s opinion. An additional difficulty is in regard to the selection of the appraiser. Although only those appraisers approved by the Department of Transportation are eligible for selection, D.O.T. eligibility does not insure that the chosen appraiser has the ability to competently appraise the project. The complexity of the appraisal assignment regarding the recent City excess-property disposition and the legal complications it created is illustrative of this issue.

**RECOMMENDATION:** It is the recommendation of staff that the amendment made on January 13, 2014 to the policy regarding the disposition of excess real property in which the prior property owner be allowed to select an appraiser be rescinded, with selection of an appraiser to be made by the City.

**Lead Staff Member:** Richard J. Scieszinski, City Attorney 

**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    |   |
| Appropriations/Finance |  |
| Legal                  |   |
| Agenda Acceptance      |  |

**PUBLICATION(S) (if applicable)**

|                    |     |
|--------------------|-----|
| Published In       | N/A |
| Dates(s) Published |     |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                          |
|----------------|--------------------------|
| Committee      | Finance & Administration |
| Date Reviewed  | September 23, 2015       |
| Recommendation | Split                    |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:**

Resolution - Ordering Construction  
2015 Intake Repair Program

**FINANCIAL IMPACT:**

The Engineering estimate of construction cost for the 2015 Intake Repair Program project is \$227,810.00. Payments will be made from budgeted account no. 5549.80.820.6.7920 with the ultimate funding intended to come from stormwater utility fees.

**BACKGROUND:**

A Bid Letting should be scheduled for 2:00 p.m. on Wednesday, October 14, 2015, and a Public Hearing on the project should be scheduled for 5:35 p.m. on Monday, October 19, 2015. The contract would be awarded on Monday, October 19, 2015, and work will begin shortly thereafter.

The completion date for the project is June 30, 2016.

**OUT STANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Ordering Construction of 2015 Intake Repair Program.
- Fixing 2:00 p.m. on Wednesday, October 14, 2015, as time and date for project Bid Letting.
- Ordering the City Clerk to publish Notice of Letting and Public Hearing.

Lead Staff Member: Duane C. Wittstock, P.E., L.S., City Engineer

**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    | Duane C. Wittstock, P.E., L.S., City Engineer |
| Appropriations/Finance | Tim Stiles, Finance Director                  |
| Legal                  | Richard Scieszinski, City Attorney            |
| Agenda Acceptance      | <i>for RJ</i>                                 |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                    |    |       |
|----------------|--------------------|----|-------|
| Committee      | Public Works       |    |       |
| Date Reviewed  | September 28, 2015 |    |       |
| Recommendation | Yes                | No | Split |

**Resolution Ordering Construction and  
Notice of Public Hearing on Plans, Specifications,  
Form of Contract, Estimate of Cost, and  
Directing Advertisement for Bids**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA,** that the following described public improvement:

**2015 Intake Repair Program  
Project No. 0510-021-2015**

is hereby ordered constructed according to the Plans and Specifications prepared by Engineering Services of the City of West Des Moines and now on file in the office of City Clerk.

**BE IT FURTHER RESOLVED,** that the detailed Plans and Specifications, Form of Contract, Bid Security, and Notice to Bidders are hereby approved, subject to hearing thereon, and that the same are now on file in the office of City Clerk for public inspection.

**BE IT FURTHER RESOLVED,** that the City Clerk is hereby directed to publish notice of hearing on the Plans and Specifications, Form of Contract, Bid Security and Estimate of Costs for said project to be held at 5:35 p.m. on Monday, October 19, 2015, with said notice published not less than four (4) days nor more than twenty (20) days prior to the date heretofore fixed.

**BE IT FURTHER RESOLVED,** that the City Clerk is hereby directed to publish Notice to Bidders for said project with publication not less than four (4) days nor more than forty-five (45) days prior to the date for receiving bids. Said bids are to be filed prior to 2:00 p.m. on Wednesday, October 14, 2015.

**BE IT FURTHER RESOLVED,** that the bids received for construction of said improvements will be opened, publicly read and tabulated by the City Clerk or City Clerk designee at 2:00 p.m. on Wednesday, October 14, 2015, and the results of said bids shall be considered at a meeting of this Council on Monday, October 19, 2015, at 5:35 p.m. and acted upon at said time, or such time as may then be fixed.

**PASSED AND APPROVED** this 5th day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

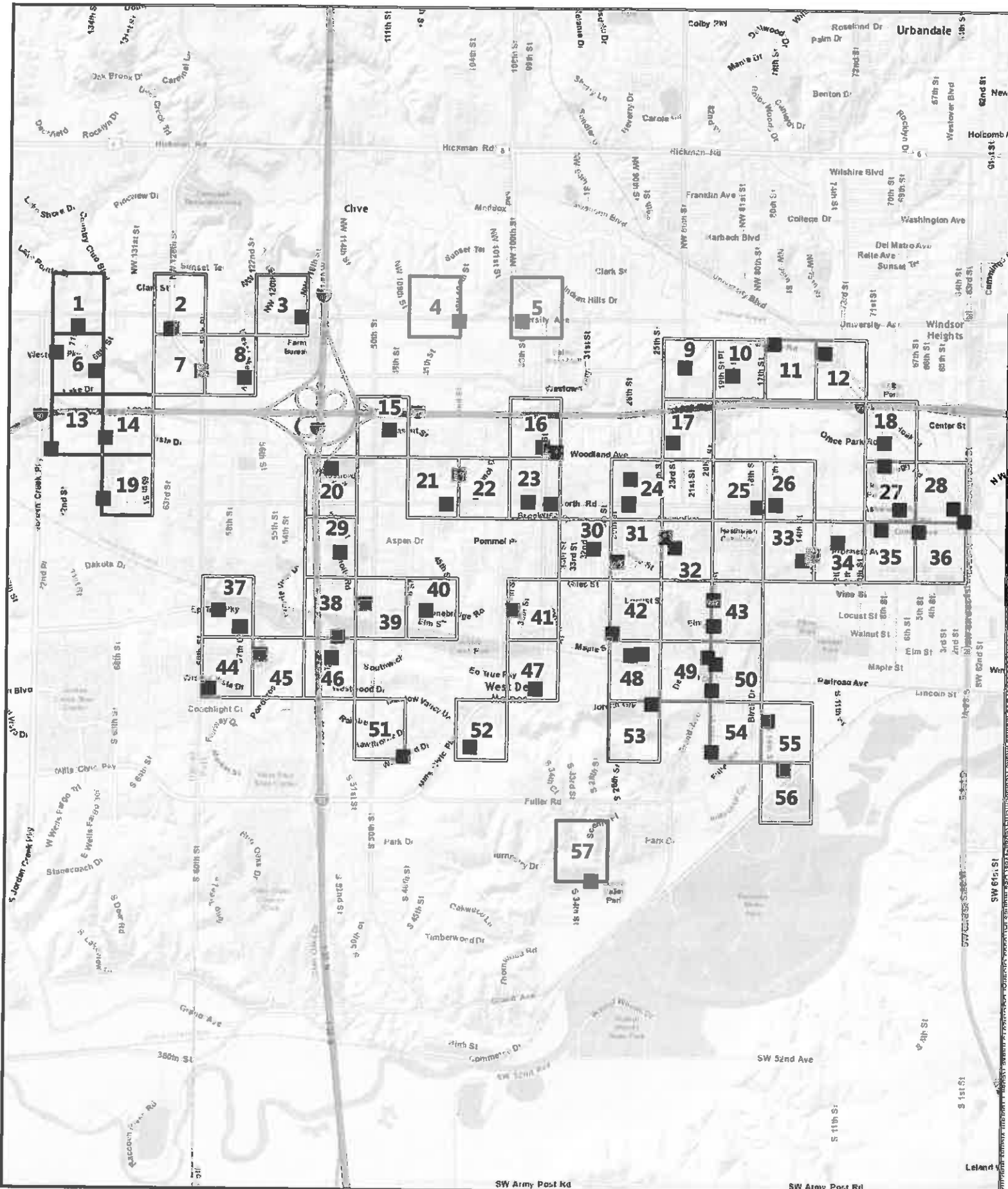
ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

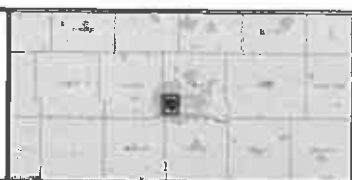


**2015 INTAKE REPAIR PROGRAM**  
**CITY OF WEST DES MOINES, IOWA**  
**ENGINEER'S OPINION OF PROBABLE CONSTRUCTION COST**

| ITEM                             | DESCRIPTION                                   | UNIT | QUANTITY | UNIT PRICE   | TOTAL                |
|----------------------------------|---|------|----------|--------------|----------------------|
| 1                                | TRAFFIC CONTROL                               | LS   | 1        | \$ 25,000.00 | \$ 25,000.00         |
| 2                                | STRUCTURE REMOVAL                             | EA   | 32       | \$ 1,300.00  | \$ 41,600.00         |
| 3                                | STRUCTURE BASE REMOVAL                        | EA   | 16       | \$ 260.00    | \$ 4,160.00          |
| 4                                | INTAKE, TYPE M-A - TOP RECONSTRUCTION ONLY    | EA   | 2        | \$ 2,500.00  | \$ 5,000.00          |
| 5                                | INTAKE, TYPE M-C - INTAKE RECONSTRUCTION ONLY | EA   | 1        | \$ 3,500.00  | \$ 3,500.00          |
| 6                                | INTAKE, TYPE SW-507 - TOP RECONSTRUCTION ONLY | EA   | 1        | \$ 3,100.00  | \$ 3,100.00          |
| 7                                | INTAKE, TYPE SW-509 - TOP RECONSTRUCTION ONLY | EA   | 1        | \$ 4,900.00  | \$ 4,900.00          |
| 8                                | INTAKE, TYPE M-A                              | EA   | 11       | \$ 3,500.00  | \$ 38,500.00         |
| 9                                | INTAKE, TYPE M-C                              | EA   | 1        | \$ 5,500.00  | \$ 5,500.00          |
| 10                               | INTAKE, TYPE M-D                              | EA   | 8        | \$ 5,400.00  | \$ 43,200.00         |
| 11                               | INTAKE, TYPE M-E                              | EA   | 3        | \$ 6,600.00  | \$ 19,800.00         |
| 12                               | INTAKE, TYPE SW-507                           | EA   | 2        | \$ 4,300.00  | \$ 8,600.00          |
| 13                               | INTAKE, TYPE SW-511                           | EA   | 2        | \$ 3,100.00  | \$ 6,200.00          |
| 14                               | FULL DEPTH PCC PATCH                          | SY   | 100      | \$ 85.00     | \$ 8,500.00          |
| 15                               | FULL DEPTH COMPOSITE PATCH                    | SY   | 50       | \$ 105.00    | \$ 5,250.00          |
| 16                               | STORM SEWER - 15" RCP                         | LF   | 50       | \$ 100.00    | \$ 5,000.00          |
| <b>Total Construction Cost :</b> |   |      |          |              | <b>\$ 227,810.00</b> |



**PN: 15-17991**  
**Source:**  
 2013 Orthophotograph (NAIP)  
 Intake Repair Location (City of West Des Moines)  
 Polk County Parcels (Polk County, 7/27/2015)



**Legend**  
 ■ Intake Repair Location  
 □ Map Grid Index

**2015 Intake Repair Program**  
 City of West Des Moines  
 Polk County, Iowa  
**Vicinity Map**  
 Wednesday, July 29, 2015

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

DATE: October 5, 2015

**ITEM:**

Resolution - Ordering Construction  
98<sup>th</sup> Street Improvements  
Water Tower to Railroad Tracks

**FINANCIAL IMPACT:**

The Engineering estimate of construction cost for the 98<sup>th</sup> Street Improvements project is \$236,733.00. Payments will be made from budgeted account no. 4291.75.820.6.7920. Costs for the project will be split 50/50 with the City of Waukee. It is anticipated that ultimately the West Des Moines Water Works will finance the West Des Moines share.

**BACKGROUND:**

A Bid Letting should be scheduled for 2:00 p.m. on Wednesday, October 14, 2015, and a Public Hearing on the project should be scheduled for 5:35 p.m. on Monday, October 19, 2015. The contract would be awarded on Monday, October 19, 2015, and work will begin shortly thereafter.

Grading, utility installation, and paving shall be completed by December 18, 2015. The completion date for entire the project is 15 working days following completion of the railroad crossing improvements by the Union Pacific Railroad during the 2016 construction season.

**OUT STANDING ISSUES:**

A 28e agreement needs to be executed with the City of Waukee outlining responsibilities and financial obligations for the construction of 98<sup>th</sup> Street between University Avenue and the end of paving near Chalk Street. This agreement will be presented at a future meeting.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Ordering Construction of 98<sup>th</sup> Street Improvements – Water Tower to Railroad Tracks.
- Fixing 2:00 p.m. on Wednesday, October 14, 2015, as time and date for project Bid Letting.
- Ordering the City Clerk to publish Notice of Letting and Public Hearing.

Lead Staff Member: Duane C. Wittstock, P.E., L.S., City Engineer

**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    | Duane C. Wittstock, P.E., L.S., City Engineer <i>nm</i> |
| Appropriations/Finance | Tim Stiles, Finance Director <i>TS</i>                  |
| Legal                  | Richard Scieszinski, City Attorney <i>RS</i>            |
| Agenda Acceptance      | <i>for RJ</i>   |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                    |    |       |
|----------------|--------------------|----|-------|
| Committee      | Public Works       |    |       |
| Date Reviewed  | September 28, 2015 |    |       |
| Recommendation | Yes                | No | Split |

**Resolution Ordering Construction and  
Notice of Public Hearing on Plans, Specifications,  
Form of Contract, Estimate of Cost, and  
Directing Advertisement for Bids**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA,**  
that the following described public improvement:

**98<sup>th</sup> Street Improvements  
Water Tower to Railroad Tracks  
Project No. 0510-042-2015**

is hereby ordered constructed according to the Plans and Specifications prepared by Engineering Services of the City of West Des Moines and now on file in the office of City Clerk.

**BE IT FURTHER RESOLVED,** that the detailed Plans and Specifications, Form of Contract, Bid Security, and Notice to Bidders are hereby approved, subject to hearing thereon, and that the same are now on file in the office of City Clerk for public inspection.

**BE IT FURTHER RESOLVED,** that the City Clerk is hereby directed to publish notice of hearing on the Plans and Specifications, Form of Contract, Bid Security and Estimate of Costs for said project to be held at 5:35 p.m. on Monday, October 19, 2015, with said notice published not less than four (4) days nor more than twenty (20) days prior to the date heretofore fixed.

**BE IT FURTHER RESOLVED,** that the City Clerk is hereby directed to publish Notice to Bidders for said project with publication not less than four (4) days nor more than forty-five (45) days prior to the date for receiving bids. Said bids are to be filed prior to 2:00 p.m. on Wednesday, October 14, 2015.

**BE IT FURTHER RESOLVED,** that the bids received for construction of said improvements will be opened, publicly read and tabulated by the City Clerk or City Clerk designee at 2:00 p.m. on Wednesday, October 14, 2015, and the results of said bids shall be considered at a meeting of this Council on Monday, October 19, 2015, at 5:35 p.m. and acted upon at said time, or such time as may then be fixed.

**PASSED AND APPROVED** this 5<sup>th</sup> day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk





Seyver & Associates  
Engineers and Planners

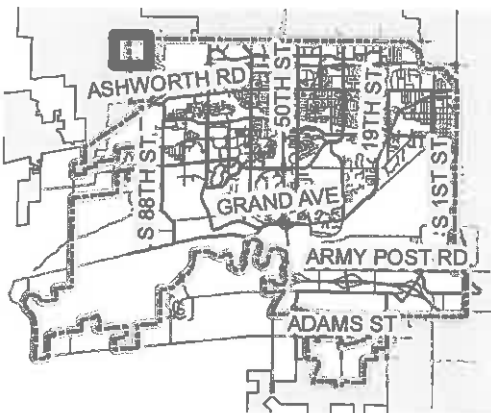
**PRELIMINARY OPINION OF PROBABLE CONSTRUCTION COSTS**  
**WACO PL / 98TH STREET IMPROVEMENTS PROJECT**  
**SOUTH & NORTH OF UNION PACIFIC RAILROAD TRACKS**  
**WAUKEE / WEST DES MOINES, IA**  
**PROJECT NO. 0510-042-2015**

| ITEM   | DESCRIPTION                                  | Div. 1        | Div. 2       | Div. 3       | TOTAL QUANTITY | UNIT | UNIT PRICE   | Div. 1       | Div. 2    | Div. 3    | TOTAL PRICE  |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
|--|--|---------------|--------------|--------------|----------------|------|--------------|--------------|-----------|-----------|--------------|--|------------------|---------------|--------------|--------------|---------------|--|---------------------------|-------------|-------------|-------------|--------------|--|----------------------------|---------------|--------------|--------------|---------------|
| <b>GENERAL PROVISIONS</b>  |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 1.1  | Mobilization                                 | 1             |              |              | 1              | LS   | \$ 15,000.00 | \$ 15,000.00 | \$ -      | \$ -      | \$ 15,000.00 |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>EARTHWORK</b>   |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 2.1  | Clearing and Grubbing                        | 1             |              |              | 1              | LS   | 1,500.00     | 1,500.00     | -         | -         | 1,500.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 2.2  | Topsoil, Strip, Salvage, and Respread        | 200           |              |              | 200            | CY   | 15.00        | 3,000.00     | -         | -         | 3,000.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 2.3  | Excavation, Class 10, Roadway and Borrow     | 752           |              |              | 752            | CY   | 12.00        | 9,024.00     | -         | -         | 9,024.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 2.4  | Subgrade Preparation                         | 668           |              |              | 668            | SY   | 8.00         | 5,344.00     | -         | -         | 5,344.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 2.5  | Class A Roadstone                            | 100           |              |              | 100            | TON  | 25.00        | 2,500.00     | -         | -         | 2,500.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>SEWERS AND DRAINS</b>   |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.1  | Storm Sewer, RCP, 15"                        | 92            |              |              | 92             | LF   | 50.00        | 4,600.00     | -         | -         | 4,600.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.2  | Storm Sewer, Class 3 RCP, 18"                | 193           |              |              | 193            | LF   | 60.00        | 11,580.00    | -         | -         | 11,580.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.3  | Apron, 15" RCP with Footing                  | 1             |              |              | 1              | EA   | 1,200.00     | 1,200.00     | -         | -         | 1,200.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.4  | Apron, 18" RCP with Footing                  | 4             |              |              | 4              | EA   | 1,300.00     | 5,200.00     | -         | -         | 5,200.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.5  | Removal of Storm Sewer/Culverts <= 36"       | 205           |              |              | 205            | LF   | 5.00         | 1,025.00     | -         | -         | 1,025.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.6  | Subdrain, Perforated CMP, 6"                 | 120           |              |              | 120            | LF   | 10.00        | 1,200.00     | -         | -         | 1,200.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 4.7  | Subdrain Outlet, 6"                          | 2             |              |              | 2              | EA   | 200.00       | 400.00       | -         | -         | 400.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>WATER MAIN AND APPURTENANCES</b>  |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 5.1  | Water Main, PVC, 16", Restrainted Joint Pipe |               | 165          | 168          | 333            | LF   | 65.00        | -            | 10,725.00 | 10,920.00 | 21,645.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 5.2  | Hydrant Assembly                             |               |              | 1            | 1              | EA   | 4,500.00     | -            | -         | 4,500.00  | 4,500.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 5.3  | Water Valve, Gate, 16"                       |               |              | 1            | 1              | EA   | 3,500.00     | -            | -         | 3,500.00  | 3,500.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 5.4  | Steel Casing Pipe, 24"                       |               | 80           | 80           | 160            | LF   | 350.00       | -            | 28,000.00 | 28,000.00 | 56,000.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>STREETS AND RELATED WORK</b>  |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 6.1  | SW-506 Intake                                | 2             |              |              | 2              | EA   | 6,500.00     | 13,000.00    | -         | -         | 13,000.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.1  | Pavement, PCC, 8", Reinforced                | 571           |              |              | 571            | SY   | 65.00        | 37,115.00    | -         | -         | 37,115.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.2  | PCC Pavement Samples                         | 1             |              |              | 1              | LS   | 2,500.00     | 2,500.00     | -         | -         | 2,500.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.3  | Approach Pavement, PCC, 12"                  | 46            |              |              | 46             | SY   | 100.00       | 4,600.00     | -         | -         | 4,600.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.4  | Driveway, PCC, 7"                            | 134           |              |              | 134            | SY   | 50.00        | 6,700.00     | -         | -         | 6,700.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.5  | Detectable Warnings                          | 56            |              |              | 56             | SF   | 30.00        | 1,680.00     | -         | -         | 1,680.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 7.6  | UPRR Insurance                               | 1             |              |              | 1              | LS   | 15,000.00    | 15,000.00    | -         | -         | 15,000.00    |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>TRAFFIC CONTROL</b>   |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 8.1  | Traffic Control                              | 1             |              |              | 1              | LS   | 3,000.00     | 3,000.00     | -         | -         | 3,000.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 8.2  | Pavement Markings, Temporary                 | 21            |              |              | 21             | STA  | 100.00       | 2,100.00     | -         | -         | 2,100.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 8.3  | Pavement Markings, Symbols, Temporary        | 2             |              |              | 2              | EA   | 200.00       | 400.00       | -         | -         | 400.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <b>SITE WORK AND LANDSCAPING</b>   |  |               |              |              |                |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.1  | Urban Temporary Erosion Control Seeding      | 0.25          |              |              | 0.25           | ACRE | 2,000.00     | 500.00       | -         | -         | 500.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.2  | Erosion Control Mulching                     | 0.25          |              |              | 0.25           | ACRE | 700.00       | 175.00       | -         | -         | 175.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.3  | Silt Fence                                   | 180           |              |              | 180            | LF   | 3.00         | 540.00       | -         | -         | 540.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.4  | Silt Fence Removal                           | 180           |              |              | 180            | LF   | 1.00         | 180.00       | -         | -         | 180.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.5  | Filter Sock, 8"                              | 405           |              |              | 405            | LF   | 4.00         | 1,620.00     | -         | -         | 1,620.00     |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| 9.6  | Filter Sock Removal                          | 405           |              |              | 405            | LF   | 1.00         | 405.00       | -         | -         | 405.00       |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
| <table border="0" style="width:100%; border-collapse: collapse;"> <tr> <td style="width: 80%;"></td> <td style="text-align: right;"><b>Subtotal=</b></td> <td>\$ 151,088.00</td> <td>\$ 38,725.00</td> <td>\$ 46,920.00</td> <td>\$ 236,733.00</td> </tr> <tr> <td></td> <td style="text-align: right;"><b>CONTINGENCY (~5%)=</b></td> <td>\$ 7,600.00</td> <td>\$ 2,000.00</td> <td>\$ 2,400.00</td> <td>\$ 12,000.00</td> </tr> <tr> <td></td> <td style="text-align: right;"><b>CONSTRUCTION TOTAL=</b></td> <td>\$ 158,688.00</td> <td>\$ 40,725.00</td> <td>\$ 49,320.00</td> <td>\$ 248,733.00</td> </tr> </table> |  |               |              |              |                |      |              |              |           |           |              |  | <b>Subtotal=</b> | \$ 151,088.00 | \$ 38,725.00 | \$ 46,920.00 | \$ 236,733.00 |  | <b>CONTINGENCY (~5%)=</b> | \$ 7,600.00 | \$ 2,000.00 | \$ 2,400.00 | \$ 12,000.00 |  | <b>CONSTRUCTION TOTAL=</b> | \$ 158,688.00 | \$ 40,725.00 | \$ 49,320.00 | \$ 248,733.00 |
|  | <b>Subtotal=</b>                             | \$ 151,088.00 | \$ 38,725.00 | \$ 46,920.00 | \$ 236,733.00  |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
|  | <b>CONTINGENCY (~5%)=</b>                    | \$ 7,600.00   | \$ 2,000.00  | \$ 2,400.00  | \$ 12,000.00   |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |
|  | <b>CONSTRUCTION TOTAL=</b>                   | \$ 158,688.00 | \$ 40,725.00 | \$ 49,320.00 | \$ 248,733.00  |      |              |              |           |           |              |  |                  |               |              |              |               |  |                           |             |             |             |              |  |                            |               |              |              |               |

Div. 1 = Roadway Improvements  
 Div. 2 = West Des Moines water main (east side)  
 Div. 3 = Waukee water main (west side)



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



**CITY OF WEST DES MOINES  
ENGINEERING SERVICES**  
4200 MILLS CIVIC PARKWAY  
WEST DES MOINES, IOWA 50265  
PH: (515) 222-3620 FAX: (515) 273-0802

|           |  |                 |
|-----------|--|-----------------|
| PROJECT:  | <b>98TH STREET IMPROVEMENTS<br/>WATER TOWER TO RAILROAD TRACKS</b> |                 |
|           | Project No. 0510-042-2015  |                 |
| LOCATION: | <b>EXHIBIT "A"</b>   |                 |
| DRAWN BY: | BJM  | DATE: 6/23/2015 |
|           |  | SHT. 1 OF 1     |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:**

Resolution - Accepting Work  
39<sup>th</sup> Street Reconstruction Project  
Corell Contractor, Inc.

**FINANCIAL IMPACT:**

The total construction cost for the 39<sup>th</sup> Street Reconstruction Project was \$892,541.76 which was paid from budgeted Account No. 4232.75.820.6.7910 with the ultimate funding intended to come from Road Use Tax Dollars. The original cost of the project was \$883,796.86. There were four (4) Change Orders that increased the project total by \$8,744.90.

**BACKGROUND:**

Corell Contractor, Inc. was working under an agreement dated August 25, 2014, for construction services for the reconstruction of 39<sup>th</sup> Street from E.P. True Parkway to the railroad tracks. Work on this project is substantially complete.

This action accepts the public improvements and authorizes staff to pay the retainage no sooner than 30 days.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:  
- Resolution Accepting Work

**Lead Staff Member: Duane Wittstock, P.E., L.S., City Engineer.**

**STAFF REVIEWS**

|                        |  |
|------------------------|--|
| Department Director    | Duane Wittstock, City Engineer <i>DW</i>     |
| Appropriations/Finance | Tim Stiles, Finance Director <i>TS</i>       |
| Legal                  | Richard Scieszinski, City Attorney <i>RS</i> |
| Agenda Acceptance      | <i>TS for RS</i>                             |

| PUBLICATION(S) (if applicable) |  | SUBCOMMITTEE REVIEW (if applicable) |                    |       |
|--------------------------------|--|-------------------------------------|--------------------|-------|
| Published In                   |  | Committee                           | Public Works       |       |
| Dates(s) Published             |  | Date Reviewed                       | September 28, 2015 |       |
|                                |  | Recommendation                      | Yes                | No    |
|                                |  |                                     |                    | Split |

**Resolution Accepting Work**

**WHEREAS**, on August 25, 2014, the City Council entered into a contract with Corell Contractor, Inc. of West Des Moines, Iowa, for the following described public improvement:

**39<sup>th</sup> Street Reconstruction  
0510-017-2013**

And,

**WHEREAS**, said contractor has substantially completed the construction of said improvement in accordance with plans and specifications as shown by the report of the City Engineer filed with the City Clerk on October 5, 2015.

**WHEREAS**, the City has retained 5% of the construction costs,

Therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, that said report of the City Engineer is hereby approved and said public improvement is accepted as having been substantially completed in accordance with plans and specifications and the total final construction cost of said improvement is \$892,541.76 as shown in said report, and that the Finance Director is hereby authorized to make payment to the Contractor in the amount of \$44,627.09, which includes retainage for the project, no sooner than 30 days subject to the Contractor satisfying all the conditions of the contract.

**PASSED AND APPROVED** this 5th day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk



ENGINEERING SERVICES  
4200 Mills Civic Parkway  
West Des Moines, IA 50265-0320  
(515) 222-3620 Fax (515) 273-0602

**PAY REQUEST**

Contractor: **Corell Contractor, Inc.**  
**1300 Lincoln Street**  
**West Des Moines, IA 50265**

|                              |   |          |
|------------------------------|---|----------|
| Project Title                | 39th Street Reconstruction - EP True Parkway to Railroad Tracks |          |
| WDM Project File Number      | 0510-017-2013   |          |
| Purchase Order Number        | 4232-04   |          |
| Orig. Contract Amount & Date | \$883,796.86  | 08/25/14 |
| Estimated Completion Date    | 05/28/15  |          |
| Pay Period                   | 5/18/15 thru 8/7/15   |          |
| Pay Request Number           | 13  |          |
| Date                         | 08/20/15  |          |

| BID ITEMS  |   |      |          |             |                |                    |                 |
|--|---|------|----------|-------------|----------------|--------------------|-----------------|
| Item No.   | Description   | Unit | Est. Qty | Unit Price  | Extended Price | Quantity Completed | Value Completed |
| <b>Division 1 - General</b>                          |   |      |          |             |                |                    |                 |
| 1.1  | Mobilization  | LS   | 1.00     | \$72,592.00 | \$72,592.00    | 1.00               | \$72,592.00     |
| 1.2  | Traffic Control                                     | LS   | 1.00     | \$3,080.00  | \$3,080.00     | 1.00               | \$3,080.00      |
| 1.3  | Construction Survey                                 | LS   | 1.00     | \$8,700.00  | \$8,700.00     | 1.00               | \$8,700.00      |
| 1.4  | Project Sign  | LS   | 1.00     | \$880.00    | \$880.00       | 1.00               | \$880.00        |
| <b>Division 2 - Earthwork, Subgrade, and Subbase</b> |   |      |          |             |                |                    |                 |
| 2.1  | Clearing and Grubbing                               | LS   | 1.00     | \$13,750.00 | \$13,750.00    | 1.00               | \$13,750.00     |
| 2.2  | Topsoll, On-Site                                    | CY   | 856      | \$10.00     | \$8,560.00     | 856.00             | \$8,560.00      |
| 2.3  | Excavation, Class 10                                | CY   | 2421     | \$12.00     | \$29,052.00    | 2,633.00           | \$31,596.00     |
| 2.4  | Subgrade Preparation                                | SY   | 4140     | \$3.50      | \$14,490.00    | 4,070.00           | \$14,245.00     |
| <b>Division 4 - Sewers</b>                           |   |      |          |             |                |                    |                 |
| 4.1  | Storm Sewer, Trenched, RCP, 15"                     | LF   | 272      | \$135.00    | \$36,720.00    | 211.00             | \$28,485.00     |
| 4.3  | Storm Sewer, Trenched, DIP, 48"                     | LF   | 20       | \$600.00    | \$12,000.00    | 12.00              | \$7,200.00      |
| 4.4  | Removal of Storm Sewer, RCP, > 36"                  | LF   | 29       | \$120.00    | \$3,480.00     | 34.00              | \$4,080.00      |
| 4.5  | Removal of Storm Sewer, RCP, < 36"                  | LF   | 75       | \$45.00     | \$3,352.50     | 88.50              | \$3,982.50      |
| <b>Division 5 - Watermain</b>                        |   |      |          |             |                |                    |                 |
| 5.1  | Fire Hydrant Adjustment                             | EA   | 1        | \$5,400.00  | \$5,400.00     | 1.00               | \$5,400.00      |
| <b>Division 6 - Storm / Sanitary Structures</b>      |   |      |          |             |                |                    |                 |
| 6.1  | Manhole Type SW-401, 84"                            | EA   | 4        | \$17,750.00 | \$71,000.00    | 3.00               | \$53,250.00     |
| 6.2  | Intake Type SW-505                                  | EA   | 8        | \$3,650.00  | \$29,200.00    | 9.00               | \$32,850.00     |
| 6.3  | Intake Type SW-506                                  | EA   | 2        | \$6,000.00  | \$12,000.00    | 1.00               | \$6,000.00      |
| 6.4  | Manhole Adjustment, Major                           | EA   | 4        | \$2,500.00  | \$10,000.00    | 3.00               | \$7,500.00      |
| 6.5  | Manhole Adjustment, Minor                           | EA   | 1        | \$700.00    | \$700.00       | 6.00               | \$4,200.00      |
| 6.6  | Remove Manhole                                      | EA   | 1        |             | \$0.00         | 1.00               | \$0.00          |
| <b>Division 7 - Streets and Related Work</b>         |   |      |          |             |                |                    |                 |
| 7.1  | Pavement, PCC, 7", Reinforced                       | SY   | 3503     | \$48.40     | \$169,545.20   | 3,451.00           | \$167,028.40    |
| 7.2  | Removal of Pavement                                 | SY   | 196      | \$15.00     | \$2,940.00     | 196.00             | \$2,940.00      |
| 7.3  | Removal of Sidewalk                                 | SY   | 21       | \$10.00     | \$210.00       | 99.00              | \$990.00        |
| 7.4  | Removal of Recreational Trail                       | SY   | 79       | \$10.00     | \$790.00       | 94.00              | \$940.00        |
| 7.5  | Removal of Driveway                                 | SY   | 211      | \$10.00     | \$2,110.00     | 211.00             | \$2,110.00      |
| 7.6  | Recreational Trail, PCC, 6", Reinforced             | SY   | 69       | \$46.00     | \$3,174.00     | 87.00              | \$4,002.00      |
| 7.7  | Special Subgrade Preparation for Recreational Trail | SY   | 89       | \$5.00      | \$345.00       | 87.00              | \$435.00        |
| 7.8  | Sidewalk, PCC, 4"                                   | SY   | 428      | \$32.80     | \$14,038.40    | 628.00             | \$27,158.40     |
| 7.9  | Sidewalk, PCC, 6"                                   | SY   | 55       | \$41.00     | \$2,255.00     | 118.00             | \$4,838.00      |
| 7.10   | Detectable Warning, 2'x4' Panel                     | EA   | 16       | \$255.00    | \$4,080.00     | 20.00              | \$5,100.00      |
| 7.11   | Driveway, Paved, 7"                                 | SY   | 190      | \$42.00     | \$7,980.00     | 388.00             | \$16,296.00     |
| 7.12   | HMA Filllet   | TONS | 2        | \$1,200.00  | \$2,400.00     | 2.00               | \$2,400.00      |
| <b>Division 8 - Traffic Control / Signalization</b>  |   |      |          |             |                |                    |                 |
| 8.1  | Pavement Marking                                    | STA  | 14.64    | \$82.00     | \$1,200.48     | 14.01              | \$1,148.82      |
| 8.2  | Pavement Marking Symbols                            | EA   | 7        | \$110.00    | \$770.00       | 7.00               | \$770.00        |

| Division 9 - Erosion / Sediment Control |   |      |        |  |              |                     |           |                     |
|---|---|------|--------|--|--------------|---------------------|-----------|---------------------|
| 9.1                                     | Conventional Seeding, Seeding, Fertilizing, and Mulching                | AC   | 0.81   |  | \$1,940.00   | \$1,571.40          | 1.38      | \$2,877.20          |
| 9.2                                     | Sod   | SQ   | 108.73 |  | \$98.00      | \$8,088.88          | 135.19    | \$7,670.64          |
| 9.3                                     | Filter Socks, 12"   | LF   | 250    |  | \$3.15       | \$787.50            | 240.00    | \$756.00            |
| 9.4                                     | Filter Socks, Removal   | LF   | 250    |  | \$0.40       | \$100.00            | 240.00    | \$96.00             |
| 9.5                                     | Silt Fence  | LF   | 800    |  | \$2.15       | \$1,720.00          | 0.00      | \$0.00              |
| 9.6                                     | Silt Fence, Removal of Device   | LF   | 800    |  | \$0.15       | \$120.00            | 0.00      | \$0.00              |
| 9.7                                     | Temporary Seeding & Mulching  | AC   | 1.5    |  | \$840.00     | \$1,260.00          | 1.85      | \$1,554.00          |
| 9.8                                     | Inlet Protection Device   | EA   | 18     |  | \$50.00      | \$900.00            | 16.00     | \$800.00            |
| 9.9                                     | NPDES Permitting  | LB   | 1.00   |  | \$3,630.00   | \$3,630.00          | 1.00      | \$3,630.00          |
| Division 10 - Culvert Rehabilitation    |   |      |        |  |              |                     |           |                     |
| 10.1                                    | Removal of Existing Headwall, Per Plans                                 | LS   | 1      |  | \$27,000.00  | \$27,000.00         | 1.00      | \$27,000.00         |
| 10.2                                    | Structural Concrete   | CY   | 171.40 |  | \$1,185.00   | \$203,109.00        | 171.40    | \$203,109.00        |
| 10.3                                    | Structural Steel  | LB   | 20605  |  | \$1.60       | \$32,968.00         | 20,605.00 | \$32,968.00         |
| 10.4                                    | Engineering Fabric  | 6Y   | 905    |  | \$2.60       | \$2,262.50          | 905.00    | \$2,262.50          |
| 10.5                                    | Rip-Rap   | TONS | 934    |  | \$45.00      | \$42,030.00         | 628.64    | \$28,212.30         |
| 10.6                                    | Fence   | LF   | 230    |  | \$58.80      | \$13,455.00         | 240.00    | \$14,040.00         |
| CO 1.1                                  | ST-4 Intake Modification, Structural Support, and Water Main Insulation | LS   | 1      |  | \$2,265.00   | \$2,265.00          | 1.00      | \$2,265.00          |
| CO 1.2                                  | ST-7 Intake Modification, Structural Support, and Water Main Insulation | LS   | 1      |  | \$3,090.00   | \$3,090.00          | 1.00      | \$3,090.00          |
| CO 2.1                                  | 48" C900, Connection to Existing Structure, Restocking Fee              | LS   | 1      |  | \$19,254.00  | \$19,254.00         | 1.00      | \$19,254.00         |
| CO 3.1                                  | 8W-208 Restocking Fee   | LB   | 1      |  | \$750.00     | \$750.00            | 1.00      | \$750.00            |
|   |   |      |        |  | <b>TOTAL</b> | <b>\$983,166.86</b> |           | <b>\$882,641.78</b> |

| MATERIALS STORED SUMMARY |            |            |               |               |
|--------------------------|------------|------------|---------------|---------------|
| Description              | # of Units | Unit Price | Extended Cost |               |
| None                     |            |            |               | \$0.00        |
|                          |            |            |               | \$0.00        |
| <b>TOTAL</b>             |            |            |               | <b>\$0.00</b> |

| PAY REQUEST SUMMARY                   |                                     |                   |
|---------------------------------------|-------------------------------------|-------------------|
|                                       | Total Approved                      | Total Completed   |
| Contract Price                        | \$883,796.86                        | \$882,541.78      |
| Approved Change Order 1               | \$5,355.00                          |                   |
| Approved Change Order 2               | (\$4,031.00)                        |                   |
| Approved Change Order 3               | (\$1,800.00)                        |                   |
| Approved Change Order 4               | \$9,020.90                          |                   |
| Revised Contract Price                | \$892,541.76                        | \$892,541.78      |
| Materials Stored                      |                                     | \$0.00            |
| Retainage (5%)                        |                                     | \$44,627.09       |
|                                       | Total Earned Less Retainage         | \$847,914.67      |
| Total Previously Approved (list each) | Pay Request 1                       | \$87,208.58       |
|                                       | Pay Request 2                       | \$159,405.25      |
|                                       | Pay Request 3                       | \$11,384.84       |
|                                       | Pay Request 4                       | \$203,247.85      |
|                                       | Pay Request 5                       | \$34,019.14       |
|                                       | Pay Request 6                       | \$65,674.04       |
|                                       | Pay Request 7                       | \$28,671.44       |
|                                       | Pay Request 8                       | \$30,851.44       |
|                                       | Pay Request 9                       | \$46,928.86       |
|                                       | Pay Request 10                      | \$88,524.04       |
|                                       | Pay Request 11                      | \$56,813.08       |
|                                       | Pay Request 12                      | \$27,902.81       |
|                                       | Total Previously Approved           | \$840,611.47      |
|                                       | Amount Due This Request             | <b>\$7,103.20</b> |
|                                       | Percent Complete                    | 100.00%           |
|                                       | Percent of Contract Period Utilized | 125%              |

The amount **\$7,103.20** is recommended for approval for payment in accordance with the terms of the Contract

|                                   |   |   |
|-----------------------------------|---|---|
| Contractor:<br>Corell Contractors | Recommended By:<br>Kirshen, Mitchell and Associates | Checked By: <i>BOM</i>                      |
| Signature: <i>[Signature]</i>     | Signature: <i>[Signature]</i>                       | City of West Des Moines                     |
| Name: <i>Eric Thompson</i>        | Name: <i>Gren Cabalko</i>                           | Signature: <i>[Signature]</i>               |
| Title: <i>PM</i>                  | Title: <i>ENGINEER</i>                              | Name: <i>Duane G. Wittstock, P.E., L.S.</i> |
| Date: <i>8-21-2015</i>            | Date: <i>8-21-2015</i>                              | Title: <i>City Engineer</i>                 |
|                                   |   | Date:                                       |



**CITY OF WEST DES MOINES**

ENGINEERING SERVICES  
 4200 Mills Civic Parkway  
 West Des Moines, IA 50265-0320  
 (515) 222-3620 Fax (515) 273-0602

**CHANGE ORDER**

Distribution:  
 Owner   
 Engineer   
 Contractor   
 Other

Contractor: **Corall Contractor, Inc.**  
 1300 Lincoln Street  
 West Des Moines, IA 50265

|                              |   |                 |
|------------------------------|---|-----------------|
| Project Title                | 39th Street Reconstruction - EP True Parkway to Railroad Tracks |                 |
| WDM Project File Number      | 0510-017-2013   |                 |
| Purchase Order Number        | 4232-04   |                 |
| Orig. Contract Amount & Date | \$883,796.86  | August 25, 2014 |
| Change Order Number          | 4   |                 |
| Date                         | August 7, 2015  |                 |

**THE CONTRACT IS CHANGED AS FOLLOWS: Final quantity adjustments**

| Item | Description  | Unit | Unit Price  | Quantity Adjustment | Value Adjustment  |
|------|--|------|-------------|---------------------|-------------------|
| 2.3  | Excavation, Class 10                                     | CY   | \$ 12.00    | 212.000             | \$2,544.00        |
| 2.4  | Subgrade Preparation                                     | SY   | \$ 3.50     | (70.000)            | (\$245.00)        |
| 4.1  | Storm Sewer, Trenched, RCP, 16"                          | LF   | \$ 135.00   | (20.000)            | (\$2,700.00)      |
| 4.3  | Storm Sewer, Trenched, DIP, 48"                          | LF   | \$ 600.00   | (8.000)             | (\$4,800.00)      |
| 4.4  | Removal of Storm Sewer, RCP, > 36"                       | LF   | \$ 120.00   | 5.000               | \$600.00          |
| 4.5  | Removal of Storm Sewer, RCP, < 36"                       | LF   | \$ 45.00    | 14.000              | \$630.00          |
| 6.4  | Manhole Adjustment, Major                                | EA   | \$ 2,500.00 | (1.000)             | (\$2,500.00)      |
| 6.5  | Manhole Adjustment, Minor                                | EA   | \$ 700.00   | 5.000               | \$3,500.00        |
| 7.1  | Pavement, PCC, 7", Reinforced                            | SY   | \$ 48.40    | (52.000)            | (\$2,516.80)      |
| 7.3  | Removal of Sidewalk                                      | SY   | \$ 10.00    | 78.000              | \$780.00          |
| 7.4  | Removal of Recreational Trail                            | SY   | \$ 10.00    | 15.000              | \$150.00          |
| 7.6  | Recreational Trail, PCC, 6", Reinforced                  | SY   | \$ 48.00    | 18.000              | \$828.00          |
| 7.7  | Special Subgrade Preparation for Recreational Trail      | SY   | \$ 5.00     | 18.000              | \$90.00           |
| 7.8  | Sidewalk, PCC, 4"  | SY   | \$ 32.80    | 400.000             | \$13,120.00       |
| 7.9  | Sidewalk, PCC, 6"  | SY   | \$ 41.00    | 63.000              | \$2,583.00        |
| 7.1  | Detectable Warning, 2'x4' Panel                          | EA   | \$ 255.00   | 4.000               | \$1,020.00        |
| 7.11 | Driveway, Paved, 7"                                      | SY   | \$ 42.00    | 198.000             | \$8,316.00        |
| 8.1  | Pavement Marking   | STA  | \$ 82.00    | (0.630)             | (\$51.86)         |
| 9.1  | Conventional Seeding, Seeding, Fertilizing, and Mulching | AC   | \$ 1,940.00 | 0.570               | \$1,105.80        |
| 9.2  | Sod  | SQ   | \$ 56.00    | 26.480              | \$1,481.76        |
| 9.3  | Filter Socks, 12"  | LF   | \$ 3.15     | (10.000)            | (\$31.50)         |
| 9.4  | Filter Socks, Removal                                    | LF   | \$ 0.40     | (10.000)            | (\$4.00)          |
| 9.5  | Silt Fence   | LF   | \$ 2.15     | (800.000)           | (\$1,720.00)      |
| 9.6  | Silt Fence, Removal of Device                            | LF   | \$ 0.15     | (800.000)           | (\$120.00)        |
| 9.7  | Temporary Seeding & Mulching                             | AC   | \$ 840.00   | 0.350               | \$294.00          |
| 9.8  | Inlet Protection Device                                  | EA   | \$ 50.00    | (2.000)             | (\$100.00)        |
| 10.5 | Rip-Rap  | TONS | \$ 45.00    | (307.060)           | (\$13,817.70)     |
| 10.6 | Fence  | LF   | \$ 58.50    | 10.000              | \$585.00          |
|      |  |      |             | <b>TOTAL</b>        | <b>\$8,020.90</b> |

**CHANGE ORDER SUMMARY**

|  |              |
|--|--------------|
| The Original Contract Sum was  | \$883,796.86 |
| Net Change by previously authorized Change Orders  | (\$276.00)   |
| The Contract Sum prior to This Change Order was  | \$883,520.86 |
| The Contract Sum will be increased by this Change Order in the amount of   | \$9,020.90   |
| The new Contract Sum including this Change Order will be   | \$892,541.76 |
| Aggregate Change Order as a percent of Original Contract (If the aggregate is \$10,000, or greater than 5% of the original contract, whichever is greater, all signatures through the full Council are required) | 0.99%        |
| The Contract Time will be changed by   | 0 Days       |
| The date of Final Completion as of the date of this Change Order therefore is  | May 29, 2015 |



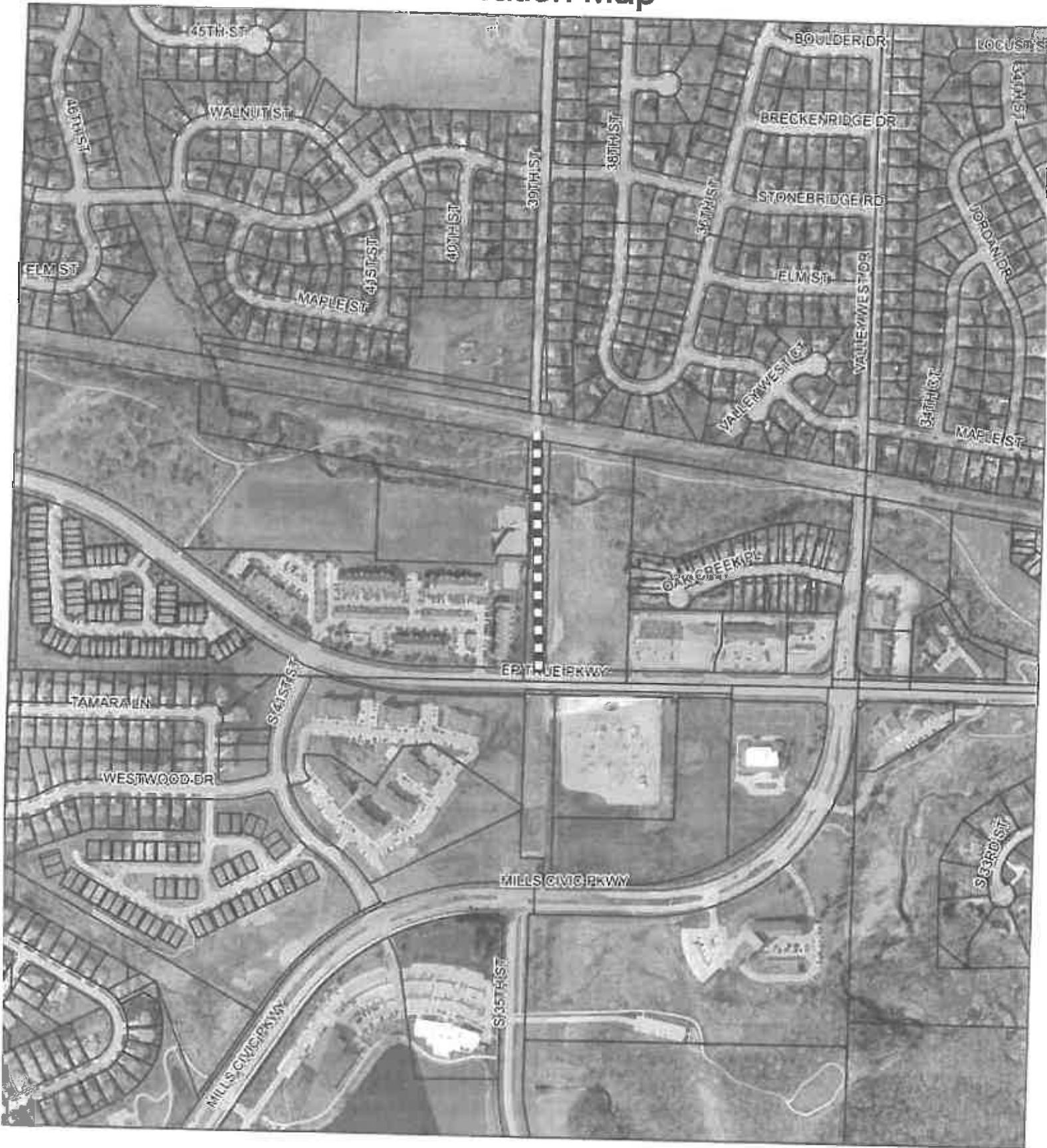
**NOT VALID UNTIL SIGNED BY THE CONTRACTOR, OWNER'S REPRESENTATIVE (if applicable) AND OWNER**

|   |   |  |
|---|---|--|
| <b>Contractor:</b><br>Corell Contractor, Inc. | <b>Recommended By:</b><br>Kirkham Michalek & Associates | <b>Checked By:</b> <i>[Signature]</i><br>City of West Des Moines |
| <b>Signature:</b> <i>[Signature]</i>          | <b>Signature:</b> <i>[Signature]</i>                    | <b>Signature:</b> <i>[Signature]</i>                             |
| <b>Name:</b> Eric Thompson                    | <b>Name:</b> Greg Cabalka, P.E.                         | <b>Name:</b> Duane C. Wittstock, P.E., L.S.                      |
| <b>Title:</b> CM                              | <b>Title:</b> PUG DIRECTOR                              | <b>Title:</b> City Engineer                                      |
| <b>Date:</b> 8-21-2015                        | <b>Date:</b> 9-21-2015                                  | <b>Date:</b>   |

**Owner:** City of West Des Moines

|                                      |  |                               |                     |
|--------------------------------------|--|-------------------------------|---------------------|
| <input type="checkbox"/> <b>≤</b>    | \$2,500 Department Director                                      | X <i>[Signature]</i>          | Date <b>8-26-15</b> |
| <input type="checkbox"/>             | \$2,501 to 5,000 City Manager                                    | X _____                       | Date _____          |
| <input type="checkbox"/>             | \$5001 to 10,000 PW Council Committee scheduled for agenda on    | _____ scheduled for agenda on | Date _____          |
| <input type="checkbox"/> <b>&gt;</b> | \$10,000 City Council approved or ratified at Council meeting on | _____                         | Date _____          |

# Location Map



## 39th St Improvements Approval of Professional Services Agreement 0510-017-2013

To the best of our knowledge the information included in this document is correct. The City of West Des Moines makes no warranty as to the accuracy of the information.

**Legend**  
[Dashed Line] Project Location

0 250 500 1,000  
[Scale Bar] Feet

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:**

Resolution - Accepting Work  
Grand Avenue Tree Cutting  
J. Pettiecord, Inc.

**FINANCIAL IMPACT:**

The total construction cost for the Grand Avenue Tree Cutting Project was \$132,700.00 which was paid from budgeted Account No. 4280.75.820.6.7910 with the ultimate funding intended to come from General Obligation Bonds. The original cost of the project was \$133,500.00. There were two (2) Change Orders that decreased the project total by \$800.00.

**BACKGROUND:**

J. Pettiecord, Inc. was working under an agreement dated January 26, 2015, for construction services for the Grand Avenue tree clearing from Raccoon River Regional Park to S. 50<sup>th</sup> Street. Work on this project is substantially complete. The project included only removal of existing trees and no permanent facilities were constructed therefore a maintenance bond is not necessary. In lieu of providing a maintenance bond as required by the contract J. Pettiecord, Inc. has agreed to withhold \$600.00 from the retainage payment, equivalent to the cost of said bond.

This action accepts the public improvements and authorizes staff to pay the retainage no sooner than 30 days.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:  
- Resolution Accepting Work

**Lead Staff Member: Duane Wittstock, P.E., L.S., City Engineer.**

**STAFF REVIEWS**

|                        |  |
|------------------------|--|
| Department Director    | Duane Wittstock, City Engineer <i>new</i>    |
| Appropriations/Finance | Tim Stiles, Finance Director <i>TS</i>       |
| Legal                  | Richard Scieszinski, City Attorney <i>RS</i> |
| Agenda Acceptance      | <i>(K) for (R)</i>                           |

| PUBLICATION(S) (if applicable) |  | SUBCOMMITTEE REVIEW (if applicable) |                    |          |
|--------------------------------|--|-------------------------------------|--------------------|----------|
| Published In                   |  | Committee                           | Public Works       |          |
| Dates(s) Published             |  | Date Reviewed                       | September 28, 2015 |          |
|                                |  | Recommendation                      | Yes                | No Split |

**Resolution Accepting Work**

**WHEREAS**, on January 26, 2015, the City Council entered into a contract with J. Pettiecord, Inc. of Des Moines, Iowa, for the following described public improvement:

**Grand Avenue Tree Cutting  
0510-010-2015**

And,

**WHEREAS**, said contractor has substantially completed the construction of said improvement in accordance with plans and specifications as shown by the report of the City Engineer filed with the City Clerk on October 5, 2015.

**WHEREAS**, the City has retained 5% of the construction costs,

Therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, that said report of the City Engineer is hereby approved and said public improvement is accepted as having been substantially completed in accordance with plans and specifications and the total final construction cost of said improvement is \$132,700.00 as shown in said report, and that the Finance Director is hereby authorized to make payment to the Contractor in the amount of \$6,035.00, which includes retainage for the project, no sooner than 30 days subject to the Contractor satisfying all the conditions of the contract.

**PASSED AND APPROVED** this 5th day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk



ENGINEERING SERVICES  
 4200 Mills Civic Parkway  
 West Des Moines, IA 50265-0320  
 (515) 222-3620

PAY REQUEST

Contractor: **J. Pettiecord Inc.**  
**5043 NE 22nd Street**  
**Des Moines, IA 50313**

|                              |                         |         |
|------------------------------|-------------------------|---------|
| Project Title                | Grand Ave. Tree Cutting |         |
| WDM Project File Number      | 0510-010-2015           |         |
| Purchase Order Number        | 4260-01                 |         |
| Orig. Contract Amount & Date | \$133,500.00            | 1/26/15 |
| Pay Period                   | 3/20/15 thru 4/25/15    |         |
| Pay Request Number           | 2                       |         |
| Date                         | 5/4/15                  |         |

| BID ITEMS    |                     |      |          |               |                |                    |                 |
|--------------|---------------------|------|----------|---------------|----------------|--------------------|-----------------|
| Item No.     | Description         | Unit | Est. Qty | Unit Price    | Extended Price | Quantity Completed | Value Completed |
| 1            | CONSTRUCTION SURVEY | LS   | 1        | \$ 3,000.00   | \$3,000.00     | 1                  | \$3,000.00      |
| 2            | CLEARING            | LS   | 1        | \$ 125,000.00 | \$125,000.00   | 1                  | \$125,000.00    |
| 3            | TRAFFIC CONTROL     | LS   | 1        | \$ 4,000.00   | \$4,000.00     | 1                  | \$4,000.00      |
| 4            | CONSTRUCTION FENCE  | LF   | 300      | \$ 5.00       | \$1,500.00     | 140                | \$700.00        |
| <b>TOTAL</b> |                     |      |          |               | \$133,500.00   |                    | \$132,700.00    |

| MATERIALS STORED SUMMARY |            |            |               |
|--------------------------|------------|------------|---------------|
| Description              | # of Units | Unit Price | Extended Cost |
|                          |            |            | \$0.00        |
|                          |            |            | \$0.00        |
|                          |            |            | \$0.00        |
| <b>TOTAL</b>             |            |            | \$0.00        |

| PAY REQUEST SUMMARY                   |                                     |                 |
|---------------------------------------|-------------------------------------|-----------------|
|                                       | Total Approved                      | Total Completed |
| Contract Price                        | \$133,500.00                        | \$132,700.00    |
| Approved Change Order 1               | (\$1,500.00)                        |                 |
| Approved Change Order 2               | \$700.00                            |                 |
| Revised Contract Price                | \$132,700.00                        | \$132,700.00    |
| Materials Stored                      |                                     | \$0.00          |
| Retainage (5%)                        |                                     | \$6,835.00      |
|                                       | Total Earned Less Retainage         | \$128,065.00    |
| Total Previously Approved (list each) | Pay Request 1                       | \$125,400.00    |
|                                       | Pay Request 2                       |                 |
|                                       | Pay Request 3                       |                 |
|                                       | Total Previously Approved           | \$125,400.00    |
|                                       | Amount Due This Request             | \$665.00        |
|                                       | Percent Complete                    | 100%            |
|                                       | Percent of Contract Period Utilized | 100%            |

The amount **\$665.00** is recommended for approval for payment in accordance with the terms of the Contract

|   |                                   |  |
|---|-----------------------------------|--|
| Contractor:<br>J. Pettiecord Inc.                   | Recommended By:<br>HR Green, Inc. | Checked By: <i>EM</i><br>City of West Des Moines |
| Signature: <i>Nick Wylie</i>                        | Signature: <i>D. Moenmann</i>     | Signature: <i>Duane Wittstock</i>                |
| Name: <del>Brian Pettiecord</del> <b>Nick Wylie</b> | Name: <b>D. Moenmann</b>          | Name: <b>Duane Wittstock</b>                     |
| Title: <del>Vice President</del> <b>EVP</b>         | Title: <b>P. I.</b>               | Title: <b>City Engineer</b>                      |
| Date: <b>5-13-15</b>                                | Date: <b>5/4/15</b>               | Date: <b>5-13-15</b>                             |



**CITY OF WEST DES MOINES**

ENGINEERING SERVICES  
 4200 Mills Civic Parkway  
 West Des Moines, IA 50265-0320  
 (515) 222-3620 Fax (515) 273-0602

**CHANGE ORDER**

Distribution:  
 Owner  X   
 Engineer  X   
 Contractor  X   
 Other \_\_\_\_\_

Contractor: **J. Pettiecord Inc.**  
 5043 NE 22nd Street  
 Des Moines, IA 50313

|                              |                           |                  |
|------------------------------|---------------------------|------------------|
| Project Title                | Grand Avenue Tree Cutting |                  |
| WDM Project File Number      | 0510-010-2015             |                  |
| Purchase Order Number        | 4280-01                   |                  |
| Orig. Contract Amount & Date | \$133,500.00              | January 26, 2015 |
| Change Order Number          | 2                         |                  |
| Date                         | May 4, 2015               |                  |

**THE CONTRACT IS CHANGED AS FOLLOWS: Final adjustment of quantities**

| Item         | Description        | Unit | Unit Price | Quantity Adjustment | Value Adjustment |
|--------------|--------------------|------|------------|---------------------|------------------|
| 4            | CONSTRUCTION FENCE | LF   | \$5.00     | 140.000             | \$700.00         |
|              |                    |      |            |                     |                  |
|              |                    |      |            |                     |                  |
|              |                    |      |            |                     |                  |
| <b>TOTAL</b> |                    |      |            |                     | <b>\$700.00</b>  |

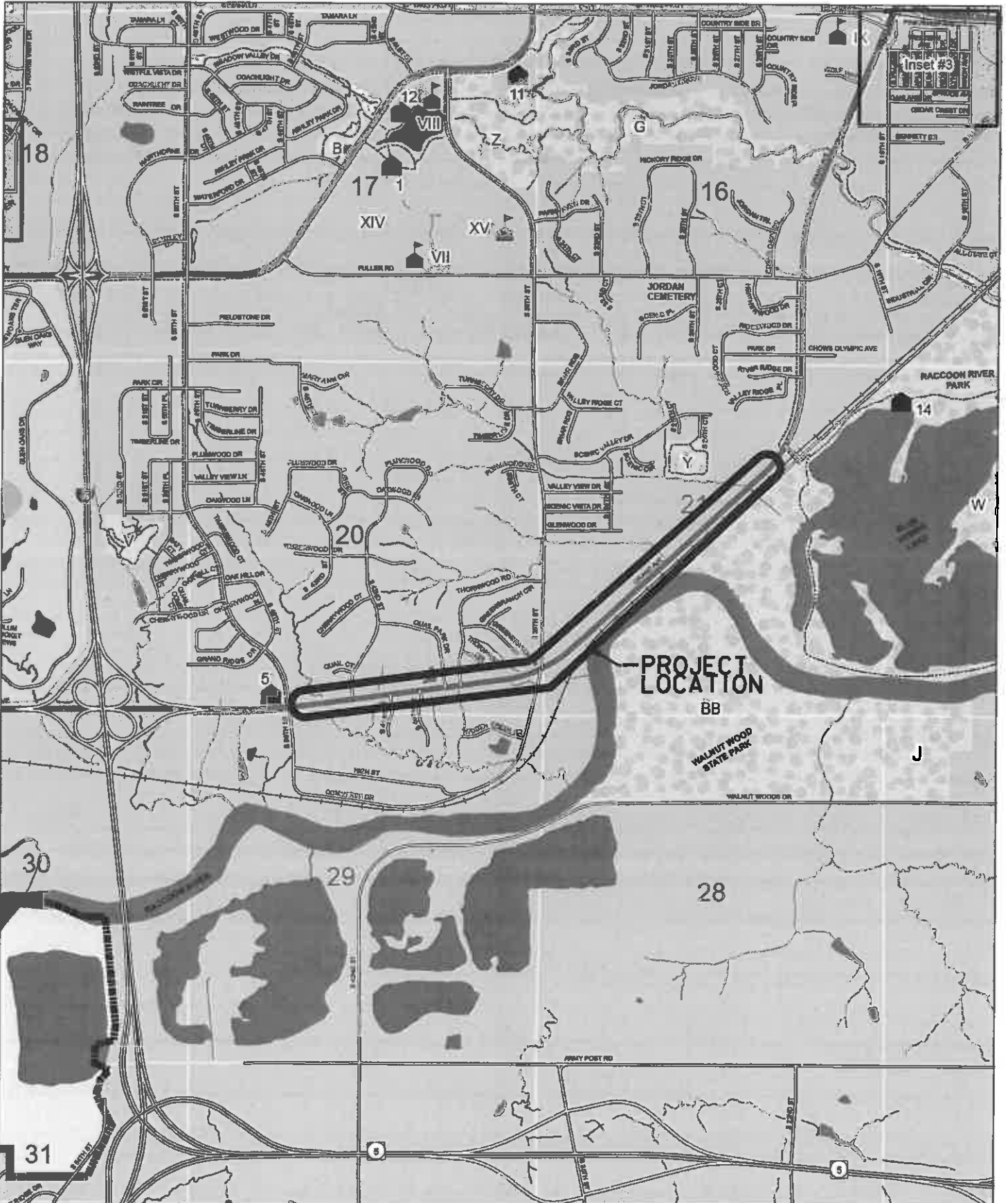
| CHANGE ORDER SUMMARY   |                |
|--|----------------|
| The Original Contract Sum was  | \$133,500.00   |
| Net Change by previously authorized Change Orders  | (\$1,500.00)   |
| The Contract Sum prior to This Change Order was  | \$132,000.00   |
| The Contract Sum will be increased by this Change Order in the amount of   | \$700.00       |
| The new Contract Sum including this Change Order will be   | \$132,700.00   |
| Aggregate Change Order as a percent of Original Contract (if the aggregate is \$10,000, or greater than 5% of the original contract, whichever is greater, all signatures through the full Council are required) | -0.60%         |
| The Contract Time will be changed by   | 0 Days         |
| The date of Final Completion as of the date of this Change Order therefore is:   | March 20, 2015 |

**NOT VALID UNTIL SIGNED BY THE CONTRACTOR, OWNER'S REPRESENTATIVE (if applicable) AND OWNER**

|                                    |                                   |                                      |
|------------------------------------|-----------------------------------|--------------------------------------|
| Contractor:<br>J. Pettiecord, Inc. | Recommended By:<br>HR Green, Inc. | Checked By:<br>[Signature]           |
| Signature: [Signature]             | Signature: [Signature]            | Signature: [Signature]               |
| Name: Brian Pettiecord             | Name: D. Mohammed                 | Name: Duane C. Wittstock, P.E., L.S. |
| Title: Vice-President              | Title: P.M.                       | Title: City Engineer                 |
| Date: 5-13-15                      | Date: 5/14/15                     | Date: 5-14-15/15                     |

Owner: City of West Des Moines

|   |               |              |
|---|---------------|--------------|
| <input type="checkbox"/> ≤ \$2,500 Department Director  | X [Signature] | Date 5-14-15 |
| <input type="checkbox"/> \$2,501 to 5,000 City Manager  | X _____       | Date _____   |
| <input type="checkbox"/> \$5,001 to 10,000 PW Council Committee scheduled for agenda on _____     |               | Date _____   |
| <input type="checkbox"/> > \$10,000 City Council approved or ratified at Council meeting on _____ |               | Date _____   |



**PROJECT LOCATION**

BB

WALNUT WOOD STATE PARK



GRAND AVENUE TREE CUTTING VICINITY MAP  
 SOUTH 50TH STREET TO RACCOON RIVER PARK  
 WEST DES MOINES, IOWA  
 PROJECT NO. 0570-010-2015



## CITY OF WEST DES MOINES CITY COUNCIL MEETING COMMUNICATION

**ITEM:**

**DATE:** October 5, 2015

Resolution approving a 28E Agreement between the Iowa Alcoholic Beverages Division and the City of West Des Moines for the purposes of providing and funding local tobacco enforcement activities.

**FINANCIAL IMPACT:**

There will be limited positive financial impact to the City of West Des Moines when the City performs tobacco compliance checks in West Des Moines on behalf of the State of Iowa.

**BACKGROUND:**

Pursuant to state law and an intergovernmental agreement with the Iowa Department of Public Health, the Iowa Alcoholic Beverages Division (ABD) possess the authority and provides for the enforcement of the State of Iowa's tobacco laws. For a number of years, the Iowa ABD has delegated the responsibility to perform tobacco sale to minor compliance checks of local business to the City of West Des Moines and its Police Department. In return, the City receives a flat fee of \$50.00 from the State of Iowa for each reported tobacco compliance check.

The Iowa ABD prepared a 28E Agreement for the local authorities to sign for purposes of these tobacco enforcement efforts to formally establish each party's respective obligations. This 28E Agreement is a renewal of the same agreement reviewed by the West Des Moines City Attorney's Office and approved by the City Council annually in years 2011, 2012, 2013 and 2014.

**OUTSTANDING ISSUES (if any):** None

**RECOMMENDATION:**

Approve the 28E Agreement between the Iowa Alcoholic Beverages Division and the City of West Des Moines for the purposes of providing and funding local tobacco enforcement activities.

**Lead Staff Member:** Shaun E. Ladue

**STAFF REVIEWS**

|                        |                       |
|------------------------|-----------------------|
| Department Director    | <i>Shaun E. Ladue</i> |
| Appropriations/Finance |                       |
| Legal                  |                       |
| Agenda Acceptance      | <i>for Dy</i>         |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |     |    |       |
|----------------|-----|----|-------|
| Committee      |     |    |       |
| Date Reviewed  |     |    |       |
| Recommendation | Yes | No | Split |



**RESOLUTION APPROVING A 28E AGREEMENT BETWEEN THE IOWA  
ALCOHOLIC BEVERAGES DIVISION AND THE CITY OF WEST DES MOINES FOR  
THE PURPOSES OF PROVIDING AND FUNDING LOCAL TOBACCO  
ENFORCEMENT ACTIVITIES**

**WHEREAS**, the provision of tobacco enforcement efforts within the City of West Des Moines promotes the health and well-being of West Des Moines citizens and visitors; and

**WHEREAS**, the State of Iowa, through the Iowa Alcoholic Beverages Division, has offered to reimburse the City of West Des Moines and the City's Police Department for performing tobacco sale to minor compliance checks of local businesses; and

**WHEREAS**, the Iowa Alcoholic Beverages Division and the City of West Des Moines have negotiated an agreement under Iowa Code Chapter 28E to provide and fund local tobacco enforcement activities.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF WEST DES MOINES, IOWA:**

1. The 28E Agreement between the Iowa Alcoholic Beverages Division and the City of West Des Moines is hereby approved.
2. The Mayor and City Clerk are authorized to sign the signature page to be attached to the 28E Agreement on behalf of the City of West Des Moines.
3. The City Clerk is directed to forward the signed signature page to Karen Freund, Deputy Administrator of Regulatory Affairs, Iowa Alcoholic Beverages Division, 1918 SE Hulsizer Road, Ankeny, Iowa 50021, with the executed signature page to be attached to the 28E Agreement, which the Iowa Alcoholic Beverages Division will then electronically file with the Secretary of State of Iowa.

**PASSED AND APPROVED** this 5th day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk



Terry E. Branstad *Governor of Iowa*  
Kim Reynolds *Lieutenant Governor*  
Stephen Larson *Administrator ABD*

August 26, 2015

Dear I-pledge Partner,

The Iowa Alcoholic Beverages Division (ABD) invites your department to participate in the I-pledge program for fiscal year 2016 (July 1, 2015 – June 30, 2016). The benefit of a partnership between ABD and law enforcement agencies is evidenced by the **92%** statewide compliance rate obtained by tobacco retailers in FY2015.

In order to be an **I-pledge** partner in fiscal year 2016, you must sign and return the enclosed 28E Agreement. After reviewing the agreement and verifying the contact information for your department, please sign the agreement with a witness on the last page and return it in the self-addressed envelope provided. A copy of the executed agreement will be returned to your office.

It is important to remember that ABD is required to conduct **one (1) compliance check** of each tobacco, alternative nicotine and vapor product retailer during FY2016, **with a repeat check of any business that fails the first compliance check**. Section 5.1.2 of the 28E Agreement details the dates by which compliance checks need to be performed.

Keep in mind that alternative nicotine and vapor products are age-restricted according to Iowa Code § 453A.2, and therefore included as part of the I-pledge program. Attempts to purchase alternative nicotine and vapor products may be conducted at any retailer that sells these products. Details and examples of these age-restricted products will be included in the enforcement handbook.

The necessary materials to carry out the agreement will be sent to the contact person specified in Section 13.10 of the 28E Agreement. In the meantime, contact Investigator Bill Missman at 515.314.3654 or myself at 515.281.7434, with questions regarding the enclosed agreement. If you prefer, you may also email [iapledge@iowabd.com](mailto:iapledge@iowabd.com).

Sincerely,

Jessica Ekman  
Tobacco Program Coordinator

**28E AGREEMENT FOR  
TOBACCO, ALTERNATIVE NICOTINE AND  
VAPOR PRODUCT ENFORCEMENT**

**SCHEDULE 3**

THIS AGREEMENT is made and entered into on this \_\_\_\_ day of \_\_\_\_\_, 2015 by and between the Iowa Alcoholic Beverages Division ("ABD"), and the \_\_\_\_\_ City of West Des Moines ("City"). The parties agree as follows:

**SECTION 1. IDENTITY OF THE PARTIES.**

**1.1 Iowa ABD.** The ABD is authorized pursuant to Iowa Code Chapter 142A and a Memorandum of Understanding with the Iowa Department of Public Health to provide enforcement for Iowa's tobacco, alternative nicotine and vapor product laws. The ABD's address is: 1918 SE Hulsizer Road, Ankeny, Iowa 50021.

**1.2 City of West Des Moines.** The City is a municipal corporation organized and existing pursuant to the laws of the State of Iowa, and operates a duly recognized Iowa law enforcement agency. The City's address is:

4200 Mills Civic Parkway, PO Box 65320, West Des Moines, IA 50265-0320

**SECTION 2. PURPOSE.** The parties have entered into this Agreement for the purpose of providing and funding tobacco, alternative nicotine and vapor product enforcement activities in compliance with Iowa Code § 453A.2.

**SECTION 3. TERM.** The term of the Agreement shall be from the aforementioned date through June 30, 2016, unless earlier terminated in accordance with the terms of the Agreement.

**SECTION 4. FILING.** Pursuant to Iowa Code § 28E.8, the ABD shall electronically file the Agreement with the Iowa Secretary of State after the parties have executed the Agreement.

**SECTION 5. RESPONSIBILITIES OF THE PARTIES.**

**5.1 Responsibilities of the City.**

**5.1.1 Local Tobacco, Alternative Nicotine and Vapor Product Enforcement.** The City shall provide tobacco, alternative nicotine and vapor enforcement of Iowa Code Chapter 453A.

**5.1.2 Compliance Checks.** "Compliance checks" mean activity to enforce Iowa Code § 453A.2 within the jurisdiction of the City. Compliance checks also may include enforcement of § 453A.2 within additional jurisdictions upon agreement of the

Parties. ABD shall make available to the City the location of each tobacco, alternative nicotine and vapor product permit holder subject to a compliance check by the City at <https://tobacco.iowaabd.com/>.

**The City shall perform one (1) compliance check of each tobacco, alternative nicotine and vapor product permit holder within the jurisdiction of the City during the term of the Agreement. Please note that alternative nicotine and vapor products are age-restricted pursuant to Iowa Code § 453A.2, and therefore included in the I-PLEDGE program. Attempts to purchase alternative nicotine and vapor products may be conducted at any retailer that sells these products.**

**The City shall not conduct any retailer compliance checks until October 1, 2015.**

The compliance check shall be completed and submitted for reimbursement to ABD by **February 15, 2016**. The City should try to complete a compliance check of all seasonal businesses such as golf courses, marinas and bait shops before the businesses close for the 2015 business year, but not before October 1, 2015.

The City shall conduct a second compliance check on any retailer that is found to be non-compliant during the first inspection. The second compliance check on the non-compliant retailer shall be completed and entered no later than **May 15, 2016**.

Clerks that fail compliance checks shall be ticketed criminally.

The City shall, within seven (7) business days, notify the retail owner or manager of any violation. Within seventy-two (72) hours of the City issuing a citation for a violation of Iowa Code § 453A.2(1) to a permit-holder or employee of a permit-holder, the City must notify the local permit-issuing authority that issued the tobacco, alternative nicotine and vapor product permit to the retailer where the offense was committed.

If the City fails to complete and submit reimbursement for compliance checks to ABD by **February 15, 2016**, ABD will consult with the City to establish a plan for completing the remaining compliance checks. In the event that the City fails to execute the agreed upon plan, the City agrees that ABD may authorize the Iowa State Patrol or other law enforcement agency to conduct any remaining compliance checks.

- 5.1.3 Youth Volunteers.** Utilization of youth volunteers is strongly encouraged where feasible. The City may compensate the youth involved in the compliance checks in a manner consistent with Section 6. Keep in mind that the federal government (SYNAR) ***will no longer allow minors under the age of sixteen (16)*** to be used to conduct compliance checks. Please ensure that the officers assigned to conduct the compliance checks do not work with a youth younger than age 16.

- 5.1.4 Routine Enforcement.** In addition to conducting compliance checks, the City agrees to regularly enforce youth tobacco, alternative nicotine and vapor product laws by ticketing youth offenders.
- 5.1.5 Civil Proceedings.** The City shall cooperate with city, county and state prosecutors if civil permit proceedings are initiated against a tobacco, alternative nicotine and vapor product permit holder. The City shall also cooperate in proceedings against cited clerks and minors. Cooperation shall include, but not be limited to, sharing investigative reports and copies of issued citations, as well as providing witness statements and testimony.
- 5.1.6 Compliance Reports.** The City shall provide monthly reports to the ABD in the manner prescribed by the ABD.
- 5.1.7 Miscellaneous.** The City shall be responsible for the day-to-day administration of its tobacco, alternative nicotine and vapor product enforcement activities. The City shall provide all office space, equipment and personnel necessary to conduct tobacco, alternative nicotine and vapor product enforcement activities under the Agreement. The City is solely responsible for the selection, hiring, disciplining, firing and compensation of its officers.

**5.2 Responsibilities of the ABD.**

- 5.2.1 Enforcement Guidance.** The ABD shall provide guidance on tobacco, alternative nicotine and vapor product enforcement to the City, if needed, and cooperate with the City in the performance of the Agreement.
- 5.2.2 Payment.** The ABD shall pay the City in the manner described in Section 6.
- 5.2.3 Cooperation.** If ABD believes that any officer of the City fails to perform duties in a manner that is consistent with the Agreement, the ABD shall notify the City. The City shall then take such action as necessary to investigate and, if appropriate, discipline or reassign the officer away from tobacco, alternative nicotine and vapor product enforcement activities. The ABD shall have no authority to discipline or reassign an officer, except that the ABD shall have the authority to stipulate that a particular officer not be assigned to provide services under the Agreement.
- 5.2.4 Insurance, Benefits and Compensation.** The ABD shall not provide for, nor pay, any employment costs of the City's officers including, but not limited to, worker's compensation, unemployment insurance, health insurance, life insurance and any other benefits or compensation, nor make any payroll payments with respect to the City's officers. The ABD shall have no liability whatsoever for all such employment costs or other expenses relating to, or for the benefit of, the City's officers.

**SECTION 6. PAYMENT TO CITY.**

- 6.1 Method of Payment.** In consideration for providing the services required by the Agreement, the City shall be paid on a flat fee basis of fifty dollars (\$50) per reported compliance check. The flat fee payment for each compliance check constitutes the full and exclusive remuneration for the compliance checks. For example, compensation of youth participants, if provided, is the sole responsibility of the City and is to be paid from the flat fee payment.
- 6.2 Eligible Claims.** Compliance checks that are conducted on or after **October 1, 2015**, are eligible for payment provided that the results are reported in accordance with Section 5. Any compliance checks that were funded by a non-city entity are not eligible for payment.
- 6.3 Allocations.** The costs of the services referred to in Section 6.1 shall be allocated as follows:
- 6.3.1 Sole Activity.** Money paid to the City, pursuant to the Agreement, shall be used to fund overtime of full- or part-time peace officer positions solely for tobacco, alternative nicotine and vapor product enforcement activities described in the Agreement. Money also shall be used for compensation, if any, of youth participants. In addition, the City may use money paid pursuant to the Agreement for reasonable City expenditures, including, but not limited to, officer training and equipment, provided that such expenditures do not impair the City's ability to perform tobacco, alternative nicotine and vapor product enforcement activities.
- 6.3.2 Payment in Arrears.** The ABD may pay all approved invoices in arrears and in conformance with Iowa Code § 8A.514. The ABD, consistent with Iowa Code § 8A.514, may pay in less than the specified time period. Payment by the ABD in fewer than sixty (60) days, however, does not constitute an implied waiver of that Code section.

**SECTION 7. ADMINISTRATION OF AGREEMENT.** The ABD and the City shall jointly administer the Agreement.

**SECTION 8. NO SEPARATE ADMINISTRATIVE ENTITY.** No new or separate legal or administrative entity is created by the Agreement.

**SECTION 9. NO PROPERTY ACQUIRED.** The ABD and the City, in connection with the performance of the Agreement, shall acquire no real or personal property.

## **SECTION 10. TERMINATION.**

- 10.1 Termination For Convenience.** Following thirty (30) days written notice, either party may terminate the Agreement, in whole or in part, for convenience without the payment of any penalty or incurring any further obligation to the non-terminating party. Following termination for convenience, the non-terminating party shall be entitled to compensation, upon submission of invoices and proper proof of claim, for services provided under the Agreement to the terminating party up to and including the date of termination.
- 10.2 Termination for Cause.** The occurrence of any one or more of the following events shall constitute cause for any party to declare another party in default of its obligations under the Agreement:
- 10.2.1** Failure to observe and perform any covenant, condition or obligation created by the Agreement;
  - 10.2.2** Failure to make substantial and timely progress toward performance of the Agreement;
  - 10.2.3** Failure of the party's work product and services to conform with any specifications noted herein;
  - 10.2.4** Infringement of any patent, trademark, copyright, trade dress or any other intellectual property right.
- 10.3 Notice of Default.** If there occurs a default event under Section 10.2, the non-defaulting party shall provide written notice to the defaulting party requesting that the breach or noncompliance be immediately remedied. In the event that the breach or noncompliance continues to be evidenced ten days beyond the date specified in the written notice, the non-defaulting party may either:
- 10.3.1** Immediately terminate the Agreement without additional written notice; or,
  - 10.3.2** Enforce the terms and conditions of the Agreement and seek any available legal or equitable remedies.

In either event, the non-defaulting party may seek damages as a result of the breach or failure to comply with the terms of the Agreement.

## **SECTION 11. INDEMNIFICATION.**

- 11.1 By ABD.** Consistent with Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 669, ABD agrees to defend and indemnify the City and hold it harmless against any and all liabilities, damages, settlements, judgments, costs and expenses, including

reasonable attorney fees of counsel required to defend the City, related to or arising out of ABD's negligent or wrongful acts or omissions in the performance of the Agreement.

- 11.2 By the City.** Consistent with Article VII, Section 1 of the Iowa Constitution and Iowa Code Chapter 670, the City agrees to defend and indemnify and hold the State of Iowa and ABD harmless from any and all liabilities, damages, settlements, judgments, costs and expenses, including reasonable governmental attorney's fees and the costs and expenses of attorney fees of other counsel required to defend the ABD, related to or arising from any negligent or wrongful acts or omissions of the City in the performance of this Agreement.

## **SECTION 12. CONTACT PERSON.**

- 12.1 Contact Person.** At the time of execution of the Agreement, each party shall designate, in writing, a Contact Person to serve until the expiration of the Agreement or the designation of a substitute Contact Person. During the term of the Agreement, each Contact Person shall be available to meet, as otherwise mutually agreed, to plan the services being provided under the Agreement.

## **SECTION 13. CONTRACT ADMINISTRATION.**

- 13.1 Amendments.** The Agreement may be amended in writing from time to time by mutual consent of the parties. All amendments to the Agreement must be fully executed by the parties.
- 13.2 Third Party Beneficiaries.** There are no third party beneficiaries to the Agreement. The Agreement is intended only to benefit ABD and the City.
- 13.3 Choice of Law and Forum.** The terms and provisions of the Agreement shall be construed in accordance with the laws of the State of Iowa. Any and all litigation or actions commenced in connection with the Agreement shall be brought in Des Moines, Iowa, in Polk County District Court for the State of Iowa. This provision shall not be construed as waiving any immunity to suit or liability that may be available to the State of Iowa, ABD or the City.
- 13.4 Assignment and Delegation.** The Agreement may not be assigned, transferred or conveyed in whole or in part without the prior written consent of the other party.
- 13.5 Integration.** The Agreement represents the entire Agreement between the parties and neither party is relying on any representation that may have been made which is not included in the Agreement.
- 13.6 Headings or Captions.** The paragraph headings or captions are for identification purposes only and do not limit nor construe the contents of the paragraphs.



- 13.7 Not a Joint Venture.** Nothing in the Agreement shall be construed as creating or constituting the relationship of a partnership, joint venture, association of any kind or agent and principal relationship between the parties. Each party shall be deemed an independent contractor acting toward the expected mutual benefits. No party, unless otherwise specifically provided for herein, has the authority to enter into any contract or create an obligation or liability on behalf of, in the name of, or binding upon the other party to the Agreement.
- 13.8 Supersedes Former Agreements.** The Agreement supersedes all prior Agreements between ABD and the City for the services provided in connection with the Agreement.
- 13.9 Waiver.** Except as specifically provided for in a waiver signed by duly authorized representatives of ABD and the City, failure by any party at any time to require performance by the other party or to claim a breach of any provision of the Agreement shall not be construed as affecting any subsequent breach or the right to require performance with respect thereto or to claim a breach with respect thereto.
- 13.10 Notices.** Notices under the Agreement shall be in writing and delivered to the representative of the party to receive notice (identified below) at the address of the party to receive notice as it appears below or as otherwise provided for by proper notice here under. This person shall be the Contact Person. The effective date for any notice under the Agreement shall be the date of delivery of such notice (not the date of mailing) which may be effected by certified U.S. Mail return receipt requested with postage prepaid thereon or by recognized overnight delivery service, such as Federal Express or UPS. Failure to accept "receipt" shall constitute delivery.

If to ABD: Jessica Ekman  
Tobacco Program Coordinator  
Iowa Alcoholic Beverages Division  
1918 SE Hulsizer Road  
Ankeny, Iowa 50021  
515-281-7434  
Email: [ekman@IowaABD.com](mailto:ekman@IowaABD.com)

If to City: Chief Shaun La Due  
West Des Moines Police Department  
250 Mills Civic Parkway  
West Des Moines, IA 50265  
Email: [Shaun.Ladue@wdm.iowa.gov](mailto:Shaun.Ladue@wdm.iowa.gov)

- 13.11 Cumulative Rights.** The various rights, powers, options, elections and remedies of any party provided in the Agreement, shall be construed as cumulative and not one of them is exclusive of the others or exclusive of any rights, remedies or priorities allowed any party by law, and shall in no way affect or impair the right of any party to pursue

any other equitable or legal remedy to which any party may be entitled as long as any default remains in any way unremedied, unsatisfied or undischarged.

- 13.12 **Severability.** If any provision of the Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, such determination shall not affect the validity or enforceability of any other part or provision of the Agreement.
- 13.13 **Time is of the Essence.** Time is of the essence with respect to the performance of the terms of the Agreement.
- 13.14 **Authorization.** Each party to the Agreement represents and warrants to the other that:
- 13.14.1 It has the right, power and authority to enter into and perform its obligations under the Agreement.
- 13.14.2 It has taken all requisite action (corporate, statutory or otherwise) to approve execution, delivery and performance of the Agreement, and the Agreement constitutes a legal, valid and binding obligation upon itself in accordance with its terms.
- 13.15 **Successors in Interest.** All the terms, provisions and conditions of the Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, assigns and legal representatives.
- 13.16 **Record Retention and Access.** The City shall maintain books, records and documents which sufficiently and properly document and calculate all charges billed to ABD throughout the term of the Agreement for a period of at least three (3) years following the date of final payment or completion of any required audit, whichever is later. The City shall permit the Auditor of the State of Iowa or any authorized representative of the State and where federal funds are involved, the Comptroller General of the United States or any other authorized representative of the United States government, to access and examine, audit, excerpt and transcribe any directly pertinent books, documents, papers, electronic or optically stored and created records or other records of the City relating to orders, invoices, or payments or any other documentation or materials pertaining to the Agreement. The City shall not impose a charge for audit or examination of the books and records.
- 13.17 **Additional Provisions.** The parties agree that any Addendum, Rider or Exhibit, attached hereto by the parties, shall be deemed incorporated herein by reference.
- 13.18 **Further Assurances and Corrective Instruments.** The parties agree that they shall, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for carrying out the expressed intention of the Agreement.

**SECTION 14. EXECUTION.**

**IN WITNESS WHEREOF**, in consideration of the mutual covenants set forth above and for other good and valuable consideration, the receipt, adequacy and legal sufficiency of which are hereby acknowledged, the parties have entered into the Agreement and have caused their duly authorized representatives to execute the Agreement.

**By Alcoholic Beverages Division**

\_\_\_\_\_  
**Stephen Larson, Administrator**

\_\_\_\_\_  
**Date**

**By City of West Des Moines**

\_\_\_\_\_  
**Steven K. Gaer, Mayor**

\_\_\_\_\_  
**Date**

\_\_\_\_\_  
**Ryan Jacobson, City Clerk**

\_\_\_\_\_  
**Date**

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Resolution - Approval of Certificate of Completion  
4125 Westown, LLC and Hurd Westown, LLC

**FINANCIAL IMPACT:** None

**SYNOPSIS:** In June, 2013 the City of West Des Moines executed a development agreement with the owners and tenant of the building located at 1601 42<sup>nd</sup> Street in which the City provided tax rebates to the owners in exchange for the owners making improvements to the building of no less than \$2.3 million. Upon completion of the improvements the development agreement requires that the City acknowledge that all covenants and conditions regarding construction of the improvements have been met.

The Developer, 4125 Westown, LLC and Hurd Westown, LLC have indicated that all improvements have been made and have requested execution by the City of the attached Certificate of Completion acknowledging completion of the improvements.

**OUTSTANDING ISSUES** (if any): None.

**RECOMMENDATION:** Approve execution of the Certificate of Completion regarding the improvements made to development located at 1601 42<sup>nd</sup> Street.

**Lead Staff Member:** Richard J. Scieszinski, City Attorney

*RJS*

**STAFF REVIEWS**

|                        |                                       |
|------------------------|---------------------------------------|
| Department Director    | Richard J. Scieszinski, City Attorney |
| Appropriations/Finance | <i>[Signature]</i>                    |
| Legal                  |                                       |
| Agenda Acceptance      | <i>[Signature] for RJ</i>             |

**PUBLICATION(S)** (if applicable)

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |      |  |  |
|----------------|------|--|--|
| Committee      | None |  |  |
| Date Reviewed  |      |  |  |
| Recommendation |      |  |  |

EXHIBIT C  
CERTIFICATE OF COMPLETION

WHEREAS, the City of West Des Moines, Iowa (the "City"), Hurd Westown, LLC and 4125 Westown, LLC (collectively, the "Developer"), and Shive-Hattery, Inc. ("Tenant"), did on or about the 10<sup>th</sup> day of JUNE, 2013, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby the Developer and Tenant agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

1601 42<sup>nd</sup> Street, West Des Moines, Iowa

The South 700 feet of the following tract of real estate located in West Des Moines, Polk County, Iowa, to-wit:

The East four hundred ninety feet (E 490') of the West five hundred twenty three feet (W 523') (except the South forty feet (40') thereof) of the Northwest one-quarter (NW ¼) of the Northeast fractional one-quarter (NE frl ¼) of Section Five (5), Township 78 North, Range 25 West of the Fifth Prime Meridian, in the City of West Des Moines, Polk County, Iowa.

Polk County, Iowa Parcel ID number is 320-00027-001-007

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated the Developer to construct certain Minimum Improvements (as defined therein) in accordance with the Agreement; and

WHEREAS, Developer has to the present date performed said covenants and conditions insofar as they relate to the construction of said Minimum Improvements in a manner deemed by the City to be in conformance with the Agreement to permit the execution and recording of this certification.

NOW, THEREFORE, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Minimum Improvements on the Development Property have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Polk County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Minimum Improvements on the Development Property.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

(SEAL)

CITY OF WEST DES MOINES, IOWA

ATTEST:

By: \_\_\_\_\_  
Steven K. Gaer, Mayor

By: \_\_\_\_\_  
Ryan T. Jacobson, City Clerk

STATE OF IOWA            )  
  ) SS  
COUNTY OF POLK        )

On this \_\_\_\_\_ day of, 2015, before me a Notary Public in and for said State, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa, a municipality created and existing under the laws of the State of Iowa, and that said instrument was signed and sealed on behalf of said municipality by authority and resolution of its City Council approved on October 5, 2015, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

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

**RESOLUTION APPROVING EXECUTION BY THE CITY OF WEST DES MOINES OF THE CERTIFICATE OF COMPLETION FOR IMPROVEMENTS MADE TO 1601 42<sup>ND</sup> STREET BY 4125 WESTOWN, LLC, HURD WESTOWN, LLC AND SHIVE-HATTERY, INC.**

**WHEREAS**, the City of West Des Moines and 4125 Westown, LLC, Hurd Westown, LLC and Shive-Hattery, Inc. entered into an development agreement on June 10, 2013 in which the City provided tax rebates to the developers in exchange of the developers making improvements of no less than \$2.3 million to the development located at 1601 42<sup>nd</sup> Street, West Des Moines; and

**WHEREAS**, a provision of the development agreement requires the City to provide a Certificate of Completion acknowledging compliance by the developers of all covenants and conditions related to construction of the improvements; and

**WHEREAS**, the developers have provided evidence to the City that all improvements required to meet the covenants and conditions of the agreement have been constructed.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. 4125 Westown, LLC, Hurd Westown, LLC and Shive-Hattery, Inc. have provided evidence to the City through the submission of building permits that improvements of no less than \$2.3 million have been made to the development located at 1601 42<sup>nd</sup> Street, West Des Moines.
2. Pursuant to the Development Agreement executed by the parties on June 10, 2013, the Mayor is authorized to execute the attached Certificate of Completion acknowledging compliance by the developers of all covenants and conditions related to construction of the improvements and the City Clerk is directed to attest to the Mayor's signature.

**PASSED AND ADOPTED** this 5th day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Resolution - Approval of Purchase Agreement and Easements for the Dixie Acres Sanitary Sewer Project (Number 0510-039-2015)

**FINANCIAL IMPACT:** \$7,240.00 (previously budgeted)

**BACKGROUND:** Property interests necessary for the Dixie Acres Sanitary Sewer, north of Ashworth Road on 54<sup>th</sup> Street, Project have been acquired through a negotiated Purchase Agreement, at the appraised fair market value from the owners shown on Exhibit "A". The attached resolution approves the Purchase Agreements and, for policy and title purposes, formally accepts the easements and authorizes the filing of all relevant documents. Costs associated with acquisition of the easements will be paid from Account No. 5104.80.820.6.7930.



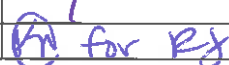
**OUTSTANDING ISSUES** (if any): None

**RECOMMENDATION:**

Adopt Resolution approving and accepting the Purchase Agreement and Easements for the Dixie Acres Sanitary Sewer, north of Ashworth Road on 54th Street, Project.

**Lead Staff Member:** Richard Scieszinski, City Attorney

**STAFF REVIEWS**

|                        |  |   |
|------------------------|--|---|
| Department Director    | Richard J. Scieszinski, City Attorney  |  |
| Appropriations/Finance |         |   |
| Legal                  |  |   |
| Agenda Acceptance      |  for RJ |   |

**PUBLICATION(S)** (if applicable)

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW** (if applicable)

|                |              |    |       |
|----------------|--------------|----|-------|
| Committee      | Public Works |    |       |
| Date Reviewed  |              |    |       |
| Recommendation | Yes          | No | Split |



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

**AUTHORIZING APPROVAL AND ACCEPTANCE OF PURCHASE AGREEMENTS  
AND EASEMENTS FOR THE CONSTRUCTION OF THE DIXIE ACRES SANITARY SEWER,  
NORTH OF ASHWORTH ROAD ON 54TH STREET, PROJECT NUMBER 0510-039-2015**

**WHEREAS**, the City Council of the City of West Des Moines, Iowa has previously approved the establishment of the Dixie Acres Sanitary Sewer Connection Fee District, Project Number 0510-039-2015; and

**WHEREAS**, on July 13, 2015, the City Council approved the acquisition of property, for the Project; and

**WHEREAS**, it is the policy of the City of West Des Moines, Iowa, to approve the conveyance of all property interests to the City; and

**WHEREAS**, the City of West Des Moines has negotiated a purchase agreement for the acquisition of property and easements necessary for the Project; and

**WHEREAS**, documents conveying property interests for permanent sanitary sewer easements and associated improvements have been presented to the City for approval; and

**WHEREAS**, the names of the property owners and the fair market value of the property to be acquired are attached hereto as Exhibit "A" and made a part of this resolution; and

**WHEREAS**, it is in the best interest of the citizens of the City to approve and accept the above-described documents.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. The documents described above conveying property interests to the City of West Des Moines, Iowa, are hereby approved and accepted.
2. The City Clerk is directed to certify the Council's approval and acceptance.
3. The City Attorney is authorized to take all steps necessary and consistent with the Purchase Agreement to acquire the property.
4. The documents shall be filed with the county recorder as appropriate.
5. The Director of Finance is authorized to make payment to the property owners shown on the attached Exhibit "A" pursuant to the terms and conditions of the Purchase Agreement as shown on the attached Exhibit "A".

**PASSED AND ADOPTED** this 5<sup>th</sup> day of October, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

**Exhibit "A"**

**DIXIE ACRES SANITARY SEWER  
WDM PROJECT NO. 0510-039-2015**

| <b><u>PARCEL #</u></b> | <b><u>PROPERTY OWNER</u></b>                | <b><u>ACQUIRED PRICE-FMV</u></b> |
|------------------------|---|----------------------------------|
| 1                      | Adam and Ashley Bunge<br>5401 Ashworth Road | \$7,240.00                       |
|                        | <b>TOTAL</b>                                | <b>\$7,240.00</b>                |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**Date: October 5, 2015**

**ITEM:** Valley South/Watson Center PUD, SE corner of Westown Parkway and Valley West Drive - Amend the Valley South/Watson Center PUD to establish Regional Commercial zoning and amend allowed uses – The Shoppes at Valley West, LLC - ZC-002809-2015

**ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, David Harmeyer of Shoppes at Valley West LLC, is requesting an amendment to the Valley South/Watson Center Planned Unit Development to allow breweries with tap rooms in the PUD and to identify Regional Commercial zoning as the governing district (see Exhibit 1, Attachment B – Location Map and Exhibit II – Proposed PUD Amendment Ordinance).

Previous Council Action:

Vote: 4-0 approval, Council member Russ Trimble absent.

Date: September 21, 2015

Motion: Approval of the First Reading of the ordinance

**OUTSTANDING ISSUES:** There are no outstanding issues.

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the second reading, waive the third reading and adopt the Ordinance amendment in final form, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser, AICP



**Staff Reviews:**

|                        |               |
|------------------------|---------------|
| Department Director    | <i>JK</i>     |
| Appropriations/Finance |               |
| Legal                  | <i>JBW</i>    |
| Agenda Acceptance      | <i>for PJ</i> |

**PUBLICATION(S) (if applicable)**

|  |                     |
|--|---------------------|
| Published In                               | Des Moines Register |
| Date(s) Published                          | September 4, 2015   |
| Letter sent to surrounding property owners | September 2, 2015   |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning                  |                             |                                |
| Date Reviewed  | July 16, 2015                           |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENT:**

Exhibit I - Proposed Ordinance

Prepared by: KTragesser City of West Des Moines, PO Box 65320, West Des Moines, IA 50265  
Return To: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265  
Tax Statement: Not Applicable

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2014, AND ORDINANCE #625, #675, #697, #797, AND #839 (ALSO KNOWN AS PUD #20 VALLEY SOUTH/WATSON CENTER) PERTAINING TO P.U.D. (PLANNED UNIT DEVELOPMENT) DISTRICT REGULATIONS AND GUIDELINES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1. AMENDMENT:** Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS is hereby amended by adding text in bold lettering and deleting text in strikethrough lettering as follows:

~~Whereas, Section 6 of Ordinance 497 amended Ordinance 430 by creating Article XX(a), PUD District establishes certain regulations and guidelines pertaining to accompanying information required on a final site plan and final site plan documents, now, therefore, the following conditions, and regulations are adopted as part of this rezoning:~~

**Whereas, title 9, chapter 9, "Planned Unit Development District", of the city code, establishes certain regulations and guidelines pertaining to accompanying information required on plat and site plan documents. Now, therefore, the following conditions, restrictions, and regulations are adopted as part of this approval:**

**SECTION 2. AMENDMENT:** Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS is hereby amended by adding a new paragraph A and re-lettering all sections thereafter sequentially:

**A. Unless otherwise provided for within this ordinance, the use regulations and provisions set forth in title 9 of the city code for the regional commercial district (RC) shall apply to any development proposal for the property within the PUD**

**SECTION 3. AMENDMENT:** Ordinances 625, 675, 697, 797, and 839 Valley South/Watson Center PUD. Section 2 CONDITIONS, re-lettered Section B, Paragraph 1 is hereby amended by adding text in bold lettering as follows:

1. Building locations, maximum square footages, traffic patterns, and proposed usages shall be as shown on the revised sketch plan, with the understanding that minor shifts or adjustments to traffic patterns and building locations may be necessary and compatible with the need to acquire workable traffic patterns and usable building sites, but the general plan layout shall be used as an implementation guide. Provided further, within the central pod one office building, two (2) restaurants or one brewery with tap room and one restaurant, and one multiple use general retail building shall be permitted with usage location in accordance with the approved sketch plan, or any amendment thereto. The total combined square footage for the four (4) buildings in the central pod shall not exceed thirty nine thousand (39,000) square feet with the combined square footage of restaurant space, brewery and tap room space, and general retail space not to exceed thirty four thousand (34,000) square feet, and the total combined square footage of restaurant space and/or brewery and tap room space not to exceed sixteen thousand (16,000) square feet. Provided, however, any professional office building of double square footage may be substituted for any commercial usage, and any general retail of equal square footage may be substituted for restaurant space.

**SECTION 4. SAVINGS CLAUSE:** If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 5. VIOLATIONS AND PENALTIES:** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

**SECTION 6. OTHER REMEDIES:** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**SECTION 7. EFFECTIVE DATE:** This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on this \_\_\_\_ day \_\_\_\_\_ 2015.

\_\_\_\_\_  
Steven K Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_ 2015.

\_\_\_\_\_

**NO CHANGE FROM PREVIOUS READING**

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**Date: October 5, 2015**

**ITEM:** Paradise Pointe Specific Plan Amendment, NW corner of S. 64th Street and Mills Civic Parkway – Amend Paradise Pointe Specific Plan language to allow projecting signs within the Paradise Pointe development – ZC-002821-2015

**ORDINANCE: ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, Jordan Creek Investments, is requesting an amendment to the Paradise Pointe Specific Plan language to allow projecting signs on property located at the northwest corner of S. 64th Street and Mills Civic Parkway. While the proposed amendment is to accommodate the desired signage of a new tenant, Firebirds Wood Fire Grill, in the multi-tenant building under construction, the proposed amendment would allow such a sign on any establishment within the Paradise Pointe development.

**Previous Council Action:**

Vote: 4-0 approval, with Council Member(s) Trimble absent.

Date: September 21, 2015

Motion: Approval of the First Reading of the amendment to City Code.

**OUTSTANDING ISSUES:** There are no outstanding issues.

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the second reading, waive the third reading and adopt the Paradise Pointe Specific Plan Ordinance in final form to allow projecting signs within the development.

Lead Staff Member: Kevin Wilde, Sign and Zoning Administrator *KW*

**Staff Reviews:**

|                        |                                    |
|------------------------|------------------------------------|
| Department Director    | <i>[Signature]</i>                 |
| Appropriations/Finance | <i>[Signature]</i>                 |
| Legal                  | <i>JBW</i>                         |
| Agenda Acceptance      | <i>[Signature] for [Signature]</i> |

**PUBLICATION(S) (if applicable)**

|  |                                       |
|--|---------------------------------------|
| Published In                               | Des Moines Register Community Section |
| Date(s) Published                          | September 4, 2015                     |
| Letter sent to surrounding property owners | 9/2/2015                              |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                              |                             |                                |
|----------------|------------------------------|-----------------------------|--------------------------------|
| Committee      |                              |                             |                                |
| Date Reviewed  | NA                           |                             |                                |
| Recommendation | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**

Exhibit I - Proposed Ordinance

Prepared by: K. Wilde, Development Services, PO Box 65320, W.D.M., IA 50265-0320, 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, AND ORDINANCE #1765, #1921, & #2032, PERTAINING TO P.U.D. (PLANNED UNIT DEVELOPMENT) DISTRICT REGULATIONS AND GUIDELINES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1. AMENDMENT.** Ordinance #1765, #1921, and # 2032, pertaining to the **Paradise Pointe Specific Plan**, Section 7: *Signage*, Subsection B: *Wall Signs*; paragraph 1 is hereby amended by adding the following highlighted text:

1. Regulations: All wall signage shall consist of individual three-dimensional letters attached directly to the building. No cabinet or panel signs shall be allowed except for contoured cabinet signs necessary to display logos. In the event cabinet signs are necessary to accommodate a logo, said cabinets shall be contoured to the logo shape and every measure possible shall be implemented to minimize the amount of illuminated background. Raceways shall be prohibited.

*The use of projecting signs (which may also be referred to as blade signs) shall be allowed within the PUD as part of the wall signage allowed for a tenant. Any projecting sign shall comply with the applicable regulations in the West Des Moines sign code and the following unless noted otherwise elsewhere in this PUD ordinance:*

- a. Only one projecting sign allowed per tenant space.*
- b. The projecting sign shall be counted as part of the allowed wall signage for the tenant space and shall not be greater than one-half ( $1/2$ ) of the total allowed wall signage earned by the wall on which the sign will be mounted.*
- c. The sign may have two (2) faces but only one side of the sign will be counted to determine the size of the sign. No projecting sign shall extend further away from the wall than five feet (5') to the furthest edge.*
- e. All projecting signs shall be designed in such a manner that only the text, or graphic is illuminated, not the entire background of the sign, such as routed face or individual channel letters on an opaque backer.*
- f. The thickness measured between the principal faces of any projecting sign shall not exceed eighteen inches (18").*
- g. The projecting sign shall not be permitted to extend above the building roof more than one-half ( $1/2$ ) the height of the sign.*

**SECTION 2. SAVINGS CLAUSE.** If any section, provision, sentence, clause, phrase or part of the Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 3. VIOLATIONS AND PENALTIES.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in 1-4-1 of the City Code of the City of West Des Moines, Iowa.

**SECTION 4. OTHER REMEDIES.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

Passed and approved by the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan Jacobson  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Ryan Jacobson  
City Clerk



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:**

**DATE:** October 5, 2015

Sugar Creek Stormwater Connection Fee District  
Approval of Second, Third Readings and Final Adoption

**FINANCIAL IMPACT:**

None at this time. The City would be required to construct the stormwater improvements when ordered by the Council and would be reimbursed at the time the property was subdivided, or as part of a site plan approval process, or when building permits are issued. The total estimated cost of the improvements covered by this ordinance is \$8,984,000 with up to an estimated \$6,851,900 to be recovered through the collection of fees. The connection fee will be \$4,962.00/acre through June 30, 2016 and then adjusted annually. Specific details are included in the draft ordinance.

**BACKGROUND:**

The Sugar Creek Drainage basin is generally located west of South 88<sup>th</sup> Street, south of Interstate 80, east of South 105<sup>th</sup> Street, and north of the Raccoon River. The PWCC has visited the issue several times, and it was the subject of a Council Workshop. A public information meeting was also conducted on February 19, 2014. There were twelve property owners who signed-in at the meeting. There have been three public hearings held on the issue. The latest Public Hearing was held on September 21, 2014. After the Hearing was closed the first reading of the ordinance was approved.

There are two properties located within the Sugar Creek Stormwater Connection Fee District where procedural issues were identified after the second public hearing. The Stottlemeyers were not provided notice of the original hearing. Interstate Partners, LLC was informed by me that their parcel did not fall within the district boundaries. My statement was in error. Both parcels are located in the original boundaries of the district. Staff has recommended these two parcels be included in the district. The only public comments that were received at the most recent hearing were from Interstate Partners, LLC who were objecting because they believe they receive no benefit. As requested, staff has met with Councilpersons Mickelson and Sandager on September 24<sup>th</sup> to discuss the ordinance. Additional written correspondence has been received from Interchange Partners, LLC and is included in the packet.

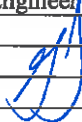
If the ordinance is approved, these two properties would be included in the district. The stormwater improvements would be constructed only after authorization by the Council. The City is not making any guarantees regarding when and if improvements would be available to any particular property. Fees apply only when and if the property is subdivided, part of a site plan approval process, or during the building permit process unless a building permit has been applied for prior to June 30, 2014. The originally established fee of \$4,710/acre will remain unchanged with annual adjustments methodology remaining in place as originally established

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

City Council Adopt:  
- Motion approving Second, Third Readings and Final Adoption.

Lead Staff Member: Duane C. Wittstock, P.E., L.S., City Engineer 

| <b>STAFF REVIEWS</b>   |   |
|------------------------|---|
| Department Director    | Duane C. Wittstock, P.E., L.S., City Engineer   |
| Appropriations/Finance | Tim Stiles, Finance Director  |
| Legal                  | Richard Scieszinski, City Attorney  |
| Agenda Acceptance      |   |

**PUBLICATION(S) (if applicable)**

|                    |                          |
|--------------------|--------------------------|
| Published In       | Des Moines Register      |
| Dates(s) Published | September 4 and 11, 2015 |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                    |    |       |
|----------------|--------------------|----|-------|
| Committee      | Public Works       |    |       |
| Date Reviewed  | September 28, 2015 |    |       |
| Recommendation | Yes                | No | Split |

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

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, 2009 BY AMENDING TITLE 7, PUBLIC WAYS AND PROPERTY, CHAPTER 8, SEWER REGULATIONS ARTICLE H, MAJOR STORMWATER DRAINAGE FACILITIES CONNECTION FEE DISTRICTS**

**WHEREAS**, on the 14<sup>th</sup> day of October, 2013, this City Council passed Ordinance No. 2006, an ordinance to amend the Municipal Code of the City of West Des Moines, Iowa by adding and enacting thereto a new section relating to the procedure to be utilized in establishing connection fees to recover the cost of constructing major stormwater drainage facilities; and

**WHEREAS**, on the 7<sup>th</sup> day of April, 2014, the City Council passed Ordinance No. 2024, an ordinance to amend the Municipal Code of the City of West Des Moines, Iowa by adding and enacting a new section establishing the Sugar Creek Stormwater Connection Fee District; and

**WHEREAS**, two properties located in the northwest quarter of Section 10, Township 78 North, Range 26 West were identified as being within the established boundary of the connection fee district, but Ordinance No. 2024 did not include the two parcels within the property subject to the stormwater connection fee; and

**WHEREAS**, upon due notice and hearing the City Council finds that the general health and welfare of the community will be benefitted by the amendment of Section 7-8H-1-1 Sugar Creek Stormwater Connection Fee District to include within the areas subject to the connection fee the two parcels in the northwest quarter of Section 10 included within the original connection fee district boundary, but not originally subject to the connection fee.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA AS FOLLOWS:**

**SECTION 1. MAJOR STORMWATER DRAINAGE FACILITY CONNECTION FEE DISTRICT.** Title 7, Public Ways and Property, Chapter 8, Sewer Regulations, Article H, Major Stormwater Drainage Facilities Connection Fee Districts, Section 7-8H-1-1 is amended as following:

**7-8H-1-1: SUGAR CREEK STORMWATER CONNECTION FEE DISTRICT**

The boundary of the Sugar Creek Stormwater Connection Fee District is hereby amended to confirm that a tract of land located Section 10, Township 78 North, Range 26 West of the 5<sup>th</sup> Principal Meridian, Dallas County, Iowa, more particularly described as follows is included within the Sugar Creek Stormwater Connection Fee District:

Commencing at the southeast corner of the southwest quarter of the northeast quarter of Section 10, Township 78 North, Range 26 West;

Thence north along the east line of the southeast quarter of the southwest quarter of the northeast quarter of said Section 10 to the northeast corner of the southeast quarter of the southwest quarter of the northeast quarter of said Section 10;

Thence west along the north line of the southeast quarter of the southwest quarter of the northeast quarter of said Section 10 to the northwest corner of the southeast quarter of the southwest quarter of the northeast quarter of said Section 10;

Thence north along the east line of the northwest quarter of the northwest quarter of the northeast quarter of said Section 10 to the northeast corner of the northwest quarter of the southwest quarter of the northeast quarter of said Section 10;

Thence north along the east line of the west one-half of the northwest quarter of the northeast quarter of said Section 10 to the south right-of-way line of Interstate Highway 80;

Thence southwesterly along the southerly right-of-way line of Interstate Highway 80 to the point of intersection with the west line of the northeast quarter of said Section 10;

Thence south along the west line of the northeast quarter of said Section 10 to the southwest corner of the southwest quarter of the northeast quarter of said Section 10;

Thence east along the south line of the southwest quarter of the northeast quarter of said Section 10 to the point of beginning.

Said parcel described herein is included in the description of the connection fee boundary in Ordinance 2024.

**SECTION 2. REPEALER.** All ordinances or parts of ordinances in conflict with the provision of this Ordinance are hereby repealed.

**SECTION 3. SEVERABILITY.** If any section, provisions, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clauses, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 4. VIOLATION.** Any person who violates the provisions of this Ordinance, upon conviction, shall be punished as set forth in Section 1-4-1 of the City Code of the City of West Des Moines, Iowa.

**SECTION 5. OTHER REMEDIES.** In addition to the provisions set out in the Violation section herein, the City may proceed in law or equity against any person, firm or corporation for violation of any section or subsection of this Ordinance.

**SECTION 6. EFFECTIVE DATE.** This Ordinance shall be in full force and effect on \_\_\_\_\_, 2015, provided its passage, adoption and publication as required by law.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

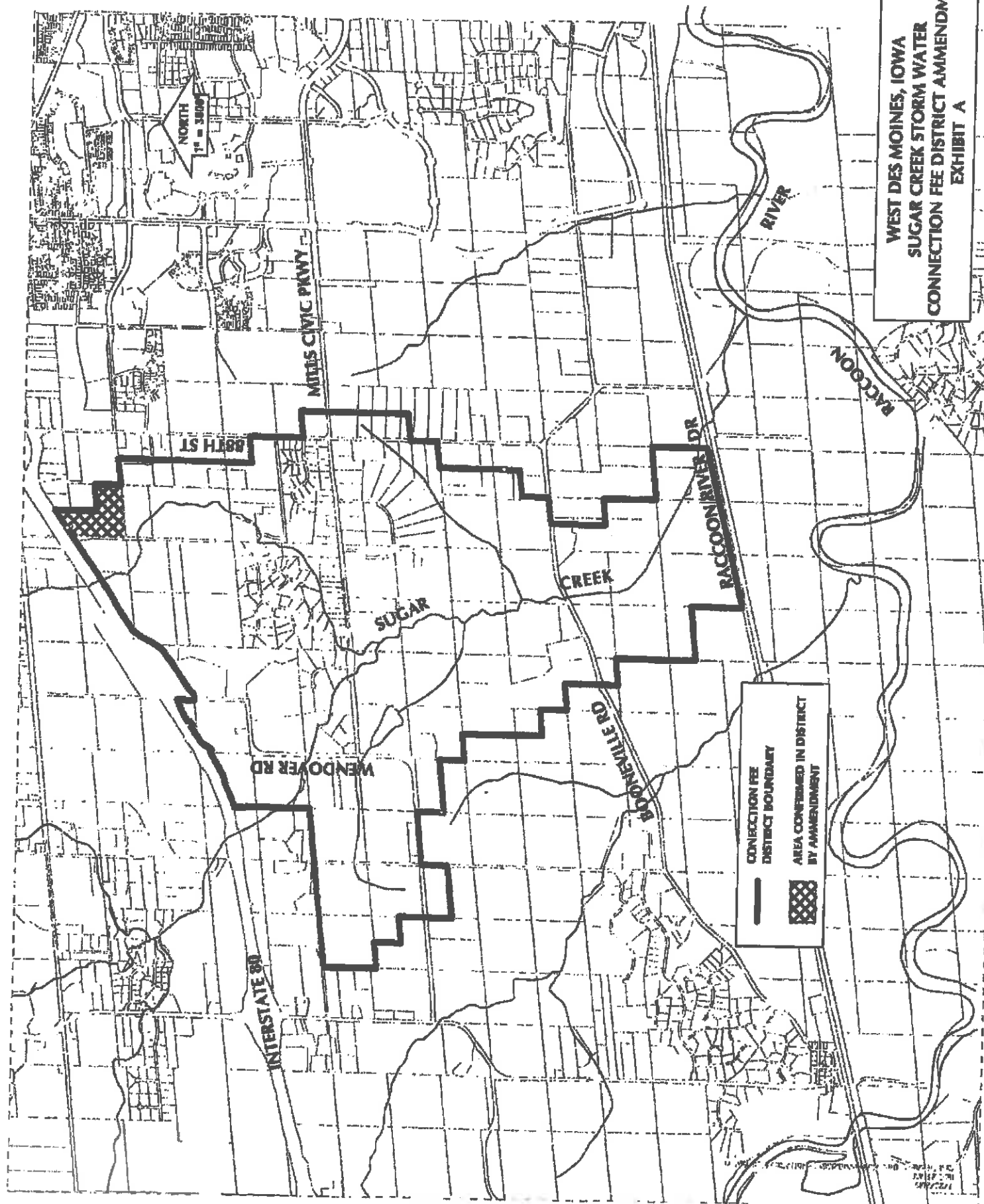
\_\_\_\_\_  
Steven K. Gaer  
Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

Published in the Des Moines Register on \_\_\_\_\_.

WEST DES MOINES, IOWA  
 SUGAR CREEK STORM WATER  
 CONNECTION FEE DISTRICT AMMENDMENT  
 EXHIBIT A



CONNECTION FEE  
 DISTRICT BOUNDARY  
 AREA CONFIRMED IN DISTRICT  
 BY AMMENDMENT

RECEIVED

OCT 1 2015

CITY OF WDM  
MAYOR/COUNCIL  
September 28, 2015

Interchange Partners, LLC  
1709 S. 42<sup>nd</sup> St.  
WDM, IA 50265

C: Council Members  
Tom H.  
Duane W.  
Ben M.

Honorable Mayor and City of West Des Moines Council Members  
WDM City Hall  
4200 Mills Civic Parkway  
West Des Moines, IA 50265

Re: Sugar Creek Storm Water Fee District

Honorable Mayor and City Council Members,

Thank you for your attention to this matter. I appreciate the time and consideration which you have given to Interchange Partners' concerns.

Prior to the September 21<sup>st</sup> Public Hearing, I provided the Council with a detailed common-sense explanation of why the Sugar Creek's road-culverts are transportation improvements and not storm water improvements; of why downstream road-culverts don't benefit Interchange Partner's property; and of why IP should not be taxed for those road-culverts.

No one has responded directly to a single one of these points.

In voting to include IP in the District, the City has relied on a purely legalistic theory for applying special assessment storm water law to the construction of road-culverts to "handle" naturally-occurring runoff which already flows down the existing creek network.

Most revealing and contrary to their "storm water" justification, City officials have repeatedly and publically stated that the District is needed to provide transportation access to development properties. No one has ever mentioned any storm water problem in the area which needs to be corrected. This honestly plainly reveals the District for what it really is, a road-district.

In simple terms, the City is attempting to establish a special assessment district to "handle storm water", but actually plans to use the proceeds to provide new transportation access to a few lucky developers.

Providing transportation access to favored developers who didn't do their due diligence is the District's real benefit. But, for the City's new roads, none of the road-culverts would be needed.

To further illustrate the inconsistency of the District, note that the structure of this District is completely contrary to the City's other fee districts. In the City's other fee districts, every taxpayer is assessed on the same basis and every taxpayer receives the same benefit... an identifiable service capacity which their property requires.

In the proposed district, although each taxpayer will be assessed on the same basis, only a few, lucky developers will receive a tremendously valuable, new benefit, while others will receive absolutely nothing more than they already possess. This raises the questions of disparate impact, preferential treatment for certain property owners, and unequal treatment of taxpayers within the District.

If you were one of the unlucky property owners and were taxed \$150,000 to solve someone else's development problem, what would you do?

I respectfully urge the Council not to ignore citizens' private property rights.

Respectfully submitted,



RS Gillotti  
Manager

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**Date: October 5, 2013**

**ITEM:** Westport, 33346 V Court – Amend Comprehensive Plan Land Use Map to change approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF) and designate 63.4 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation – Westport Development, LLC – CPA-002802-2015/ZC-002803-2015

**RESOLUTION: Approval of Comprehensive Plan Amendment**  
**ORDINANCE: Approval of First Reading of Ordinance**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, Westport Development, LLC, is requesting approval of both a Comprehensive Plan Land Use Amendment and Rezoning for property located in the far western area of the City, just north of Mills Civic Parkway and east of V Court. The applicant is requesting to change approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF). 38.7 acres of the future Westport subdivision site is already designated as Single Family Residential (SF) on the City Comprehensive Plan Land Use Map.

Upon changing the Comprehensive Plan Land Use designations on the property, the applicant is then requesting consistency zoning with the Comprehensive Plan Land Use designation across the larger 63.4 acre property. The applicant is requesting R-1, Single Family Residential zoning for the entire site. The applicant is proposing to develop approximately 140 single family detached residential lots on the site.

**Plan and Zoning Commission Action:**

Vote: 7-0 approval

Date: September 28, 2015

Motion: Adopt a resolution recommending the City Council approve the request to amend the City’s Comprehensive Plan Land Use Map and Rezoning Request

**OUTSTANDING ISSUES:** There are no outstanding issues. The applicant has stated that they are in agreement with all of staff’s recommendations and conditions. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Applicant’s Request
- History
- City Council Subcommittee - *Development & Planning: February 26, 2015 & June 18, 2015*
- Staff Review and Comment
  - *Area Land Uses*
  - *Public Comments*
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval
- Property Owner/Applicant/Applicant Representative Information

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approval of the Comprehensive Plan Land Use map amendment for approximately 20.6 acres to change the land use from Medium Density Residential (MD) to Single Family Residential (SF) and approximately 4.1 acres from Office (OF) to Single

Family Residential (SF); and approve the rezoning request to amend the Zoning Map to designate Single Family Residential (R-1) zoning for 63.4 acres, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Brian Portz, AICP **BP**

**Staff Reviews:**

|                        |   |
|------------------------|---|
| Department Director    |  |
| Appropriations/Finance |   |
| Legal                  |   |
| Agenda Acceptance      |   |

**PUBLICATION(S) (if applicable)**

|  |                                       |
|--|---------------------------------------|
| Published In                               | Des Moines Register Community Section |
| Date(s) Published                          | September 18, 2015                    |
| Letter sent to surrounding property owners | September 15, 2015                    |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning                  |                             |                                |
| Date Reviewed  | February 26, 2015 & June 18, 2015       |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**

- Exhibit I - Plan and Zoning Commission Communication
  - Attachment A - Resolution – Approval of the Comprehensive Plan Amendment
  - Attachment B - Resolution – Approval of the Rezoning
    - Exhibit A - Conditions of Approval
  - Attachment C - Location Map
  - Attachment D - Current Comprehensive Plan Land Use Map
  - Attachment E - Westport Comprehensive Plan Land Use Map Amendment Sketch
  - Attachment F - Westport Rezoning Sketch
  - Attachment G - Adjacent Property Owner Comment
- Exhibit II - Council Resolution – Approval of Comprehensive Plan Amendment
- Exhibit III - Ordinance for Rezoning



**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** September 28, 2015

**Item:** Westport, 33346 V Court – Amend Comprehensive Plan Land Use Map to change approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF) and designate 63.4 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation – Westport Development, LLC – CPA-002802-2015/ZC-002803-2015

**Requested Action:** Approval of Comprehensive Plan Land Use Map Amendment and Rezoning

**Case Advisor:** Brian S. Portz, AICP *BP*

**Applicant’s Request:** The applicant, Westport Development, LLC, is requesting approval of both a Comprehensive Plan Land Use Amendment and Rezoning for property located in the far western area of the City, just north of Mills Civic Parkway and east of V Court. The applicant is requesting to change approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF). 38.7 acres of the future Westport subdivision site is already designated as Single Family Residential (SF) on the City Comprehensive Plan Land Use Map.

Upon changing the Comprehensive Plan Land Use designations on the property, the applicant is then requesting consistency zoning with the Comprehensive Plan Land Use designation across the larger 63.4 acre property. The applicant is requesting R-1, Single Family Residential zoning for the entire site. The applicant is proposing to develop approximately 140 single family detached residential lots on the site.

**History:** The property was recently annexed into the City at the request of the applicant in early 2015. The property has not been previously platted.

**City Council Subcommittee:** This item was presented to the Development and Planning City Council Subcommittee on February 26, 2015 to discuss the annexation of the property. Councilmembers had no comments and expressed no disagreement with the proposal. This item was also presented to the Development and Planning City Council Subcommittee on June 18, 2015 to discuss paved access to the site from Mills Civic Parkway. The applicant is proposing to pave (topcoat) the existing gravel roadway from the western end of Mills Civic Parkway to Wendover Road and then Wendover Road north to the entrance to the subdivision to provide one paved roadway access to the property as required by City Code. An Agreement & Waiver will be required by the applicant for the future reconstruction of Mills Civic Parkway and Wendover Road. A secondary gravel access (V Court) is located along the western edge of the proposed subdivision which provides the secondary access as required by Fire Code. The Councilmembers were supportive of the proposal.

**Staff Review and Comment:** This request was distributed to various City departments and outside agencies for their review and comment. There are no outstanding issues. Staff would note the following:

- **Area Land Uses:** Staff will be reevaluating the land uses for the larger area north of Mills Civic Parkway and west of Grand Prairie Parkway in the near future. Staff is comfortable with the application of Single Family Residential as proposed by the applicant. The Engineering Division has evaluated the street network for the area and will be recommending changes to the Ultimate Streets Map. The proposed development has been modified to fit with the street network that the Engineering Services Department will be recommending.
- **Public Comments:** A comment email was received from an adjacent property owner. This email is attached as Attachment G.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**Noticing Information:** On September 18, 2015, notice for the September 28, 2015, Plan and Zoning Commission and October 5, 2015, City Council Public Hearings on this project was published in the Des Moines Register. Notice of these public hearings was also mailed to all surrounding property owners within 370 feet of the subject property on September 15, 2015.

**Staff Recommendation And Conditions Of Approval:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, Staff recommends the Plan and Zoning Commission adopt a resolution to approve the Comprehensive Plan Land Use Map amendment for approximately 20.6 acres to change the land use from Medium Density Residential (MD) to Single Family Residential (SF) and approximately 4.1 acres from Office (OF) to Single Family Residential (SF); and approve the rezoning request to amend the Zoning Map to designate Single Family Residential (R-1) zoning for 63.4 acres subject to the applicant meeting all City Code requirements.

**Property Owner/Applicant:** Westport Development, LLC  
P.O. Box 373  
Johnston, IA 50131  
Attn: Willis Van Zee  
[Mx483@aol.com](mailto:Mx483@aol.com)

**Applicant's Representatives:** Engineering Resource Group, Inc.  
2413 Grand Avenue  
Des Moines, IA 50312  
Attn: Doug Saltsgaver  
[doug@ergcorp.com](mailto:doug@ergcorp.com)

**ATTACHMENTS:**

|              |   |  |
|--------------|---|--|
| Attachment A | - | Plan and Zoning Commission Resolution – Comprehensive Plan Amendment |
| Attachment B | - | Plan and Zoning Commission Resolution – Rezoning                     |
| Exhibit A    | - | Conditions of Approval   |
| Attachment C | - | Location Map   |
| Attachment D | - | Comprehensive Plan Land Use Map                                      |
| Attachment E | - | Westport Comprehensive Plan Land Use Map Amendment Sketch            |
| Attachment F | - | Westport Rezoning Sketch   |
| Attachment G | - | Adjacent Property Owner Comment                                      |

## RESOLUTION NO. PZC-15-070

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN AMENDMENT TO THE COMPREHENSIVE PLAN LAND USE MAP FOR 20.6 ACRES FROM MEDIUM DENSITY RESIDENTIAL (MD) TO SINGLE FAMILY RESIDENTIAL (SF) AND 4.1 ACRES FROM OFFICE (OF) TO SINGLE FAMILY RESIDENTIAL (SF)**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Westport Development, LLC, has requested an amendment to the Comprehensive Plan Land Use Map (CPA-002802-2015) to change the land use designation of approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF) and located within part of the area legally described as:

**Legal Description**

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (W 1/2 SW 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (E 1/2 SW 1/4 NW 1/4) AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (N 1/2 SE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 00°00' W, 1311.5 FEET TO THE SOUTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 84°35' W, 226.0 FEET ON THE SOUTH LINE OF SAID NE 1/4 NW 1/4, TO THE POINT OF BEGINNING; THENCE S 84°35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE N 01°41' W, 468.0 FEET ON THE WEST LINE OF SAID NE 1/4 NW 1/4; THENCE S 60°55' E, 155.8 FEET; THENCE S 65°52' E, 116.0 FEET; THENCE S 55°04' E, 287.3 FEET; THENCE S 79°21' E, 195.0 FEET; THENCE N 63°19' E 124.2 FEET; THENCE S 74°09' E, 348.3 FEET TO THE POINT OF BEGINNING.


**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, this Commission held a duly-noticed hearing to consider the application for Comprehensive Plan Amendment (CPA-002802-2015);

**NOW, THEREFORE**, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

**SECTION 1.** The request for a change in the land use designation from Medium Density Residential (MD) to Single Family Residential (SF) for approximately 20.6 acres and from Office (OF) to Single Family Residential (SF) for approximately 4.1 acres in the far western area of the City, lying just north of Mills Civic Parkway and east of V Court, is recommended to the City Council for approval.

**PASSED AND ADOPTED on September 28, 2015.**

  
\_\_\_\_\_  
Craig Erickson, Chairperson  
Plan and Zoning Commission

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015, by the following vote:

AYES: Anderson, Brown, Costa, Crowley, Erickson, Hatfield, Southworth  
NAYS: -0-  
ABSTENTIONS: -0-  
ABSENT: -0-

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

RESOLUTION NO. PZC-15-071

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE REZONING REQUEST (ZC-002803-2015) FOR THE PURPOSE OF CONSISTENCY ZONING 63.4 ACRES OF PROPERTY LOCATED IN THE FAR WESTERN AREA OF THE CITY, JUST NORTH OF MILLS CIVIC PARKWAY AND EAST OF V COURT**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Westport Development, LLC, has requested approval of a Rezoning Request for that property located in the far western area of the City, just north of Mills Civic Parkway and east of V Court to amend the Zoning Map and designate 63.4 acres as Single Family Residential (R-1);

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

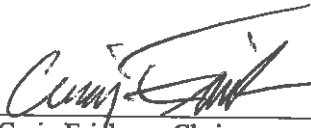
**WHEREAS**, on September 28, 2015, this Commission held a duly-noticed hearing to consider the application for the Rezoning Request (ZC-002803-2015);

**NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, for approval, in the staff report, dated September 28, 2015, or as amended orally at the Plan and Zoning Commission hearing of September 28, 2015, are adopted.

**SECTION 2.** REZONING REQUEST (ZC-002803-2015) to designate 63.4 acres as Single Family Residential (R-1) is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated September 28, 2015, including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

**PASSED AND ADOPTED** on September 28, 2015.

  
Craig Erickson, Chairperson  
Plan and Zoning Commission

ATTEST:

  
Heidi Taylor  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015, by the following vote:

AYES: Andersen, Brown, Costa, Crowley, Erickson, Hatfield, Southworth  
NAYS: -0-  
ABSTENTIONS: -0-  
ABSENT: -0-

ATTEST:


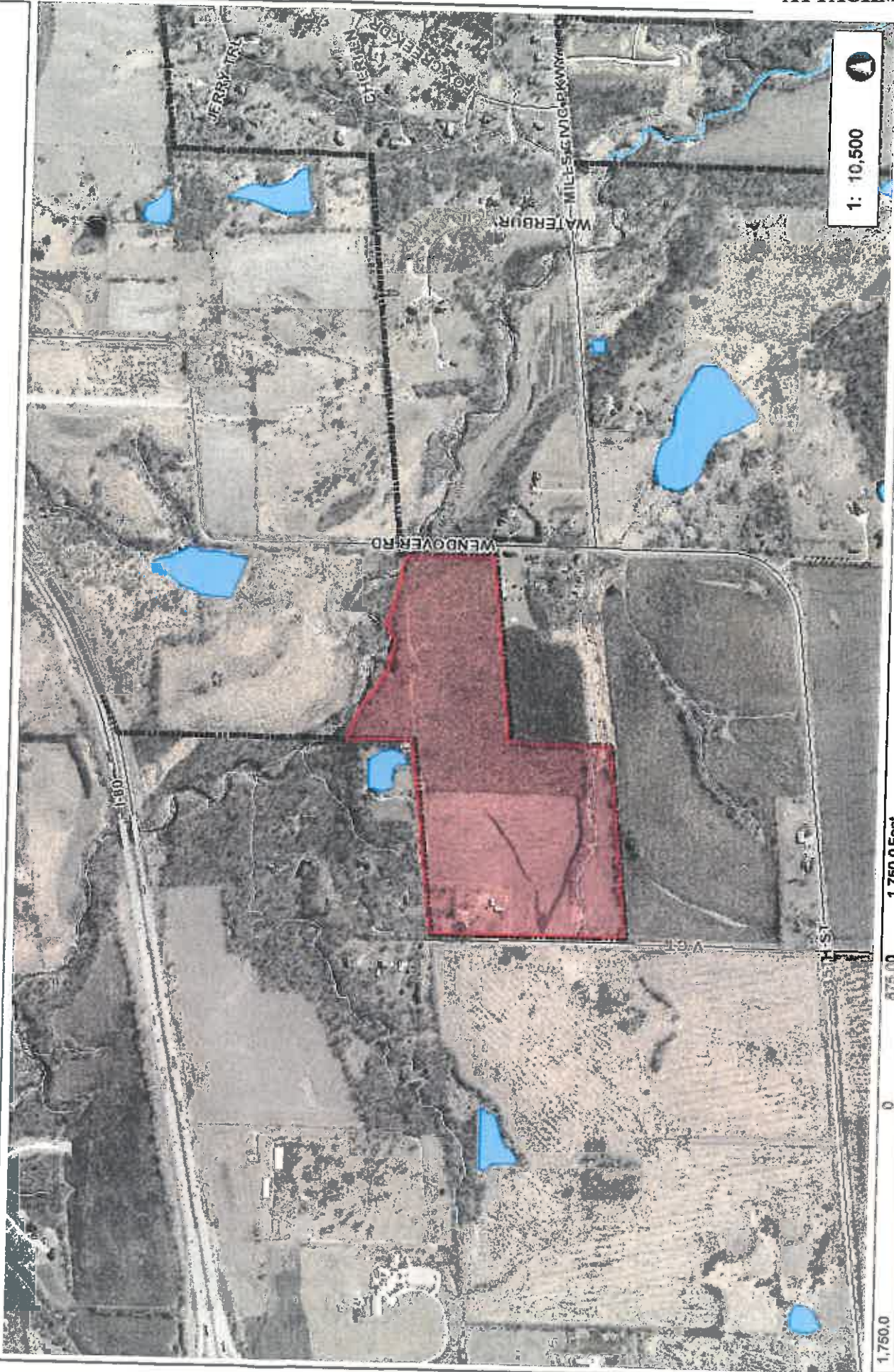
  
Heidi Taylor  
Recording Secretary

Exhibit A  
Conditions of Approval

No Conditions of Approval



# Westport



1: 10,500



Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

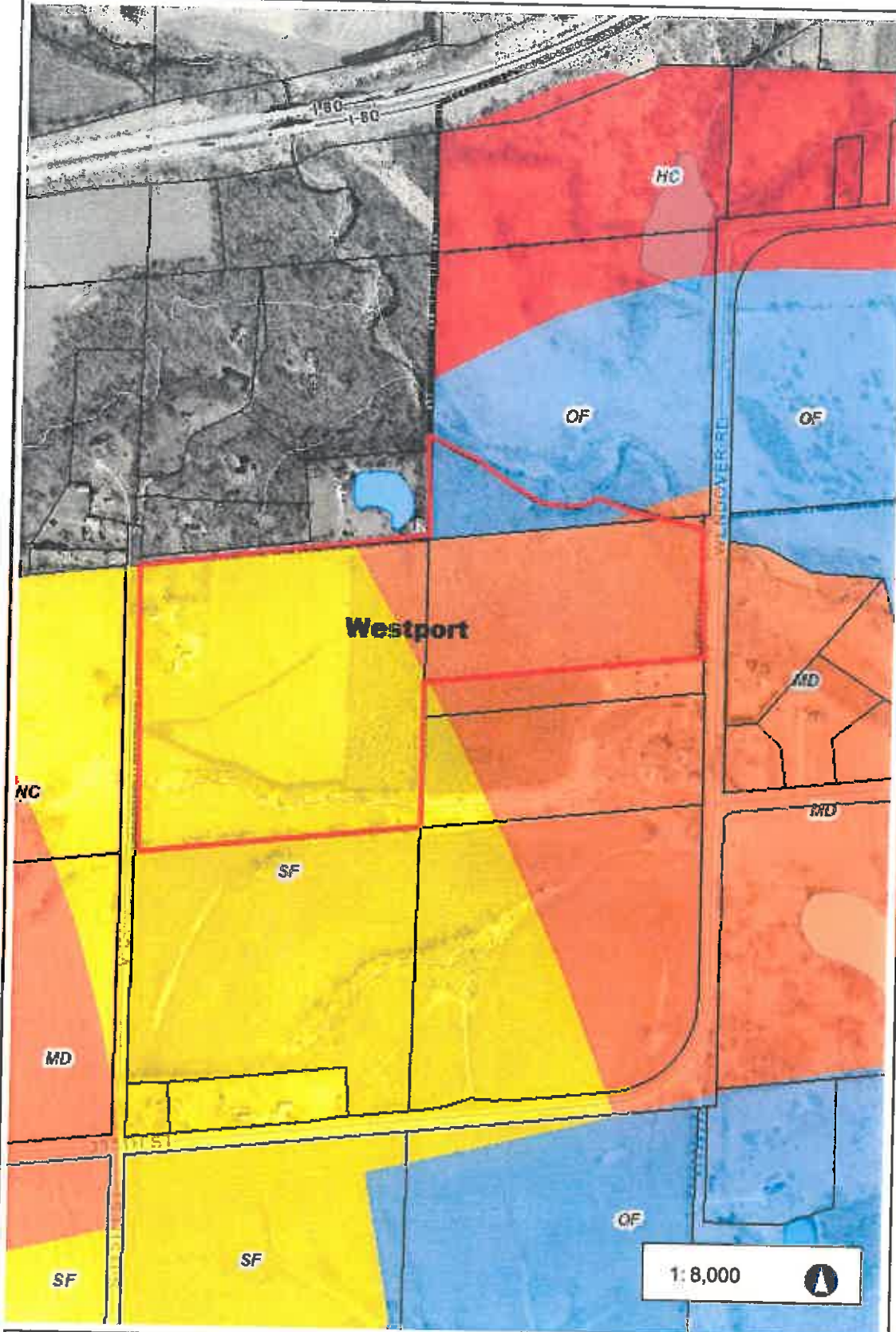
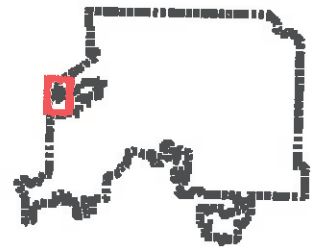
THIS MAP IS NOT TO BE USED FOR NAVIGATION

NAD\_1983\_StatePlane\_Iowa\_South\_FIPS\_1402\_Feet  
© City of West Des Moines, Iowa





# Comprehensive Plan Land Use Map



## Legend

- Parcels
- Comprehensive Plan Land Use**
- OS: Open Space
- PG: Parks & Greenways
- LD: Low Density Residential
- SF: Single Family Residential
- MD: Medium Density Residential
- HD: High Density Residential
- MF: Manufactured Homes
- MU: Mixed Use
- RC: Regional Commercial
- TCC: Town Center Commercial
- CMC: Community Commercial
- SO: Support Office
- NC: Neighborhood Commercial
- SC: Support Commercial
- HC: Highway Commercial
- CVC: Convenience Commercial
- VJ SC: Valley Junction Commercial
- HBC: Historic Business
- OF: Office
- GI: General Industrial
- LI: Light Industrial
- BP: Business Park
- WR: Warehouse/Retail
- Parks
- Greenways

1,333.3      0      666.67      1,333.3 Feet

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

NAD\_1983\_StatePlane\_Iowa\_South\_FIPS\_1402\_Feet  
© City of West Des Moines, Iowa

THIS MAP IS NOT TO BE USED FOR NAVIGATION



**LEGAL DESCRIPTION**

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (W 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

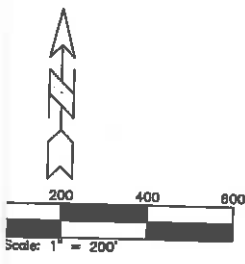
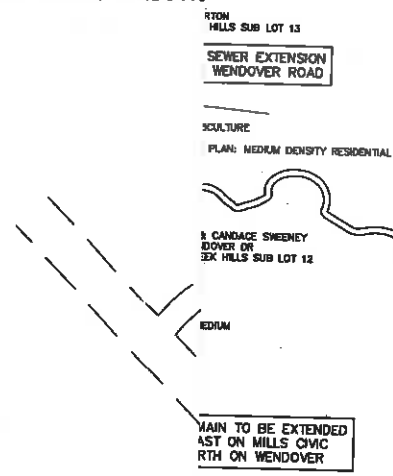
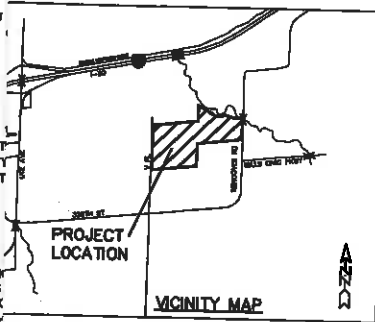
AND

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (E 1/4 NW 1/4) AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (N 1/2 SE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 1311.5 FEET ON THE SOUTH LINE OF SAID NE 1/4 NW 1/4; THENCE S 84°35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 84°35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE N 01°41' W, 466.0 FEET ON THE WEST LINE OF SAID NE 1/4 NW 1/4; THENCE S 60°55' E, 155.8 FEET; THENCE S 65°32' E, 116.0 FEET; THENCE S 53°04' E, 287.0 FEET; THENCE S 79°21' E, 195.0 FEET; THENCE N 63°19' E, 124.2 FEET; THENCE S 74°00' E, 124.2 FEET TO THE POINT OF BEGINNING

CONTAINING 63.4 ACRES



**WESTPORT COMPREHENSIVE PLAN AMENDMENT**

**ERG**  
 Engineering Resources Group, Inc.  
 Engineers and Surveyors  
 1015 WEST 12TH AVENUE  
 DES MOINES, IOWA 50312  
 (515) 266-4626

|                       |                  |                  |
|-----------------------|------------------|------------------|
| SCALE: 1" = 100'      | DESIGNED BY: DJS | DRAWN BY: BWS    |
| DWG: 14-180-COMP-PLAN | CHECKED BY: DJS  | DATE: 09/02/15   |
| FIELD BOOK:           | SHEET 1 OF 1     | FILE NO.: 14-180 |

| NO. | REVISION | DATE | BY | FOR: |
|-----|----------|------|----|------|
|     |          |      |    |      |
|     |          |      |    |      |
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**LEGAL DESCRIPTION**

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (W 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

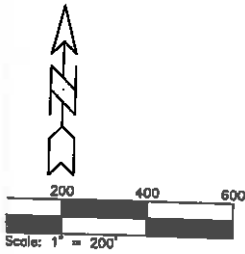
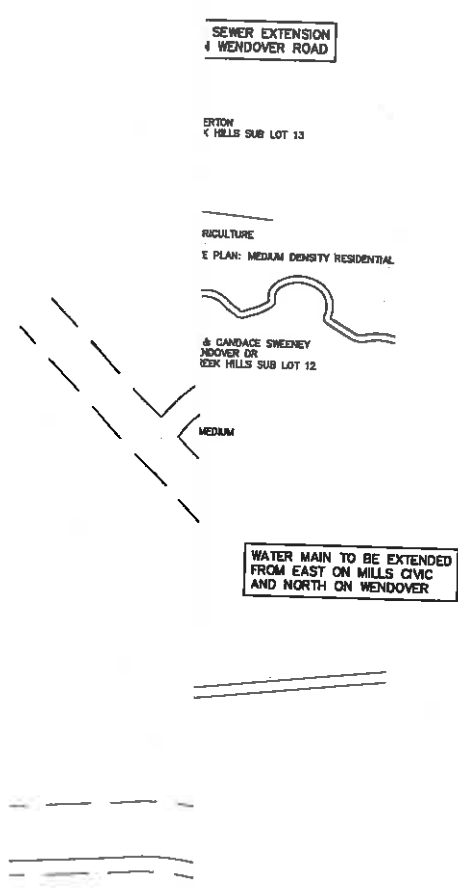
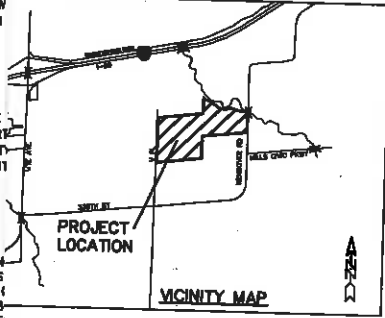
AND

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (E 1/4 NW 1/4) AND THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (N 1/2 SE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, DESCRIBED AS COMMENCING AT THE NORTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 1° 13'11.5" E, 1311.5 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 8° 22'0" E, 226.0 FEET ON THE SOUTH LINE OF SAID NE 1/4 NW 1/4, TO THE POINT OF BEGINNING; THENCE S 84° 35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE N 01° 41' W, 466.0 FEET ON THE WEST LINE OF SAID NE 1/4 NW 1/4; THENCE S 60° 55' E, 155.8 FEET; THENCE S 65° 52' E, 118.0 FEET; THENCE S 58° 04' E, 287.0 FEET; THENCE S 79° 21' E, 195.0 FEET; THENCE N 63° 19' E, 124.2 FEET; THENCE S 74° 0' E, 124.2 FEET TO THE POINT OF BEGINNING.

CONTAINING 63.4 ACRES



**WESTPORT REZONING**

|     |          |      |    |     |
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| NO. | REVISION | DATE | BY | FOR |
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SCALE: 1" = 100'  
 DWG: 14-180-REZONING.dwg  
 FIELD BOOK:

LOCATION:

DESIGNED BY: DJS  
 CHECKED BY: DJS  
 SHEET 1 OF 1

DRAWN BY: BWS  
 DATE: 09/02/15  
 FILE NO.: 14-180

**ERG**  
 Engineering Resources Group, Inc.  
 Engineers and Surveyors  
 2415 GRAND AVENUE  
 DES MOINES, IOWA 50312  
 (515) 288-6662

**From:** Chris Shires <CShires@thinkconfluence.com>  
**Sent:** Wednesday, September 23, 2015 7:46 AM  
**To:** Portz, Brian  
**Cc:** Mike Blaser; Twedt, Lynne  
**Subject:** RE: Westport CPA/ZC

Hi Brian,

Thank you again for sending me this information. The Davis Estates ownership wanted me to communicate to the City the following comments on the proposed Westport Comp Plan Amendment and Rezoning. We have no objections to the proposed request; however, we do request that prior to the platting and development of this property that the property owner coordinate with Davis Estates on the vertical and horizontal alignments of the two streets and related public utilities proposed to end at the west property line of the Westport property since this is the east property line of the Davis Estates property. We also request Westport Development further coordinate with Davis Estates on the proposed vacation of V Court.

If you could please share these comments with the Plan and Zoning Commission, City Council, and Westport Development we would greatly appreciate it.

Thanks!

CHRISTOPHER SHIRES AICP  
PRINCIPAL

CONFLUENCE

525 17<sup>TH</sup> STREET, DES MOINES, IA 50309  
TEL 515-288-4875 FAX 515-288-8359 CELL 515-975-1050

[WWW.THINKCONFLUENCE.COM](http://WWW.THINKCONFLUENCE.COM)

FOLLOW US:



**From:** Portz, Brian [mailto:Brian.Portz@wdm.iowa.gov]  
**Sent:** Tuesday, September 22, 2015 11:03 AM  
**To:** Chris Shires <CShires@thinkconfluence.com>  
**Subject:** FW: Westport

Chris,

Lynne asked me to forward this to you. Attached is the Comp Plan and Rezoning sketch plans that have been submitted to us for the proposed Westport development. This goes to Plan & Zoning Commission next Monday.

Let me know if you have questions.

## EXHIBIT II

Prepared by: B. Portz, Development Services Dept., PO Box 65320 West Des Moines IA 50265-0320 (515) 273-0770  
When Recorded, Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

### RESOLUTION

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES APPROVING THE COMPREHENSIVE PLAN AMENDMENT (CPA-002802-2015) TO AMEND THE COMPREHENSIVE PLAN LAND USE MAP FOR THE APPROX. 20.6 ACRES FROM MEDIUM DENSITY RESIDENTIAL (MD) TO SINGLE FAMILY RESIDENTIAL (SF) AND 4.1 ACRES FROM OFFICE (OF) TO SINGLE FAMILY RESIDENTIAL (SF)**

WHEREAS, pursuant to the provisions of Title 9, Zoning, Chapter 1 et seq, of the West Des Moines Municipal Code, the property owner, Westport Development, LLC, has requested an amendment to the Comprehensive Plan Land Use Map (CPA-002802-2015) to change the land use designation of approximately 20.6 acres from Medium Density Residential (MD) to Single Family Residential (SF) and 4.1 acres from Office (OF) to Single Family Residential (SF) for that property generally described as follows:

### LEGAL DESCRIPTION

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (W 1/2 SW 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (E 1/2 SW 1/4 NW 1/4) AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (N 1/2 SE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 00°00' W, 1311.5 FEET TO THE SOUTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 84°35' W, 226.0 FEET ON THE SOUTH LINE OF SAID NE 1/4 NW 1/4, TO THE POINT OF BEGINNING; THENCE S 84°35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE N 01°41' W, 468.0 FEET ON THE WEST LINE OF SAID NE 1/4 NW 1/4; THENCE S 60°55' E, 155.8 FEET; THENCE S 65°52' E, 116.0 FEET; THENCE S 55°04' E, 287.3 FEET; THENCE S 79°21' E, 195.0 FEET; THENCE N 63°19' E 124.2 FEET; THENCE S 74°09' E, 348.3 FEET TO THE POINT OF BEGINNING.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, the Plan and Zoning Commission did recommend the City Council approve the Comprehensive Plan Amendment (CPA-002802-2015);

**WHEREAS**, on October 5, 2015, this City Council held a duly-noticed public hearing to consider the application for Comprehensive Plan Amendment (CPA-002802-2015);

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA DOES HEREBY FIND AND RESOLVE AS FOLLOWS:**

SECTION 1. The findings as stated in the staff report, dated October 5, 2015, or as amended orally at the City Council hearing of October 5, 2015, are adopted.

SECTION 2. The amendment of the Comprehensive Plan Land Use Map as described above is hereby adopted.

PASSED AND ADOPTED on October 5, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on October 5, 2015, by the following vote:

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

Prepared by: B. Portz, Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, (515)222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 9: ZONING, CHAPTER 4: ZONING DISTRICTS AND MAP**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1. AMENDMENT:** The Zoning Map of the City of West Des Moines, Iowa, is hereby amended by rezoning the portions of the following legally described property from Unzoned to Single Family Residential (R-1) district in Compliance with the adopted City of West Des Moines Comprehensive Land Use Plan.

**Legal Description**

THE WEST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (W 1/2 SW 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

AND

THE EAST HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER (E 1/2 SW 1/4 NW 1/4) AND THE NORTH HALF OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER (N 1/2 SE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH OF RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

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A PARCEL OF LAND IN THE NORTHEAST QUARTER OF THE NORTHWEST QUARTER (NE 1/4 NW 1/4) OF SECTION SIXTEEN (16), TOWNSHIP SEVENTY-EIGHT (78) NORTH, RANGE TWENTY-SIX (26) WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 00°00' W, 1311.5 FEET TO THE SOUTHEAST CORNER OF SAID NE 1/4 NW 1/4; THENCE S 84°35' W, 226.0 FEET ON THE SOUTH LINE OF SAID NE 1/4 NW 1/4, TO THE POINT OF BEGINNING; THENCE S 84°35' W, 1106.8 FEET TO THE SOUTHWEST CORNER OF SAID NE 1/4 NW 1/4; THENCE N 01°41" W, 468.0 FEET ON THE WEST LINE OF SAID NE 1/4 NW 1/4; THENCE S 60°55' E, 155.8 FEET; THENCE S 65°52' E, 116.0 FEET; THENCE S 55°04' E, 287.3 FEET; THENCE S 79°21' E, 195.0 FEET; THENCE N 63°19' E 124.2 FEET; THENCE S 74°09' E, 348.3 FEET TO THE POINT OF BEGINNING.

**SECTION 2. SAVINGS CLAUSE.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 3. VIOLATIONS AND PENALTIES.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in title 1, Chapter 4, Section 1 and Section 2 of the City Code of the City of West Des Moines, Iowa.

**SECTION 4. OTHER REMEDIES.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm, or corporation for violation of any section or subsection of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Approved and passed by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Steven K. Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

Date: October 5, 2015

**ITEM:** Neff Property, Generally located North of Stagecoach Drive, South of Mills Civic Parkway, and West of S. 93<sup>rd</sup> Street – Amend the Comprehensive Plan Land Use Map to change approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and designate approximately 78.5 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation – Dr. Scott and Pamela Neff – CPA-002670-2015 - ZC-002833-2015

**RESOLUTION: APPROVAL OF COMPREHENSIVE PLAN LAND USE AMENDMENT**

**ORDINANCE: Approval of First Reading of Ordinance**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicants, Dr. Scott and Pamela Neff, are requesting approval of both a Comprehensive Plan Land Use Amendment and Rezoning for property located north of Stagecoach Drive, south of Mills Civic Parkway, and west of S. 93<sup>rd</sup> Street. The applicant is requesting a Comprehensive Plan Amendment to change approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF). An additional 47.1 acres of the development is already designated as Single Family Residential (SF) on the City Comprehensive Plan Land Use Map.

Upon changing the Comprehensive Plan Land Use designations on the property, the applicant is also requesting consistency zoning with the Comprehensive Plan Land Use designation across the larger 78.5 acre property. The applicant is requesting R-1, Single Family Residential zoning for the entire site. The applicant is proposing to develop single family detached residential lots on the site.

Plan and Zoning Commission Action:

Vote: 7-0 approval


Date: September 28, 2015

Motion: Adopt a resolution recommending the City Council approve an amendment to the Comprehensive Plan, Land Use Map from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and designate approximately 78.5 acres from ‘Unzoned’ to R-1, Single Family Residential

**OUTSTANDING ISSUES:** There are no outstanding issues. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Applicant’s Request
- History
- City Council Subcommittee: *Development and Planning, September 10, 2015*
- Staff Review and Comments
- Comprehensive Plan Consistency
- Noticing Information
- Staff Recommendations and Conditions of Approval
- Applicant/Applicant Representative Information

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve an amendment to the Comprehensive Plan Land Use Map for approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and designate approximately 78.5 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation), subject to the applicant meeting all City Code requirements.

Lead Staff Member: J. Bradley Munford 



**Staff Reviews:**

|                        |               |
|------------------------|---------------|
| Department Director    |               |
| Appropriations/Finance |               |
| Legal                  |               |
| Agenda Acceptance      | <i>for EX</i> |

**PUBLICATION(S) (if applicable)**

|  |                                       |  |
|--|---------------------------------------|--|
| Published In                               | Des Moines Register Community Section |  |
| Date(s) Published                          | 9/28/15                               |  |
| Letter sent to surrounding property owners | 9/15/15                               |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning                  |                             |                                |
| Date Reviewed  | 9/10/15                                 |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**

- Exhibit I - Plan and Zoning Commission Communication
- Attachment A - Plan and Zoning Commission Resolution – Comprehensive Plan Amendment
- Attachment B - Plan and Zoning Commission Resolution – Rezoning
- Exhibit A - Conditions
- Attachment C - Location Map
- Attachment D - Comprehensive Plan Land Use Map
- Attachment E - Proposed Zoning Map
- Exhibit II - Resolution: Approve Comprehensive Plan Land Use Map Amendment
- Exhibit III - Proposed Rezoning Ordinance

**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** September 28, 2015

**Item:** Neff Property, Generally located North of Stagecoach Drive, South of Mills Civic Parkway, and West of S. 93<sup>rd</sup> Street – Amend the Comprehensive Plan Land Use Map to change approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and designate approximately 78.5 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation – Dr. Scott and Pamela Neff – CPA-002670-2015 - ZC-002833-2015

**Requested Action:** Approval of a Comprehensive Plan Amendment and Rezoning Request

**Case Advisor:** J. Bradley Munford, Planner 

**Applicant’s Request:** The applicants, Dr. Scott and Pamela Neff, are requesting approval of both a Comprehensive Plan Land Use Amendment and Rezoning for property located north of Stagecoach Drive, south of Mills Civic Parkway, and west of S. 93<sup>rd</sup> Street. The applicant is requesting a Comprehensive Plan Amendment to change approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF). An additional 47.1 acres of the development is already designated as Single Family Residential (SF) on the City Comprehensive Plan Land Use Map.

Upon changing the Comprehensive Plan Land Use designations on the property, the applicant is also requesting consistency zoning with the Comprehensive Plan Land Use designation across the larger 78.5 acre property. The applicant is requesting R-1, Single Family Residential zoning for the entire site. The applicant is proposing to develop single family detached residential lots on the site.

**History:** The property was annexed into the city in 2003 as a part of the Mills Civic Parkway Annexation. The property has not been previously subdivided and includes the homestead for Dr. Neff and his wife.

**City Council Subcommittee:** The requests were presented to the Development and Planning City Council Subcommittee on September 10, 2015 as an informational item. The Subcommittee expressed support of the project.

**Staff Review and Comment:** There are no outstanding issues.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.

**Noticing Information:** On September 18, 2015, a notice of the September 28, 2015, Plan and Zoning Commission and October 5, 2015, City Council public hearings was published in the *Des Moines Register*. Notice of this public hearing also was mailed to all surrounding property owners within 370 feet of the subject property on September 15, 2015.

**Staff Recommendations and Conditions of Approval:** Based upon the preceding review and a findings of consistency with the Comprehensive Plan, staff recommends that the Plan and Zoning Commission adopt a resolution recommending the City Council approve an amendment to the Comprehensive Plan Land Use Map for approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and designate approximately 78.5 acres from ‘Unzoned’ to R-1, Single Family Residential zoning consistent with the Comprehensive Plan Land Use designation , subject to the applicant meeting all City Code requirements.

**Applicant:**

Dr. Scott and Pamela Neff  
9510 Mills Civic Parkway  
West Des Moines, Iowa 50265  
[Sbneff1@netins.net](mailto:Sbneff1@netins.net)

**Applicant Representative:**

Civil Design Advantage  
Attn: Josh Trygstad  
3405 SE Crossroads Drive, Suite G  
Grimes, Iowa 50322  
[JoshT@cda-eng.com](mailto:JoshT@cda-eng.com)

**Attachments:**

|              |   |  |
|--------------|---|--|
| Attachment A | - | Plan and Zoning Commission Resolution – Comprehensive Plan Amendment |
| Attachment B | - | Plan and Zoning Commission Resolution – Rezoning                     |
| Exhibit A    | - | Conditions   |
| Attachment C | - | Location Map   |
| Attachment D | - | Comprehensive Plan Land Use Map                                      |
| Attachment E | - | Proposed Zoning Map  |

RESOLUTION NO. PZC-15-072

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE AN AMENDMENT TO THE COMPREHENSIVE PLAN LAND USE MAP FOR 8.61 ACRES FROM OFFICE (OF) TO SINGLE FAMILY RESIDENTIAL (SF) AND 22.79 ACRES FROM MEDIUM DENSITY (MD) TO SINGLE FAMILY RESIDENTIAL (SF)**

WHEREAS, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Dr. Scott and Pamela Neff, has requested an amendment to the Comprehensive Plan Land Use Map (CPA-002670-2015 ) to change the land use designation of approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) and located within part of the area legally described as:

**Legal Description**

THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 78 NORTH, RANGE 26, WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA

WHEREAS, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

WHEREAS, on September 28, 2015, this Commission held a duly-noticed hearing to consider the application for Comprehensive Plan Amendment (CPA-002670-2015);

NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

SECTION 1. The request for a change in the land use designation from Office (OF) to Single Family Residential (SF) for approximately 8.61 acres and from Medium Density (MD) to Single Family Residential (SF) for approximately 22.79 acres generally located North of Stagecoach Drive, South of Mills Civic Parkway, and West of S. 93<sup>rd</sup> Street is recommended to the City Council for approval.

PASSED AND ADOPTED on September 28, 2015.

  
\_\_\_\_\_  
Craig Erickson, Chairperson  
Plan and Zoning Commission

ATTEST:

  
\_\_\_\_\_  
Heidi Taylor  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015, by the following vote:

- AYES: Andersen, Brown, Costa, Crowley, Erickson, Hatfield, Southworth
- NAYS: -0-
- ABSTENTIONS: -0-
- ABSENT: -0-

ATTEST:

  
\_\_\_\_\_  
Heidi Taylor  
Recording Secretary

RESOLUTION NO. PZC-15-073

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE REZONING REQUEST (ZC-002833-2015) FOR THE PURPOSE OF CONSISTENCY ZONING 78.5 ACRES OF PROPERTY GENERALLY LOCATED NORTH OF STAGECOACH DRIVE, SOUTH OF MILLS CIVIC PARKWAY, AND WEST OF S. 93<sup>RD</sup> STREET**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq. of the West Des Moines Municipal Code, the applicant, Dr. Scott and Pamela Neff, has requested approval of a Rezoning Request for that property generally located North of Stagecoach Drive, South of Mills Civic Parkway, and West of S. 93<sup>rd</sup> Street to amend the Zoning Map and designate 78.5 acres as Single Family Residential (R-1);

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

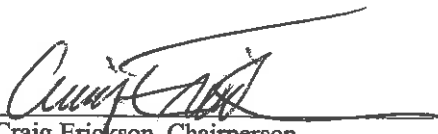
**WHEREAS**, on September 28, 2015, this Commission held a duly-noticed hearing to consider the application for the Rezoning Request (ZC-002833-2015);

**NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**


**SECTION 1.** The findings, for approval, in the staff report, dated September 28, 2015, or as amended orally at the Plan and Zoning Commission hearing of September 28, 2015, are adopted.

**SECTION 2.** REZONING REQUEST (ZC-002833-2015) to designate 78.5 acres as Single Family Residential (R-1) is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated September 28, 2015, including conditions added at the Hearing, and attached hereto as Exhibit "A", if any. Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

**PASSED AND ADOPTED** on September 28, 2015.

  
Craig Erickson, Chairperson  
Plan and Zoning Commission

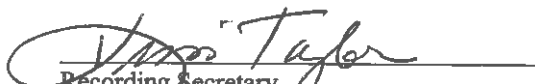
ATTEST:

  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015, by the following vote:

AYES: Andersen, Brown, Costa, Crowley, Erickson, Hatfield, Southworth  
NAYS: -0-  
ABSTENTIONS: -0-  
ABSENT: -0-

ATTEST:

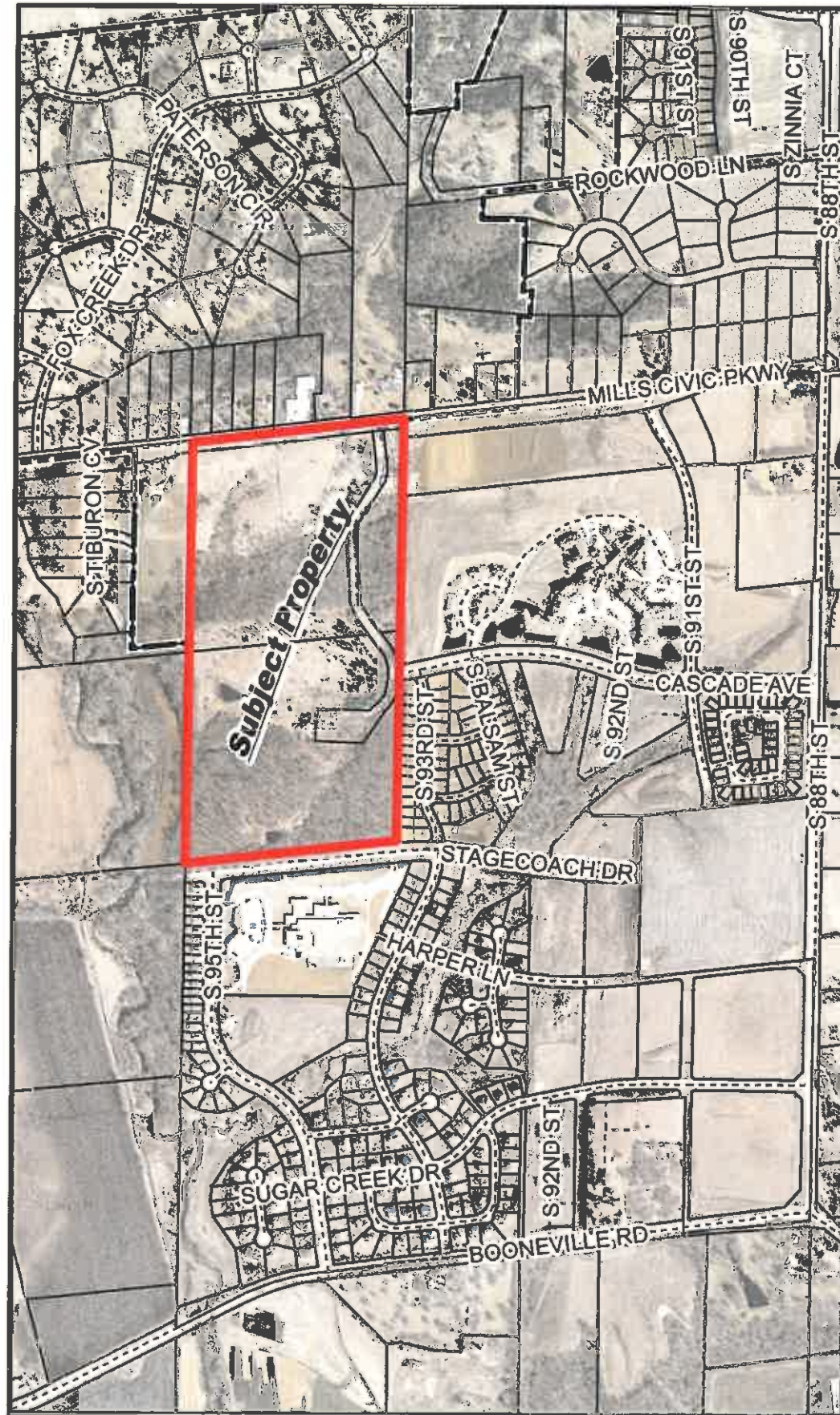
  
Recording Secretary

**EXHIBIT A**

**Exhibit A  
CONDITIONS**

No Conditions of Approval





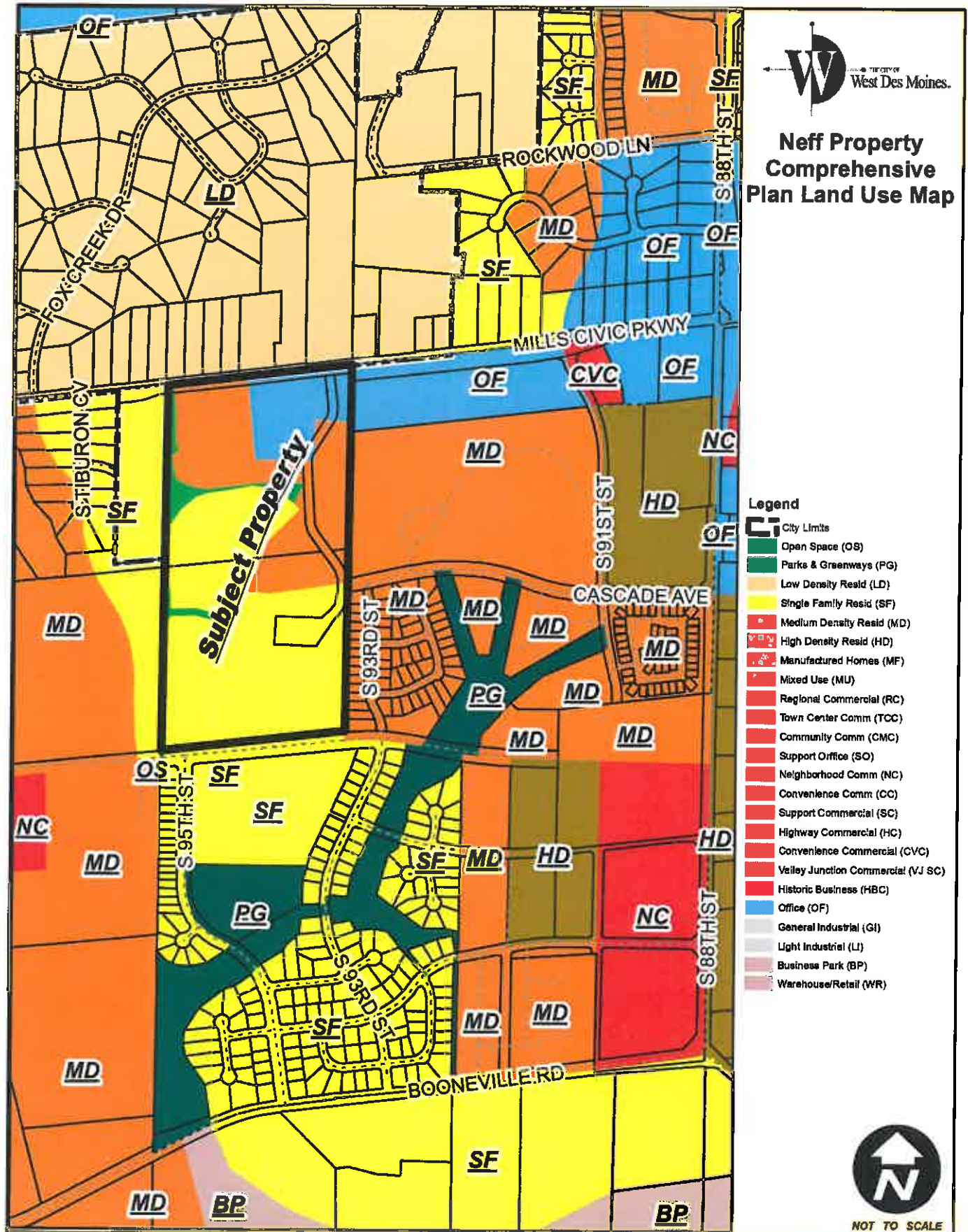
### Neff Property Location Map



NOT TO SCALE



# ATTACHMENT D

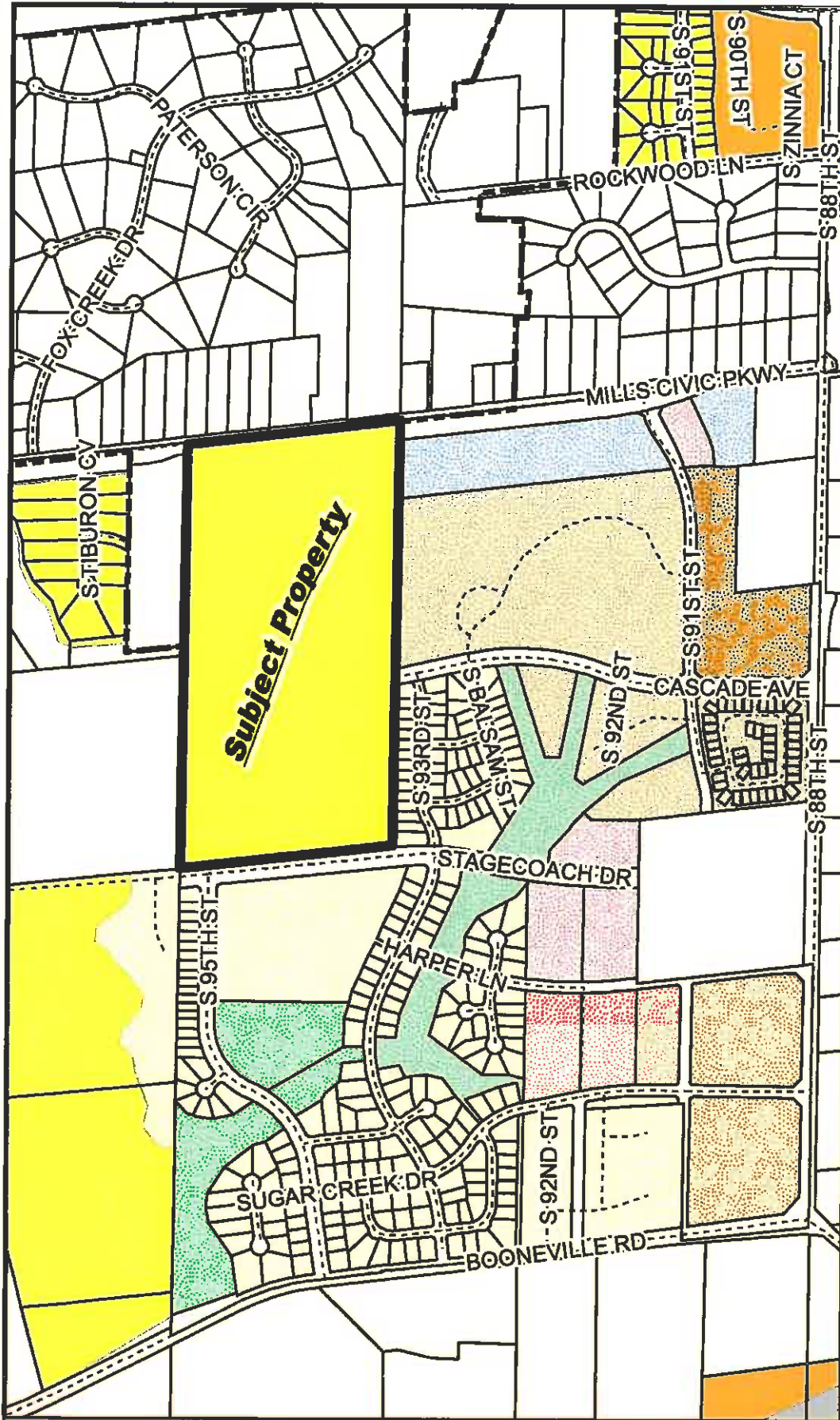




# ATTACHMENT E



## Neff Property Proposed Zoning Map



- Legend**
- City Limits
  - Unzoned
  - Open Space/Agricultural (OS)
  - Residential Estate (RE)
  - Residential Single-Family (RS)
  - Single-Family Residential (R-1)
  - Single-Family - Commerce Residential (SF-CR)
  - Single-Family - Valley Junction Residential (SF-VJ)
  - Manufactured Housing (MH)
  - Residential Medium-Density (RM)
  - Residential High-Density (RH)
  - Neighborhood Commercial (NC)
  - Convenience Commercial (CVC)
  - Valley Junction Historic Business (VJHB)
  - Valley Junction Commercial (VJC)
  - Community Commercial (CMC)
  - Support Commercial (SC)
  - Regional Commercial (RC)
  - Office (OF)
  - Professional Commerce Park (PCP)
  - Warehouse Retail (WR)
  - Business Park (BP)
  - Valley Junction Light Industrial (VJLI)
  - Light Industrial (LI)
  - General Industrial (GI)
  - PUD - Open Space
  - PUD - Single Family Residential
  - PUD - Medium Density Residential
  - PUD - High Density Residential
  - PUD - Business and Commercial
  - PUD - Office
  - PUD - Industrial



NOT TO SCALE

## EXHIBIT II

Prepared by: J.B. Munford, Development Services PO Box 65320 West Des Moines IA 50265-0320 (515)222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

### RESOLUTION

#### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES APPROVING THE COMPREHENSIVE PLAN LAND USE AMENDMENT (CPA-002670-2015) TO DESIGNATE PROPERTY FOR SINGLE FAMILY RESIDENTIAL (SF) LAND USE**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, Dr. Scott and Pamela Neff has requested approval for a Comprehensive Plan Amendment to amend the Comprehensive Plan Land Use Plan for the approximately 8.61 acres from Office (OF) to Single Family Residential (SF) and 22.79 acres from Medium Density (MD) to Single Family Residential (SF) for said property legally described as:

#### **Legal Description**

THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 78 NORTH, RANGE 26, WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, the Plan and Zoning Commission did recommend the City Council approve the Comprehensive Plan Amendment (CPA-002670-2015);

**WHEREAS**, on October 5, 2015, this City Council held a duly-noticed public hearing to consider the application for Comprehensive Plan Amendment (CPA-002670-2015);

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA DOES HEREBY FIND AND RESOLVE AS FOLLOWS:**

SECTION 1. The findings, for approval, in the staff report for the hearing or as amended orally at the City Council hearing are adopted.

SECTION 2. The amendment of the Comprehensive Plan Land Use Map as described above is hereby adopted.

PASSED AND ADOPTED on October 5, 2015.

---

Steven K. Gaer  
Mayor

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on October 5, 2015, by the following vote:

ATTEST:

---

Ryan Jacobson  
City Clerk

Prepared by: J.B. Munford, Development Services, PO Box 65320 West Des Moines IA 50265-0320 (515) 222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

**ORDINANCE NO.**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 9: ZONING, CHAPTER 4: ZONING DISTRICTS AND MAP**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1. AMENDMENT:** The Zoning Map of the City of West Des Moines, Iowa, is hereby amended by rezoning 78.5 acres generally located North of Stagecoach Drive, South of Mills Civic Parkway, and West of S. 93<sup>rd</sup> Street from "Unzoned" to Residential Single Family (R-1) district, in Compliance with the adopted City of West Des Moines Comprehensive Land Use Plan.

**Legal Description**

THE EAST HALF OF THE SOUTHWEST QUARTER OF SECTION 15, TOWNSHIP 78 NORTH, RANGE 26, WEST OF THE FIFTH PRINCIPAL MERIDIAN, IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA

**SECTION 2. SAVINGS CLAUSE.** If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

**SECTION 3. VIOLATIONS AND PENALTIES.** Any person who violates the provisions of this Ordinance upon conviction shall be punished as set forth in title 1, Chapter 4, Section 1 and Section 2 of the City Code of the City of West Des Moines, Iowa.

**SECTION 4. OTHER REMEDIES.** In addition to the provisions set out in the Violations and Penalties Section herein, the City may proceed in law or equity against any person, firm, or corporation for violation of any section or subsection of this Ordinance.

**SECTION 5. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, approval, and publication as provided by law.

Approved and passed by the City Council on the \_\_\_\_ day of \_\_\_\_\_, 2015

\_\_\_\_\_  
Steven K. Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

I certify that he foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Resolution – Sale and conveyance of property

**FINANCIAL IMPACT:** \$6,958.00 (positive impact to City)

**SYNOPSIS:** On July 27, 2015 the West Des Moines City Council approved the vacation of a portion of Bridgewood Drive located northeast of the Bridgewood Drive/Beechtree Lane intersection. The vacation comprised 13,915 square feet of property and was undertaken at the request of Ryan Companies US, Inc. for the purpose of ultimately providing a private roadway with public access through the Jordan West development currently under construction.

Ryan Companies US, Inc. has requested to purchase the vacated right-of-way in order to construct the private roadway, which will include the installation of traffic calming devices not otherwise allowed on public streets but requested to be installed by adjacent residents. The City will retain public utility easements on the property and will require Ryan Companies US, Inc. to provide a public access easement for vehicles and pedestrians over the property. The purchase price of \$6,958.00 (.50/square foot) is based upon a recent sale of comparable property with a zoning designation of support commercial. A reduction in the value of this property has been made due to the property's location, dimensions, encumbrances (easements) and inability to construct improvements.




**RECOMMENDATION:**

Approve - Resolution approving the sale and conveyance of property to Ryan Companies US, Inc.

**Lead Staff Member:** Richard J. Scieszinski, City Attorney



**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    | Richard J. Scieszinski, City Attorney   |
| Appropriations/Finance |    |
| Legal                  |   |
| Agenda Acceptance      |  for  |

**PUBLICATION(S) (if applicable)**

|                    |                     |
|--------------------|---------------------|
| Published In       | Des Moines Register |
| Dates(s) Published |                     |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                          |
|----------------|--------------------------|
| Committee      | Development and Planning |
| Date Reviewed  | Jan. 15 & March 12, 2015 |
| Recommendation | Yes                      |

Prepared by/Return to: R.J. Scieszinski, W. Des Moines City Attorney, P.O. Box 65320, West Des Moines, Iowa 515-222-3523

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

**RESOLUTION OPENING AND CLOSING PUBLIC HEARING AND APPROVING  
CONVEYANCE OF PROPERTY TO RYAN COMPANIES US, INC.**

**WHEREAS**, on July 27, 2015 the City of West Des Moines vacated property previously dedicated as public right-of-way; and

**WHEREAS**, in conjunction with the development of Jordan West, Ryan Companies US, Inc. has requested to purchase the vacated right-of-way for use in the development; and

**WHEREAS**, pursuant to Code of Iowa Sections 362.3 and 364.7, publication of notice for the sale of the property from the City of West Des Moines to Ryan Companies US, Inc., attached hereto as Exhibit "A" has been made; and

**WHEREAS**, this being the time and place for the public hearing regarding the sale and conveyance of the property legally-described on Exhibit "A"; and

**WHEREAS**, it is in the best interest of the City of West Des Moines to sell and convey the property to Ryan Companies US, Inc. for the fair market value of \$6,958.00.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. Pursuant to Code of Iowa Section 364.7, publication of notice regarding conveyance of the property legally-described on the attached Exhibit "A" has been properly made and the public hearing regarding conveyance of the above legally-described property is closed.
2. Sale and conveyance of the property from the City to Ryan Companies US, Inc. and legally-described on the attached Exhibit "A" for the fair market value of \$6,958.00 is approved.
3. The Mayor is authorized to sign a quitclaim deed conveying the property to Ryan Companies US, Inc. and the City Clerk is directed to attest to his signature.

**PASSED AND APPROVED** this 5<sup>th</sup> day of August, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

## NOTICE OF PUBLIC HEARING

The West Des Moines City Council will hold a public hearing at 5:35 p.m. on October 5, 2015 at the West Des Moines City Hall Council Chambers, 4200 Mills Civic Parkway, West Des Moines, Iowa to consider the conveyance to Ryan Companies US, Inc. of two parcels of property generally described as:

A parcel of land in Lot A and Lot B, Bridgewood Plat 2, an Official Plat in the City of West Des Moines, Dallas County, Iowa comprising approximately 7834 square feet, and Outlot U, Jordan West Plat 1, an Official Plat in the City of West Des Moines, Dallas County, Iowa comprising approximately 6081 square feet, subject to conditions and reservations imposed by the City.

Any interested person may appear at the hearing and be heard regarding the proposal. A detailed location map and complete legal description showing the property may be obtained at West Des Moines City Hall, 4200 Mills Civic Parkway, West Des Moines, Iowa.

CITY OF WEST DES MOINES, IOWA

By: \_\_\_\_\_  
Ryan T. Jacobson, City Clerk

Published in the Des Moines Register on \_\_\_\_\_, 2015.



Prepared by/Return to: R.J. Scieszinski, P.O. Box 65320, West Des Moines IA 50265-0320; 515-222-3614  
Address Tax Statements: Ryan Companies US, Inc., 14001 University, Ste. 300, Clive, IA 50325

SPACE ABOVE THIS LINE  
FOR RECORDER

**QUITCLAIM DEED**

For the consideration of One Dollar and other valuable consideration, the **City of West Des Moines**, a municipal corporation organized under the laws of the State of Iowa (“Grantor”) does hereby quitclaim to **Ryan Companies US, Inc.**, a Minnesota corporation, (Grantee”) all its right, title, interest, estate, claim and demand in the following legally-described real estate in Polk County, Iowa:

Outlot “U,” Jordan West Plat 1, an official plat in the City of West Des Moines, Dallas County, Iowa and a parcel of land in Lots “A” and “B” Bridgewood Plat 2, an official plat in the City of West Des Moines, Dallas County, Iowa as shown on the attached Attachment “C” subject to a public access easement, a public utility easement and any easements of record.

Dated this \_\_\_\_ day of October, 2015

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

STATE OF IOWA     )  
                              ) SS  
COUNTY OF POLK    )

On this \_\_\_\_\_ day of October, 2015, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared Steven K. Gaer and Ryan T. Jacobson, to me known to be the Mayor and City Clerk, respectively, of the City of West Des Moines, Iowa; that this record was signed on behalf of the City, by authority of its City Council as contained in Resolution No. 5( ) approved on the 5<sup>th</sup> day of October, 2015 by the City Council of the City of West Des Moines, Iowa, and that the Mayor and City Clerk acknowledged the execution of the instrument to be their voluntary act and deed and the voluntary act and deed of the City, by it voluntarily executed.

\_\_\_\_\_  
Notary Public



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

Date: October 5, 2015

**ITEM:** Village of Ponderosa Plat 9, Southeast corner of Bluestem Circle and S. Prairie View Drive – Subdivide property into 43 lots for single family development and 4 outlots – Grayhawk Homes of Iowa, Inc. – FP-002840-2015

**RESOLUTION: Approval and Release of Final Plat**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** Joel Jackson, Bishop Engineering, on behalf of the applicant, Grayhawk Homes of Iowa, Inc., is requesting approval of a Final Plat for that approximately 6.78 acre parcel located at the southeast corner of Bluestem Circle and S. Prairie View Drive within the Village of Ponderosa development. The applicant proposes to replat the existing Lots 53, 54, & 55, Village of Ponderosa Plat 1, into 43 single-family detached residential lots and 3 outlots for private streets, and 1 outlot for open space. The subject property was originally intended to be developed with attached townhomes on a larger common lot.

**CITY COUNCIL SUBCOMMITTEE:** This item was presented to the Development and Planning City Council Subcommittee on September 24, 2015, as an informational item only. No discussion was had and no disagreement with the proposal was expressed.

**OUTSTANDING ISSUES:** There are no outstanding issues. Staff would note the following item of interest:

- **Outlots:** The applicant is proposing Outlots W, X, & Y that will contain the private alleys that are already existing on the site. No individual dwelling driveway access is permitted to S. Prairie View Drive, S. Granite Way, S. Quartz Way and S. Bluestone Way. These streets will be designated as the front of these homes with the alleys as the rear of the homes. These alleys will be used to access the garages to the proposed single family homes. Private cross access easements will be dedicated and recorded for Outlots W, X, & Y to allow individual driveway access to each lot across the outlots.

Outlot Z will be designated as open space and contains the existing Village of Ponderosa entrance sign along with the associated landscaping.

The outlots will be maintained by a homeowner's association. Each driveway that connects to the alleys within the outlots will be maintained by the individual property owner, while the alley's themselves will be maintained by the homeowner's association.

- **Building setbacks:** Lots 1-13 front onto S. Prairie View Drive. According to the Village of Ponderosa Specific Plan Ordinance, the homes constructed on these lots have a 0' front yard setback. Building overhangs, steps and foundation plantings are allowed to encroach up to 5' into the 9' right-of-way easement along S. Prairie View Drive. The rear yard setback is 20' measured from the back of curb of the private street to allow a vehicle to park in the driveway without hanging over into the street. For Lots 22, 23, 34, 35, and 43, a 15' side yard setback is required to the south along Wild Rose Drive. For Lots 1, 5, 6, 10, & 11, a 5' side yard setback is allowed on the corner as long as the house does not cause a line of sight issue at the intersection.

**COMPREHENSIVE PLAN CONSISTENCY:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**TOWN CENTER OVERLAY DISTRICT CONSISTENCY:** The proposed project has been reviewed for consistency with the proposed Town Center Overlay District Guidelines. Based upon that review, a finding has

been made that the proposed project is consistent with the Town Center Overlay District Guidelines in that the plan is consistent with the overall objective and intents of the Town Center Overlay District Guidelines.

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the City Council approve the Village of Ponderosa Plat 9 Final Plat to establish forty three (43) lots for residential development and 4 outlots, subject to the applicant complying with all applicable City Code requirements.

Lead Staff Member: Brian Portz, AICP *BP*

**Staff Reviews:**

|                        |                                 |
|------------------------|---------------------------------|
| Department Director    | <i>[Signature]</i>              |
| Appropriations/Finance | <i>[Signature]</i>              |
| Legal                  | <i>[Signature]</i>              |
| Agenda Acceptance      | <i>[Signature]</i> <i>for E</i> |

**PUBLICATION(S) (if applicable)**

|  |     |
|--|-----|
| Published In                               | n/a |
| Date(s) Published                          | n/a |
| Letter sent to surrounding property owners | n/a |

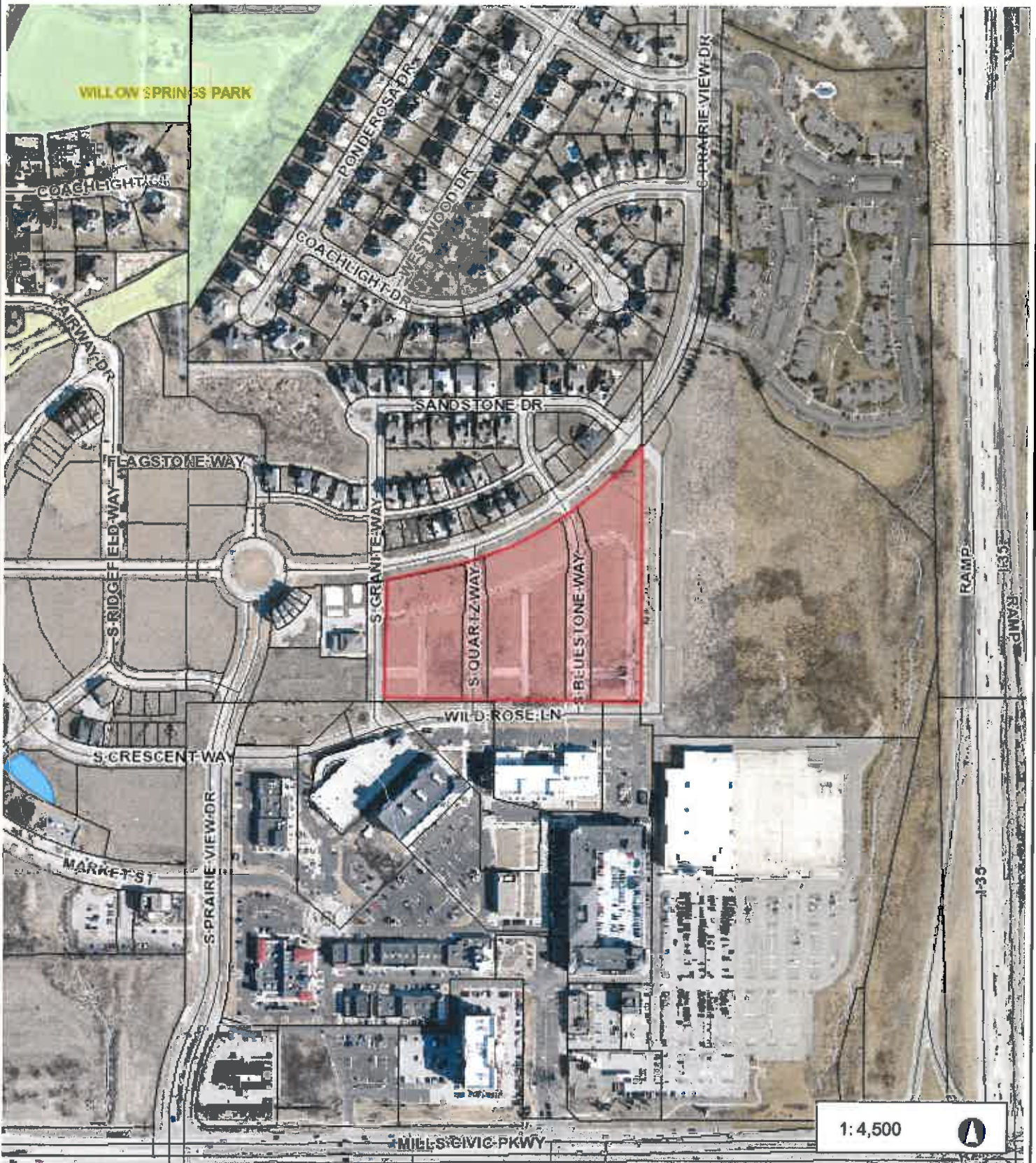
**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning                  |                             |                                |
| Date Reviewed  | September 24, 2015                      |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**

- Exhibit I - Location Map
- Exhibit II - Final Plat
- Exhibit III - Resolution: Approval and Release of Final Plat
- Exhibit A - Conditions of Approval





750.0 0 375.0 750.0 Feet

NAD\_1983\_StatePlane\_Iowa\_South\_FIPS\_1402\_Feet  
© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

# VILLAGE OF PONDEROSA PLAT 9 FINAL PLAT

## SHEET INDEX: 1 COVER SHEET 2 LAYOUT PLAN

**PROPERTY DESCRIPTION:**  
LOTS 53, 54 AND 55, THE VILLAGE OF PONDEROSA, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, CONTAINING APPROXIMATELY 6.78 ACRES

**OWNER:**  
GRAYHAWK HOMES OF IOWA, INC

**PREPARED FOR:**  
GRAYHAWK HOMES OF IOWA, INC  
ATTN: JASON EVANS  
178 BRIDGEWOOD DR  
WEST DES MOINES, IA 50326  
PH: (515) 982-4021

**EXISTING COMPREHENSIVE PLAN:** SF  
SINGLE FAMILY RESIDENTIAL

**PROPOSED COMPREHENSIVE PLAN:** SF  
SINGLE FAMILY RESIDENTIAL

**EXISTING ZONING:** PUD-SF  
PLANNED UNIT DEVELOPMENT - SINGLE FAMILY

**PROPOSED ZONING:** PUD-SF  
PLANNED UNIT DEVELOPMENT - SINGLE FAMILY

**BENCHMARK:**  
NCEM BM #19 - ALUMINUM DISC AT THE NORTH-EAST CORNER OF 60TH STREET & MILLS CIVIC PARKWAY, 18.7 SOUTHEAST OF SIGNAL POLE, 1.9 SOUTHEAST OF FACE OF WALK, 31 WEST OF FIRE HYDRANT.  
ELEVATION = 201.57

NCEM BM # 19 - ALUMINUM DISC AT THE INTERSECTION OF 60TH AND 3200TH THESE DRIVE, 31 WEST OF THE CENTERLINE OF 60TH STREET  
ELEVATION = 179.99

**PREPARED BY:**  
BISHOP ENGINEERING  
ATTN: JOEL JACKSON  
3501 104TH STREET  
URBANDALE, IA 50322  
PH: (515) 276-0467

**OUTLOT OWNERS:**  
PROPOSED OWNER OF OUTLOTS W, X, Y, AND Z:  
VILLAGE OF PONDEROSA  
MASTER OWNERS ASSOCIATION

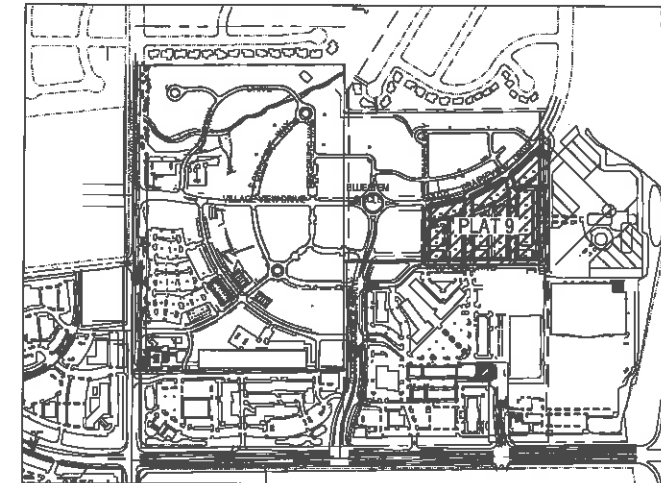
**GENERAL NOTES:**

- S GRANITE WAY, S QUARTZWAY AND S BLENSTONE WAY ARE PRIVATE STREETS. THE CITY OF WEST DES MOINES DOES NOT REPAIR OR MAINTAIN (INCLUDING THE FLOWING OF SNOW) THESE STREETS.
- HOUSES OVER 6,000 SF IN SIZE, INCLUDING GARAGE SPACE, ARE REQUIRED TO BE FIRE SPRINKLED.
- ALL EXISTING EASEMENTS SHOWN ON PLAN ARE PUBLIC UNLESS NOTED OTHERWISE.
- ALL EXISTING PRIVATE STREET LOTS ARE ALSO PUBLIC SANITARY SEWER EASEMENTS, PUBLIC ACCESS EASEMENTS AND PUBLIC UTILITY EASEMENTS.
- THIS PLAT HAS AN ERROR OF CLOSURE OF LESS THAN ONE FOOT IN 10,000 FEET. EACH LOT HAS AN ERROR OF CLOSURE OF LESS THAN ONE FOOT IN 5,000 FEET.
- LOT CORNERS WILL BE SET WITHIN ONE YEAR OF THE APPROVAL OF THIS PLAT.
- BEARINGS ARE BASED ON AN ASSUMED MERIDIAN.
- OUTLOTS W, X AND Y ALSO DOUBLE AS PUBLIC UTILITY EASEMENTS (PUE) AND PUBLIC INGRESS-EGRESS EASEMENTS.
- SIDEWALK ADJACENT TO OUTLOT Z MUST BE COMPLETED PRIOR TO OCCUPANCY OF ANY HOMES IN THE VILLAGE OF PONDEROSA PLAT 9.

**BULK REGULATIONS:**

- LAND USE:
  - LOTS SHALL RANGE BETWEEN 2,800 SF TO 7,200 SF IN SIZE.
    - NOTE LOT 13 IS 13,815 SF TO CONFORM TO THE UNUSUAL GEOMETRY OF THE AREA.
  - MINIMUM STREET FRONTAGE = 35 FEET
  - MINIMUM 43 DWELLING UNITS
  - MINIMUM LOT WIDTH = 40 FEET
- MAXIMUM BUILDING HEIGHT = 40 FEET
- GARAGE ORIENTATION: GARAGES SHALL BE LOCATED IN THE REAR OF THE HOUSE AND ONLY ACCESS THROUGH THE ALLEY. NO GARAGE/DRIVEWAY ACCESS TO S. PRAIRIE VIEW DR, S GRANITE WAY, S QUARTZ WAY AND S BLENSTONE WAY WILL BE ALLOWED.
- DEDICATED RESIDENTIAL DRIVEWAYS: VEHICLE DRIVEWAYS DEDICATED AND ADJACENT TO A COVERED PARKING SPACE SHALL MEASURE TEN FEET (10') OR LESS IN LENGTH OR NINETEEN FEET (19') OR GREATER IN LENGTH AS MEASURED PERPENDICULARLY FROM THE GARAGE OPENING TO THE CLOSEST POINT OF THE SIDEWALK OR BACK OF CURB OF INTERSECTING PRIVATE STREET OR DRIVE, WHICHEVER IS MORE RESTRICTIVE. DRIVES THAT ARE INTENDED TO PROVIDE FOR A VEHICLE TO BE PARKED PARALLEL TO THE COVERED SPACE SHALL MEASURE A MAXIMUM OF TEN FEET (10') IN LENGTH. DRIVES INTENDED TO ALLOW A VEHICLE TO BE PARKED PERPENDICULAR TO THE COVERED SPACE SHALL MEASURE A MINIMUM OF NINETEEN FEET (19') IN LENGTH.
- SETBACKS:
  - UNLESS OTHERWISE SPECIFICALLY STATED, SETBACKS SHALL BE MEASURED FROM THE PROPERTY LINE OF PARCELS THAT ADJUT A PUBLIC STREET OR BACK-OF-CURB OF ADJOINING PRIVATE STREET OR ALLEY.
  - ALL SETBACKS SHALL BE MEASURED TO THE FOUNDATION OF THE DWELLING STRUCTURE.
    - FRONT YARD = 20 FEET AS MEASURED FROM THE BACK OF CURB EXCEPT AS NOTED OTHERWISE BELOW.
    - REAR YARD = 20 FEET FROM BACK OF CURB
    - SIDE YARD = 5 FEET, EXCEPT AS NOTED BELOW.
    - SIDE YARD (LOTS 22, 23, 34, 35, 43) = 15 FEET TO SOUTH PROPERTY LINE.
    - THOSE SINGLE FAMILY DETACHED RESIDENTIAL DWELLING BUILDINGS WHICH FRONT SOUTH PRAIRIE VIEW DRIVE ARE ALLOWED TO HAVE BUILDING OVERHANGS, STEPS, AND FOUNDATION PLANTINGS WHICH EXTEND INTO THE PUBLIC STREET RIGHT-OF-WAY EASEMENT A DISTANCE OF A MAXIMUM OF FIVE FEET (5'). THE FRONT SETBACK ON THESE LOTS FRONTING SOUTH PRAIRIE VIEW DR IS ZERO (0) FEET.
    - LOTS 22 AND 34 FRONT SETBACK SHALL BE MEASURED FROM THE MAIN PLANE OF THE STREET CURB, EXCLUDING PARKING STALLS.
    - TO PROVIDE FOR ADDITIONAL SEPARATION BETWEEN THE PARKING STALLS AND THE HOME, AN ADDITIONAL 5' SETBACK MEASURED FROM PROPERTY LINE IS PROPOSED ON LOTS 22 AND 34.
    - BECAUSE OF THE 6 FOOT SIDE YARD SETBACK REQUIREMENT, HOUSES CONSTRUCTED ON LOTS 1, 5, 6, 9, 10 & 11 SHALL BE PLACED ON THE LOT SO THEY DO NOT OBSTRUCT VISIBILITY AT CORNERS.
  - SETBACKS FROM ATTACHED ACCESSORY STRUCTURES (PORCHES, SUNROOMS, DECKS, ETC) SHALL ABIDE BY THE FRONT, SIDE, AND REAR SETBACKS STATED.
  - SETBACKS FOR DETACHED ACCESSORY STRUCTURES:
    - NO DETACHED ACCESSORY STRUCTURES SHALL BE LOCATED IN THE FRONT YARD OF ANY PARCEL.
    - MINIMUM OF TEN FEET (10') FROM REAR LOT LINE AND IN ACCORDANCE WITH SIDE YARD SETBACKS AS STATED.
  - BUILDING SEPARATIONS SHALL BE A MINIMUM OF TEN FEET (10') AS MEASURED BETWEEN THE FOUNDATIONS, OVERHANGS, BAY WINDOWS, FIRE-PLACES, BUMP OUTS, ETC. MAY EXTEND INTO THE SETBACK A MAXIMUM OF TWO FEET (2').
  - NO FENCES OVER FOUR FEET (4') IN HEIGHT, EXCEPT THOSE REQUIRED TO MEET MINIMUM SWIMMING POOL FENCING REQUIREMENTS ARE ALLOWED. NO FENCES ARE ALLOWED ALONG THOSE PROPERTY BOUNDARIES WHICH ADJUT A COMMON OPEN SPACE.
  - ARCHITECTURE SHALL COMPLY WITH THE VILLAGE OF PONDEROSA SPECIFIC PLAN. HOUSE PLANS MUST BE REVIEWED AND APPROVED BY THE VILLAGE OF PONDEROSA DESIGN REVIEW BOARD. INDICATION FROM THE DESIGN REVIEW BOARD OF THEIR APPROVAL OF THE HOUSE DESIGN AND MATERIALS MUST BE PROVIDED IN CONJUNCTION WITH THE BUILDING PERMIT REQUEST. HOMES ARE INTENDED TO BE CUSTOM HOMES, NOT SPEC HOMES UTILIZING THE SAME PLAN WITH MINOR DEVIATIONS.

**FLOOD HAZARD CERTIFICATION:**  
THIS SITE IS LOCATED IN A ZONE "C" AN AREA DETERMINED TO BE OUTSIDE THE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN ACCORDING TO THE FIRM (FLOOD INSURANCE RATE MAP) ISSUED BY THE FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) ON FLOOD INSURANCE RATE MAP 15022P-0008 C, WITH AN EFFECTIVE DATE OF FEBRUARY 18, 2005, IN WEST DES MOINES, IOWA, FOR WHICH THE COMMUNITY IN WHICH SAID PREMISES IS SITUATED.



VICINITY MAP  
SCALE: 1"=500'

| CURVE | LENGTH | RADIUS   | CHORD | BEARING     | DELTA     |
|-------|--------|----------|-------|-------------|-----------|
| C1    | 20.81  | 15.00    | 19.18 | S38°46'10"W | 11°30'20" |
| C2    | 25.17  | 1041.00  | 25.17 | N18°42'00"E | 1°30'20"  |
| C3    | 1.83   | 1041.00  | 1.83  | S77°58'59"W | 0°30'02"  |
| C4    | 19.26  | 1001.00  | 19.26 | N77°16'04"E | 1°30'00"  |
| C5    | 38.03  | 9001.00  | 38.03 | N75°34'54"E | 2°19'42"  |
| C6    | 27.53  | 15.00    | 23.80 | N62°48'19"W | 10°19'52" |
| C7    | 36.32  | 1036.09  | 36.31 | N75°49'37"E | 1°53'54"  |
| C8    | 18.58  | 1036.09  | 19.58 | N77°17'36"E | 1°19'24"  |
| C9    | 1.98   | 1135.00  | 1.98  | N77°50'59"E | 0°30'02"  |
| C10   | 81.62  | 11050.00 | 81.62 | N69°27'19"E | 3°30'58"  |
| C11   | 28.89  | 128.00   | 28.84 | N67°01'05"W | 12°02'10" |
| C12   | 21.38  | 15.00    | 19.00 | S28°45'33"W | 81°38'22" |
| C13   | 30.92  | 1001.00  | 30.92 | N68°40'11"E | 1°48'12"  |
| C14   | 47.78  | 1001.00  | 47.77 | N68°28'30"E | 2°44'05"  |
| C15   | 48.17  | 1001.00  | 48.16 | N68°40'18"E | 2°49'24"  |
| C16   | 47.78  | 1001.00  | 47.78 | N68°57'34"E | 2°46'02"  |
| C17   | 48.28  | 1001.00  | 48.28 | N68°14'05"E | 2°38'57"  |

| CURVE | LENGTH | RADIUS  | CHORD  | BEARING     | DELTA     |
|-------|--------|---------|--------|-------------|-----------|
| C18   | 28.08  | 15.00   | 22.90  | N73°19'27"W | 8°12'00"  |
| C19   | 30.92  | 122.00  | 30.84  | N18°17'35"W | 14°13'18" |
| C20   | 35.36  | 1036.09 | 35.36  | N68°47'13"E | 1°30'50"  |
| C21   | 52.42  | 1036.09 | 52.41  | N61°07'03"E | 2°44'48"  |
| C22   | 52.71  | 1036.09 | 52.70  | N63°45'04"E | 2°46'18"  |
| C23   | 52.27  | 1036.09 | 52.27  | N66°30'22"E | 2°43'57"  |
| C24   | 72.34  | 1036.09 | 72.32  | N69°45'48"E | 3°18'10"  |
| C25   | 61.82  | 178.00  | 61.51  | N18°58'54"W | 19°52'06" |
| C26   | 21.19  | 15.00   | 19.47  | S11°52'03"W | 60°55'58" |
| C27   | 29.98  | 1001.00 | 29.97  | N61°06'30"E | 1°42'57"  |
| C28   | 47.98  | 1001.00 | 47.97  | N68°53'29"E | 2°43'24"  |
| C29   | 44.80  | 1001.00 | 44.80  | N66°17'08"E | 2°33'11"  |
| C30   | 134.44 | 1001.00 | 134.34 | N41°09'06"E | 7°41'42"  |
| C31   | 54.44  | 70.00   | 53.08  | N62°02'47"W | 44°37'49" |
| C32   | 19.08  | 70.00   | 19.00  | N62°07'33"W | 19°39'48" |
| C33   | 24.38  | 128.16  | 24.35  | S84°29'12"W | 11°04'41" |
| C34   | 48.45  | 128.16  | 48.19  | S88°28'57"W | 21°05'48" |

**SURVEY LEGEND:**

- SECTION CORNER - FOUND AS NOTED
- PROPERTY CORNER - FOUND IRON PIPE WITH YELLOW PLASTIC CAP ID #14775
- PLAT CORNER - FOUND IRON PIPE WITH YELLOW PLASTIC CAP ID #14775
- PROPERTY CORNER - PLACED BY IRON PIPE WITH YELLOW PLASTIC CAP ID # 4776
- INDICATES STREET ADDRESS

**ABBREVIATIONS:**

- AC ACRES
- ASPH ASPHALT
- BR BOOK
- CONC CONCRETE
- D DECKED DISTANCE
- EX EXISTING
- ENCL ENCLOSURE
- FF FINISHED FLOOR
- FL FLOWLINE
- FRAC FRACTIONAL
- INW INVERT
- M MEASURED DISTANCE
- MH MANHOLE
- MPE MINIMUM PROTECTION ELEVATION
- OPC ORANGE PLASTIC CAP
- P PLATTED DISTANCE
- PAGE PAGE
- POB POINT OF BEGINNING
- POC POINT OF COMMENCEMENT
- PREVIOUSLY RECORDED AS PUBLIC UTILITY EASEMENT
- FLUE FLOWLINE
- ROW RIGHT OF WAY
- SF SQUARE FEET
- SAN SANITARY
- TYP TYPICAL
- YPC YELLOW PLASTIC CAP
- N NORTH
- S SOUTH
- E EAST
- W WEST

VILLAGE OF PONDEROSA PLAT 9  
WEST DES MOINES, IOWA

FINAL PLAT

**Bishop Engineering**  
"Training Your Successful Development"  
3501 704th Street  
Des Moines, Iowa 50322-3825  
Phone: (515) 276-0467 Fax: (515) 276-0417  
Civil Engineering & Land Surveying  
Established 1959

REFERENCE NUMBER:  
060420-34

DRAWN BY:  
JMR

CHECKED BY:  
JJ

REVISION DATE:  
151 PP 061 (09/1/10)  
REVISED (02/4/10)

PROJECT NUMBER:  
150283

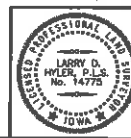
SHEET NUMBER:  
1 OF 2

9/24/2015 5:58:46 PM AKLAND PROJECTS 2018 RESUBMISSION FINAL PLAT TO COVER DING

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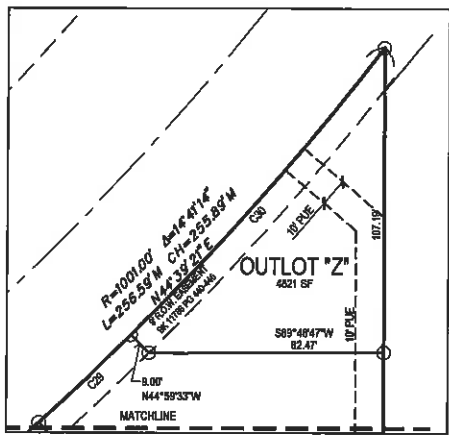
**UTILITY NOTE:**  
THE LOCATION OF THE UTILITIES INDICATED ON THE PLANS ARE TAKEN FROM EXISTING PUBLIC RECORDS AND ARE APPROXIMATE LOCATIONS. THE EXACT LOCATIONS OF ALL UTILITIES MUST BE ASCERTAINED IN THE FIELD. IT SHALL BE THE DUTY OF THE CONTRACTOR TO DETERMINE WHETHER ANY ADDITIONAL FACILITIES OTHER THAN THOSE SHOWN ON THE PLANS MAY BE PRESENT.



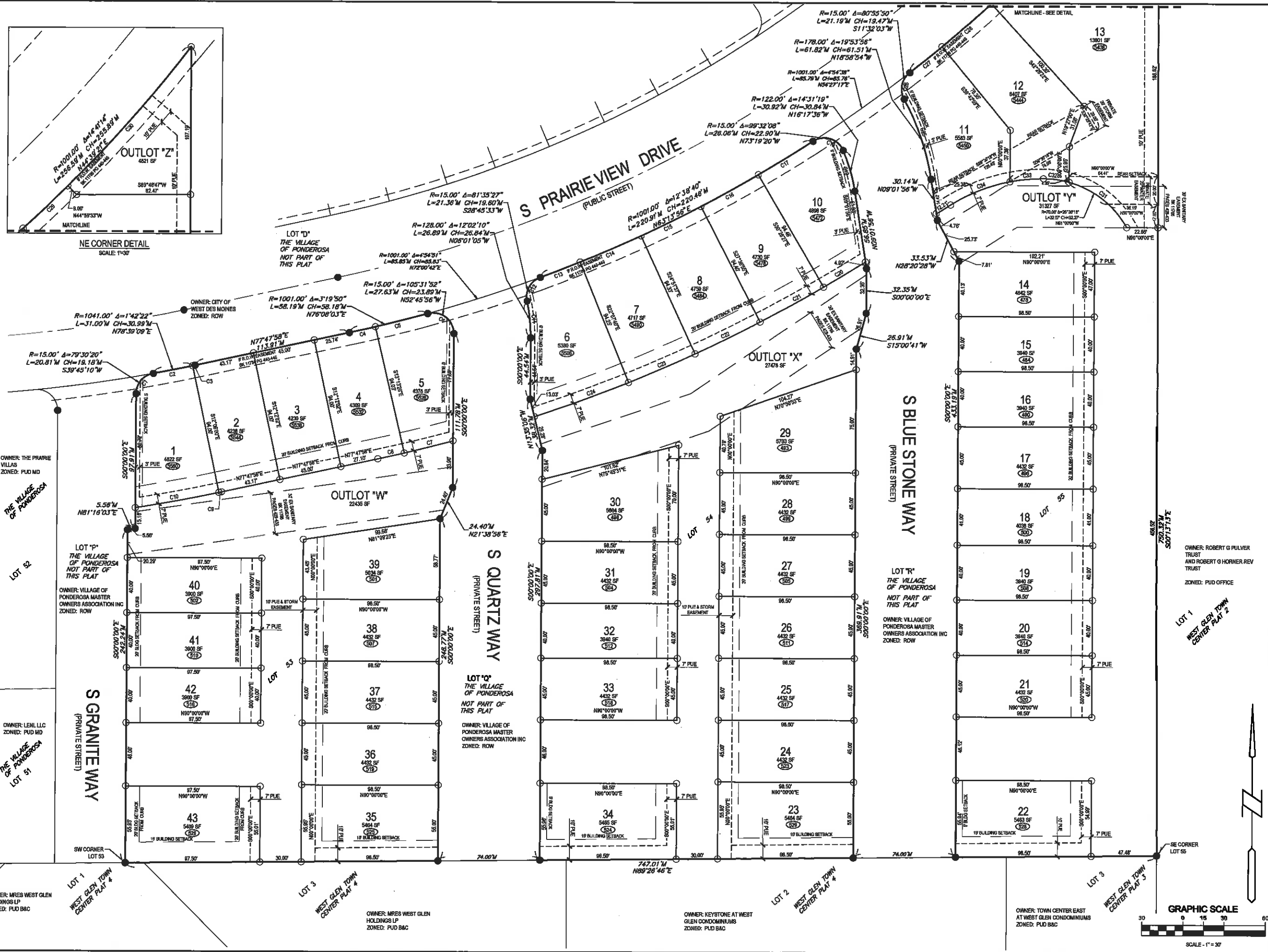
I HEREBY CERTIFY THAT THIS LAND SURVEYING DOCUMENT WAS PREPARED AND THE RELATED SURVEY WORK WAS PERFORMED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNED: LARRY D. HYLER, P.L.S., 14775 DATE: \_\_\_\_\_  
LICENSE RENEWAL DATE: DEC. 31, 2016  
PAGES OR SHEETS COVERED BY THIS SEAL: \_\_\_\_\_





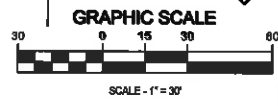
NE CORNER DETAIL  
SCALE: 1"=30'



**Bishop Engineering**  
 "Planning Your Successful Development"  
 3501 104th Street  
 Des Moines, Iowa 50322-3825  
 Phone: (515) 276-4467 Fax: (515) 276-0217  
 Established 1959  
 Civil Engineering & Land Surveying

**VILLAGE OF PONDEROSA PLAT 9  
 WEST DES MOINES, IOWA  
 FINAL PLAT**

|  |
|--|
| REFERENCE NUMBER:<br>060420-36                             |
| DRAWN BY:<br>JWR   |
| CHECKED BY:<br>JJ  |
| REVISION DATE:<br>1st FP SET (9/3/15)<br>REVISED (9/24/15) |
| PROJECT NUMBER:<br><b>150283</b>                           |
| SHEET NUMBER:<br><b>2 OF 2</b>                             |



92/2015 50758 FH MLAND PROJECTS 2015150283ORIGINAL PLAT 01 LAYOUTING

Prepared by: B. Portz, City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING AND RELEASING THE FINAL PLAT, VILLAGE OF PONDEROSA PLAT 9 (FP-002840-2015) FOR THE PURPOSE OF CREATING FORTY THREE (43) LOTS FOR RESIDENTIAL DEVELOPMENT**

WHEREAS, pursuant to the provisions of Title 10, Subdivision Regulations and Title 9, Zoning Chapter 1 et seq, of the West Des Moines Municipal Code, Grayhawk Homes of Iowa, Inc., has requested approval for a Final Plat (FP-002840-2015) for that approximately 6.78 acre site located at the southeast corner of Bluestem Circle and S. Prairie View Drive within the Village of Ponderosa development and legally described below for the purpose of subdividing the property into 43 lots for residential development, 3 outlots for private roadways, and 1 outlot for common ground;

**Legal Description**

LOTS 53, 54, & 55, THE VILLAGE OF PONDEROSA, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA. SAID PARCEL CONTAINING APPROXIMATELY 6.78 ACRES

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, the West Des Moines Plan and Zoning Commission has reviewed the Preliminary Plat for Village of Ponderosa Plat 9 and recommended approval on September 14, 2015, and;

**WHEREAS**, the Final Plat that was submitted for review was determined to be generally consistent with the Preliminary Plat for Village of Ponderosa Plat 9 that was reviewed and approved by the City Council on September 21, 2015, and;

**WHEREAS**, on October 5, 2015, this City Council held a duly-noticed meeting to consider the application for Final Plat (FP-002840-2015) and;

**WHEREAS**, the West Des Moines City Council adopted a resolution which approved the Final Plat for Village of Ponderosa Plat 9 at their meeting on October 5, 2015, subject to any conditions of approval, and;

**WHEREAS**, the necessary public easements have previously been established for sanitary sewer, and;

**WHEREAS**, the City Council approves of the following address assignments;

Lot 1 = 5560 S. Prairie View Drive  
Lot 2 = 5544 S. Prairie View Drive



Lot 3 = 5538 S. Prairie View Drive  
Lot 4 = 5532 S. Prairie View Drive  
Lot 5 = 5526 S. Prairie View Drive  
Lot 6 = 5508 S. Prairie View Drive  
Lot 7 = 5490 S. Prairie View Drive  
Lot 8 = 5484 S. Prairie View Drive  
Lot 9 = 5478 S. Prairie View Drive  
Lot 10 = 5472 S. Prairie View Drive  
Lot 11 = 5450 S. Prairie View Drive  
Lot 12 = 5444 S. Prairie View Drive  
Lot 13 = 5438 S. Prairie View Drive  
Lot 14 = 478 S. Bluestone Way  
Lot 15 = 484 S. Bluestone Way  
Lot 16 = 490 S. Bluestone Way  
Lot 17 = 496 S. Bluestone Way  
Lot 18 = 500 S. Bluestone Way  
Lot 19 = 508 S. Bluestone Way  
Lot 20 = 514 S. Bluestone Way  
Lot 21 = 520 S. Bluestone Way  
Lot 22 = 528 S. Bluestone Way  
Lot 23 = 529 S. Bluestone Way  
Lot 24 = 523 S. Bluestone Way  
Lot 25 = 517 S. Bluestone Way  
Lot 26 = 511 S. Bluestone Way  
Lot 27 = 505 S. Bluestone Way  
Lot 28 = 499 S. Bluestone Way  
Lot 29 = 493 S. Bluestone Way  
Lot 30 = 498 S. Quartz Way  
Lot 31 = 504 S. Quartz Way  
Lot 32 = 512 S. Quartz Way  
Lot 33 = 518 S. Quartz Way  
Lot 34 = 524 S. Quartz Way  
Lot 35 = 525 S. Quartz Way  
Lot 36 = 519 S. Quartz Way  
Lot 37 = 515 S. Quartz Way  
Lot 38 = 507 S. Quartz Way  
Lot 39 = 501 S. Quartz Way  
Lot 40 = 502 S. Granite Way  
Lot 41 = 510 S. Granite Way  
Lot 42 = 516 S. Granite Way  
Lot 43 = 526 S. Granite Way

**WHEREAS**, Village of Ponderosa Plat 9 is zoned Village of Ponderosa Planned Unit Development (PUD) and meets all requirements of the City's Zoning Code.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings of consistency with the Comprehensive Plan as stated in the staff report, dated October 5, 2015, or as amended orally at the City Council meeting of October 5, 2015, are adopted.

**SECTION 2.** Final Plat, Village of Ponderosa Plat 9 (FP-002840-2015) is approved, subject to compliance with all the conditions in the staff report, dated October 5, 2015, including conditions added at the meeting, if any, and attached hereto as Exhibit "A". Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

**SECTION3.** This resolution does release the Final Plat (FP-002840-2015) for recordation. The City Council of West Des Moines, Iowa directs the City Clerk to release said plat for recordation in accordance with said City Council approval of the final plat on October 5, 2015 and Roll Call No. \_\_\_\_\_.

**CERTIFICATE**

I, Ryan T. Jacobson, City Clerk for said City, hereby certify that at a meeting of the City Council of said City of West Des Moines, held on October 5, 2015, among other proceedings, Roll Call No. \_\_\_\_\_ approved said plat on October 5, 2015, and released said Final Plat for recordation.

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of October, 2015.

\_\_\_\_\_  
Steven K Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

**EXHIBIT A:  
CONDITIONS OF APPROVAL**

1. No conditions of approval.

CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION

DATE: October 5, 2014

**ITEM:** Whisper Rock at Quail Cove, north of Cherrywood Drive, east of I-35, and west of S. 50th Place – Subdivide property into 18 lots for single family development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention– Prairie Building and Development LLC – PP-002702-2015

**RESOLUTION:** Approval of a Preliminary Plat

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** David Albright, Prairie Building and Development, is requesting approval of a Preliminary Plat for that approximately 10.42 acre parcel located north of Cherrywood Drive, east of I-35, and west of S. 50<sup>th</sup> Place. The applicant proposes to subdivide the property into 18 lots for single family development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention (see Exhibit I - Attachment B – Location Map and Attachment C – Preliminary Plat).

Plan and Zoning Commission Action:

Vote: 7-0 approval

Date: September 28, 2015

Motion: Adopt a resolution recommending the City Council approve the Preliminary Plat request.

**OUTSTANDING ISSUES:** There are no outstanding issues. The applicant is in agreement with the recommended conditions of approval.

The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Applicant’s Request
- History
- City Council Subcommittee – *Development and Planning (May 7, 2015)*
- Staff Review and Comments
  - Topography and Previous Approvals
  - Fence in Lieu of Required Buffer
  - Waiver of Buffer for Double Frontage Lots 4-8
- Comprehensive Plan Consistency
- Findings
- Staff Recommendation and Conditions of Approval
- Owner/Applicant/Applicant Representative Information

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council adopt a resolution to approve the Preliminary Plat to subdivide the property into 18 lots for single family development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention, subject to the applicant meeting all City Code requirements and the following:

1. That the City Council accept a fence in lieu of a buffer along I-35 for lots 2, 3, and 13.
2. That the City Council waive the buffer requirement for double frontage lots for lots 4-8.

Lead Staff Member: Kara Tragesser, AICP 

**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    |  |
| Appropriations/Finance |   |
| Legal                  |   |
| Agenda Acceptance      |   |

 for Rg

**PUBLICATION(S) (if applicable)**

|  |     |
|--|-----|
| Published In                               | N/A |
| Date(s) Published                          |     |
| Letter sent to surrounding property owners |     |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning Subcommittee     |                             |                                |
| Date Reviewed  | May 7, 2015                             |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**


- Exhibit I
  - Plan and Zoning Commission Communication
  - Attachment A - Plan and Zoning Commission Resolution
  - Attachment B - Location Map
  - Attachment C - Preliminary Plat
- Exhibit II
  - City Council Resolution

**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** September 28, 2015

**Item:** Whisper Rock at Quail Cove, north of Cherrywood Drive, east of I-35, and west of S. 50<sup>th</sup> Place – Subdivide property into 18 lots for single family development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention– Prairie Building and Development LLC – PP-002702-2015

**Requested Action:** Approval of Preliminary Plat

**Case Advisor:** Kara Tragesser, AICP 

**Applicant's Request:** David Albright, Prairie Building and Development, is requesting approval of a preliminary Plat for that approximately 10.42 acre parcel located north of Cherrywood Drive, east of I-35, and west of S. 50<sup>th</sup> Place. The applicant proposes to subdivide the property into 18 lots for single family development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention (see Attachment B – Location Map and Attachment C – Preliminary Plat/Site Plan).

**History:** This property currently is undeveloped. In 2004, a site plan for 5 condominiums was approved for the site, but never constructed. In 2006, a major modification was approved to construct 27 detached townhomes. After that approval the developer ceased operations and the project was not constructed. On May 5, 2015, the City Council approved a preliminary plat and site plan to construct 22 detached townhomes. That project was not constructed. On June 29, 2015, the City Council approved a rezoning request to change from Residential Medium Density (RM-8) to Single Family Residential (R-1). On August 17, 2015, the Plan & Zoning Commission approved a grading plan to grade the site for single family development.

**City Council Subcommittee:** This item was presented to the Development and Planning City Council Subcommittee on May 7, 2015; the Subcommittee was supportive of the development.

**Staff Review and Comment:** This request was distributed to various City departments and outside agencies for their review and comment. Staff notes the following:

**Topography and previous approvals:** This property is subject to challenging topography as it falls towards the east and the north. Previous approvals of site plans and plats have allowed previous owners to grade the property in preparation for townhome development. The current project seeks to utilize the previous grading for the private streets and for full depth lots for single family development.

**Fence in Lieu of Required buffer:** City Code provides for a 30 foot buffer for property adjacent to the interstate. For Lots 2, 3, and 13, this 30 foot buffer appears to put an undue burden on the property such that the buildable area of the lots may not be comparable to the majority of lots in the development. Staff recommends to the City Council that a fence be required along the property line adjacent to the interstate in lieu of the 30 foot buffer for lots 2, 3, and 13. The 30 foot buffer with required landscaping still is being recommended for Outlot U adjacent to the interstate.

**Waiver of Buffer for Double Frontage Lots 4-8:** City Code provides for a 30 foot buffer along the rear yards of double fronted lots (lots with streets along the front and rear of the lots) to buffer the rear yards from traffic. For this development, lots 4-8 have rear yards that abut a private cul-de-sac. The property falls quickly towards the east and has been graded such to create a terraced effect with the two private streets. Lots 4-8 will front on the western street, Whisper Rock Court, and will walk out towards the rear yards on the east along Martin Point.

Also, Martin Point is a private cul-de-sac which will have five residences. The buffers are intended to buffer the noise and visual effects of traffic on streets. Five residences on a cul-de-sac are not expected to generate the traffic that a through street is expected to generate. With the location of the streets determined by previous grading and located as illustrated, the depth of the lots between the two cul-de-sacs is such that applying the front yard setback, the buffer and the rear yard setback as measured from the inside buffer line, appears to burden the lots to the point where the buildable

area of these lots appears to be smaller than the other lots in the development. Staff recommends that the City Council waive the buffer along the rear lot line for double frontage lots for lots 4-8.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**Findings:** This proposed project was distributed to various city departments for review and comment. Based upon that review, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare and safety of the community.
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the zoning designation and Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

**Staff Recommendation And Conditions Of Approval:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending the City Council approve the Preliminary Plat to create 18 lots for single family residential development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention subject to the applicant meeting all City Code requirements and the following:

1. That the City Council accept a fence in lieu of a buffer along I-35 for lots 2, 3, and 13.
2. That the City Council waive the buffer requirement for double frontage lots for lots 4-8.

**Owner/Applicant:** Prairie Building and Development  
12119 Stratford Drive  
Clive IA 50325  
David Albright  
515-360-5063

**Applicant Rep:** Same as Owner

**ATTACHMENTS:**

|              |   |                                       |
|--------------|---|---------------------------------------|
| Attachment A | + | Plan and Zoning Commission Resolution |
| Attachment B | - | Location Map                          |
| Attachment C | + | Preliminary Plat                      |

## RESOLUTION NO. PZC-15-075

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE A PRELIMINARY PLAT TO SUBDIVIDE PROPERTY INTO 18 LOTS FOR SINGLE FAMILY RESIDENTIAL DEVELOPMENT, ONE OUTLOT FOR DEDICATION TO THE CITY FOR PARKLAND, THREE OUTLOTS FOR COMMON SPACE, AND ONE OUTLOT FOR STORM WATER DETENTION**

**WHEREAS**, pursuant to the provisions of Title 10, Chapter 1 et seq. of the West Des Moines Municipal Code, the applicant, Prairie Building and Development, has requested approval for a Preliminary Plat (PP-002702-2015) to subdivide the 10.42 acre property located north of Cherrywood Drive, east of I-35, and west of South 50<sup>th</sup> Place into 18 lots for single family development, one outlot for dedication to the city for parkland, three outlots for common space, and one outlot for storm water detention.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, this Commission held a duly-noticed public hearing to consider the application for a Whisper Rock at Quail Cove Preliminary Plat;

**NOW, THEREFORE, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, for approval, in the staff report or as amended orally at the Plan and Zoning Commission hearing are adopted.

**SECTION 2.** Preliminary Plat (PP-002702-2015) to create 18 lots for single family residential development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report including conditions added at the Hearing, and attached hereto as Exhibit "A." Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on September 28, 2015.

  
 Craig Erickson, Chairperson  
 Plan and Zoning Commission

ATTEST:

  
 Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015, by the following vote:

AYES: Andersen, Brown, Costa, Crowley, Erickson, Hatfield, Southworth

NAYS: -0-

ABSTENTIONS: -0-

ABSENT: -0-

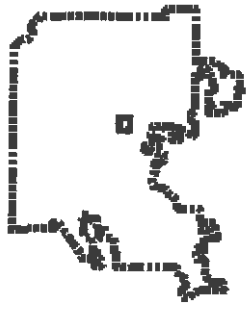
ATTEST:

  
 Recording Secretary



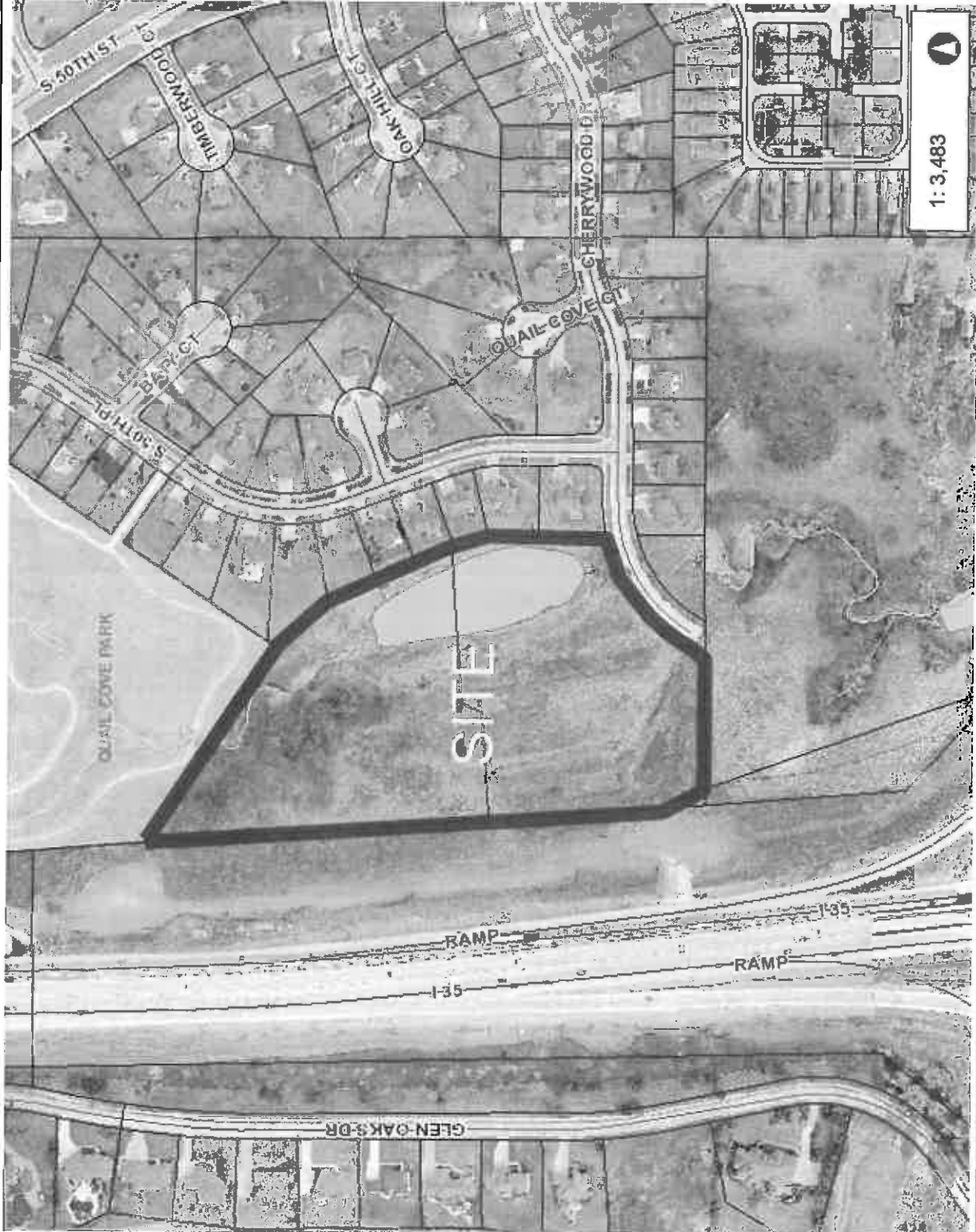
**Exhibit A**  
**CONDITIONS OF APPROVAL**

1. That the City Council accept a fence in lieu of a buffer along I-35 for lots 2, 3, and 13.
2. That the City Council waive the buffer requirement for double frontage lots for lots 4-8.



- Legend**
- Parcels
  - Parks
  - Greenways

# Whisper Rock at Quail Cove



1:3,483



Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

580.6  
0  
290.28  
580.6 Feet

NAD\_1983\_StatePlane\_Iowa\_South\_FIPS\_1402\_Feet  
© City of West Des Moines, Iowa

# WHISPER ROCK AT QUAIL COVE

Sheet 1 of 5

**OWNER/APPLICANT**  
 PRAIRIE BUILDING & DEVELOPMENT, LLC  
 1214 STRATFORD DRIVE  
 CLIVE, IOWA 50825

**LEGAL DESCRIPTION**  
 LOT 30, QUAIL COVE PLAT I, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, POLK COUNTY, IOWA.  
 EXCEPT 0.036 ACRES OF D.O.T. RIGHT-OF-WAY RECORDED IN BOOK 19581, PAGE 26 IN THE POLK COUNTY RECORDER'S OFFICE, POLK COUNTY, IOWA.

SAID TRACT OF LAND CONTAINS 10.422 ACRES MORE OR LESS.

**SITE AREAS**

|              |                     |                  |
|--------------|---------------------|------------------|
| BUILDINGS    | 43,020 S.F.         | 9.5%             |
| PAVING       | 42,710 S.F.         | 9.4%             |
| SIDWALK      | 5,565 S.F.          | 1.2%             |
| OPEN SPACE   | 362,694 S.F.        | 79.9% (25% REQ.) |
| <b>TOTAL</b> | <b>453,989 S.F.</b> | <b>100%</b>      |

**FIRM MAP DESIGNATION**  
 THIS SITE IS WITHIN ZONE 'X' (AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN) AS REFERENCED ON FLOOD INSURANCE RATE MAP (FIRM), MAP NO. 190251 0015 C, MAP REVISED FEBRUARY 16, 2006.

**BENCHMARK**  
 BM 18041  
 Intersection of Grand Avenue and Booneville Road, Southeast corner of intersection, 71.5 feet South of the centerline of Grand Avenue, 372 feet East of the centerline of Booneville Road. Standard Benchmark.

WDM DATUM - 56.57 feet  
 NAVD83 - 830.58 feet

BM 18042  
 4000 Block of Commerce Drive, 20 feet North of the centerline of Commerce Drive, 18 feet West of the centerline of concrete entrance to 4025 Commerce Drive. Standard Benchmark.

WDM DATUM - 60.97 feet  
 NAVD83 - 842.98 feet

**LEGEND**

EXISTING/PROPOSED

- PLAT BOUNDARY
- ST<sup>1/2"</sup> STORM SEWER & SIZE
- SAN<sup>1/2"</sup> SANITARY SEWER & SIZE
- W<sup>1/2"</sup> WATER MAIN & SIZE
- MANHOLE
- STORM INTAKE
- FIRE HYDRANT VALVE
- F.E.S.
- EXISTING CONTOURS
- PROPOSED CONTOURS
- SILT FENCE OR APPROVED FILTRATION SOCK

**CERTIFICATION**

I HEREBY CERTIFY THAT THIS ENGINEERING DOCUMENT HAS BEEN PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.

BRADLEY R. COOPER, IOWA LICENSE NO. 12980  
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2015  
 PAGES OR SHEETS COVERED BY THIS SEAL: Sheets 1-5

**COOPER CRAWFORD & ASSOCIATES, L.L.C.**  
 CIVIL ENGINEERS

475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
 PHONE: (515) 224-1344 FAX: (515) 224-1345

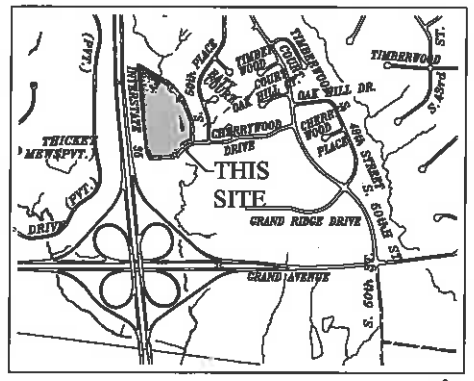
DATE: 4-27-2015  
 REVISIONS: 9-11-2015

JOB NUMBER  
**CC 1498**

APPROVED: \_\_\_\_\_ INITIALS: \_\_\_\_\_ AS-BUILT: \_\_\_\_\_

**DIMENSION PLAN**  
 WHISPER ROCK AT QUAIL COVE

SHEET 1 OF 5



**VICINITY SKETCH**  
**COMPREHENSIVE PLAN**  
 MEDIUM DENSITY RESIDENTIAL  
**LAND USE**  
 MEDIUM DENSITY RESIDENTIAL  
**LAND USE DENSITY**  
 EXISTING: VACANT  
 PROPOSED: 1.75 UNITS/ACRE  
**ZONING**  
 R-1 SINGLE FAMILY  
**SETBACKS**  
 FRONT-30' (FROM CURB/SIDEWALK TO FACE OF GARAGE)  
 REAR-35' (TO PLAT BOUNDARY)  
 SIDE- MIN 7' TOTAL 15'

**PIPELINE NOTES**

- CONCRETE DRIVES, SIDEWALKS, AND ROADS REQUIRE A MINIMUM OF 5-1/2 FEET OF COVER OVER BETWEEN THE BOTTOM OF THE INSTALLATIONS AND THE TOP OF THE PIPELINE.
- WILL BROWN W/ BUCKEYE PARTNERS LP CONTROL CENTER (1-800-331-4155) AND IOWA ONE-CALL (1-800-242-8984) MUST BE CONTACTED AT LEAST 48 HOURS PRIOR TO ANY CONSTRUCTION NEAR THE PIPELINE.

**GENERAL NOTES**

- PROPOSED R.O.W. & PAVING WIDTH MAY VARY, DEPENDING ON FINAL TRAFFIC REPORT.
- SITE WILL BE GRADED TO BALANCE.
- ALL CONSTRUCTION WITHIN PUBLIC R.O.W./EASEMENTS, AND/OR ANY CONNECTION TO PUBLIC SEWERS AND STREETS, SHALL COMPLY WITH THE WEST DES MOINES STANDARD CONSTRUCTION SPECIFICATIONS FOR SUBDIVISIONS, DSM METRO DESIGN STANDARDS AND WDM APPENDICES.
- AT LEAST ONE WEEK PRIOR TO ANY CONSTRUCTION WITHIN PUBLIC R.O.W./EASEMENTS AND/OR ANY CONNECTION TO PUBLIC SEWERS AND STREETS, THE CONTRACTOR SHALL CONTACT THE WDM CONSTRUCTION DIVISION 'CLINT CARPENTER' (222-3480) TO OBTAIN APPLICABLE CITY PERMITS THAT MAY BE NECESSARY.
- PRIOR TO CONSTRUCTION OF ANY PUBLIC IMPROVEMENTS ASSOCIATED WITH THIS SUBDIVISION, CONSTRUCTION PLANS FOR SAID IMPROVEMENTS NEED TO BE SUBMITTED TO AND APPROVED BY THE CITY ENGINEER.
- LOTS 10-13 WILL NEED TO HAVE FIRE SPRINKLER SYSTEM.
- OUTLOTS 'U', 'W', 'X', AND 'Z' WILL BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.

**IMPERVIOUS AREA**  
 91,296 S.F. TOTAL IMPERVIOUS AREA (20.1% OF SITE)

**BUFFER PARKS**  
 30' BUFFER PARK (PER WEST DES MOINES ZONING ORDINANCE)

**PARKING REQUIREMENT**  
 REQUIRED:  
 2 SPACES PER DWELLING UNIT = 36 SPACES

PROPOSED:  
 36 GARAGE SPACES  
 36 DRIVEWAY SPACES  
 72 TOTAL SPACES

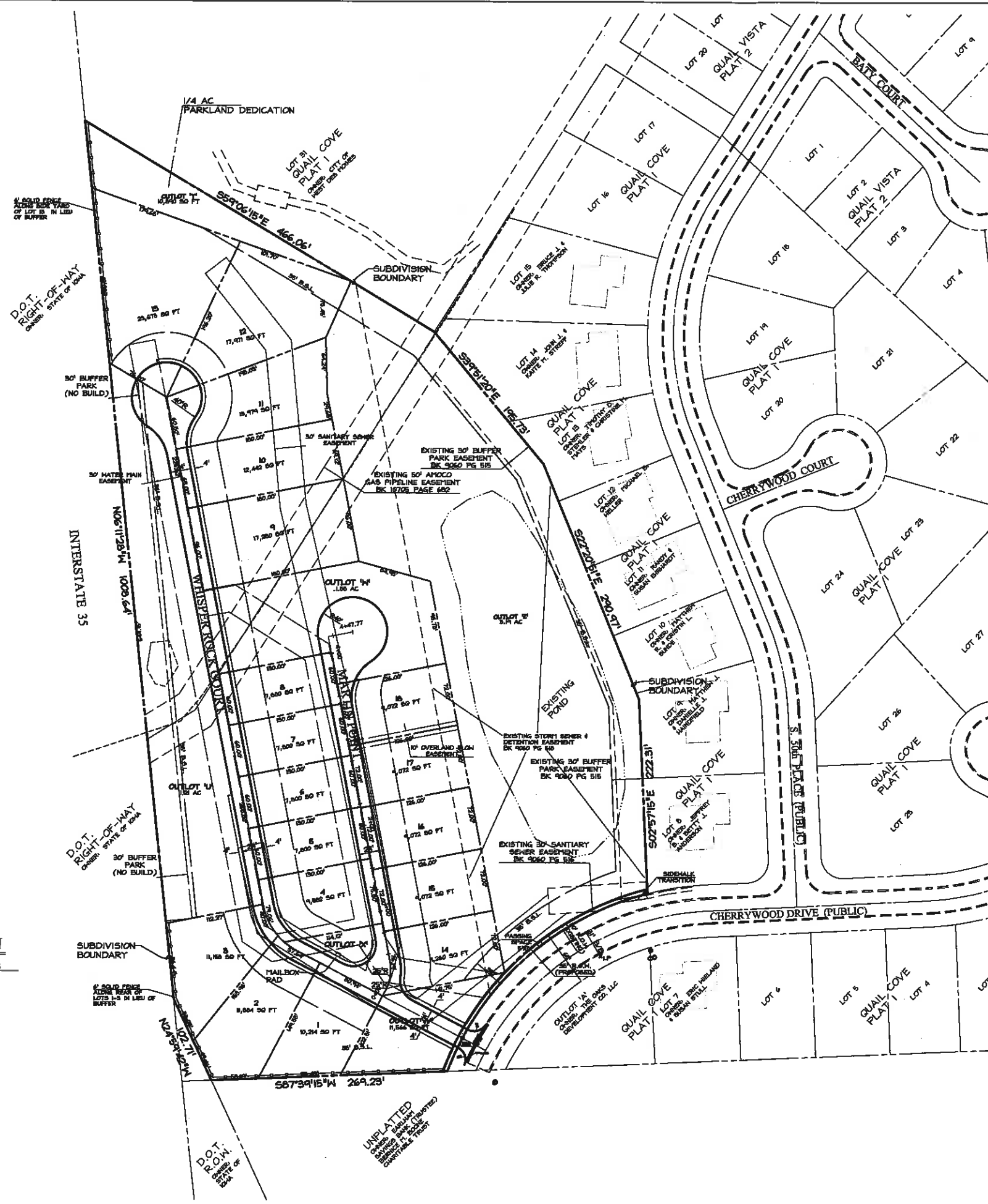
**DWELLING UNIT TYPE**  
 (1B) RANCH AND 2 STORY DETACHED DWELLING UNITS W/ FULL BASEMENTS. 1,413 S.F. - 1,760 S.F. UNITS.

**UTILITIES**  
 WATER SERVICE - WEST DES MOINES WATER WORKS  
 SANITARY SERVICE - CITY OF WEST DES MOINES SANITARY SEWER SYSTEM

**SHEET INDEX**

|         |                |
|---------|----------------|
| SHEET 1 | DIMENSION PLAN |
| SHEET 2 | GRADING PLAN   |
| SHEET 3 | UTILITY PLAN   |
| SHEET 4 | LANDSCAPE PLAN |
| SHEET 5 | DETAILS        |

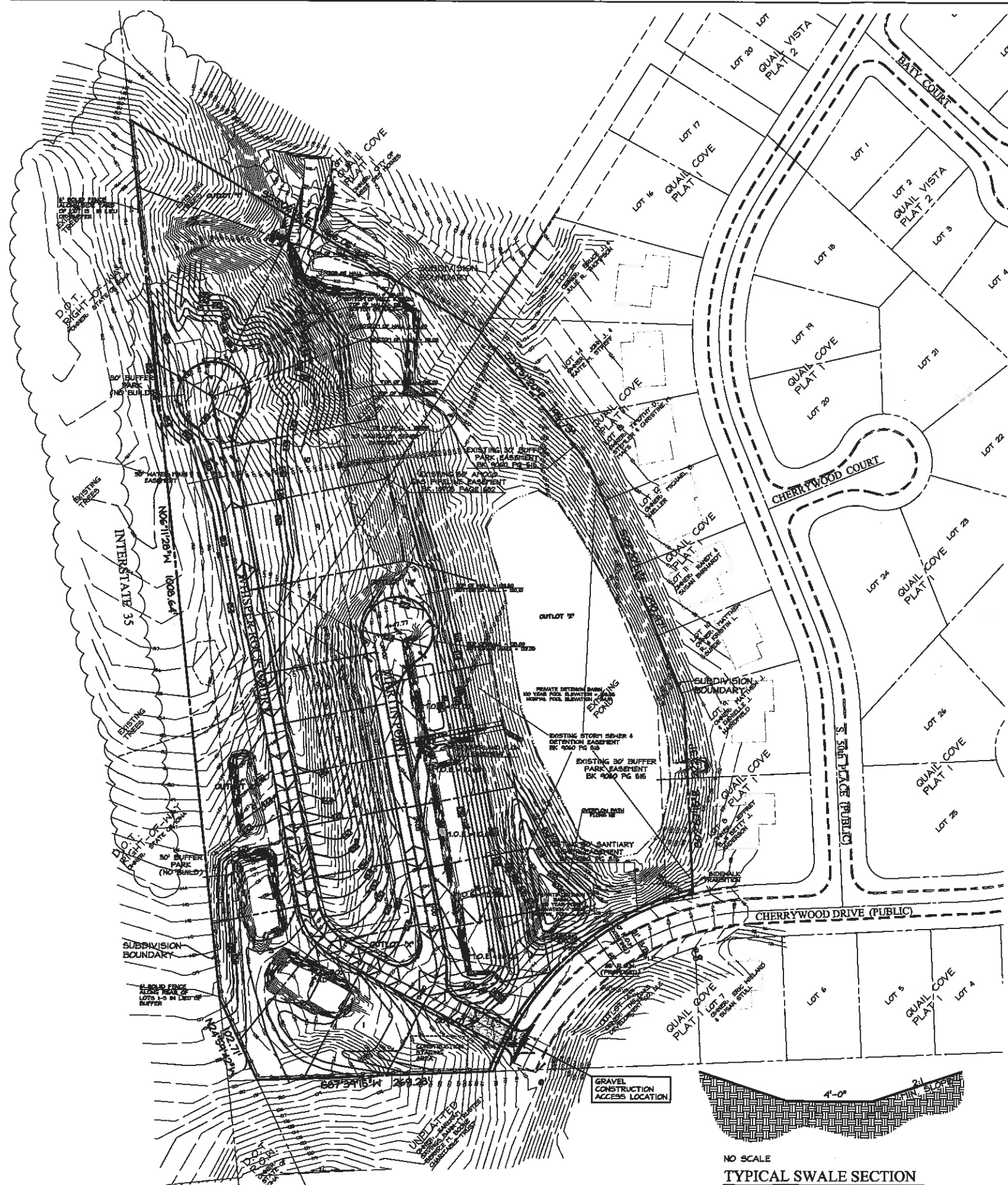
**IOWA ONE-CALL**  
 800-252-8879  
 CALL BEFORE YOU DIG



**LOT INFORMATION**

| #  | AREA (SF) | ADDRESS |
|----|-----------|---------|
| 1  | 10,214.00 | 1731    |
| 2  | 11,554.00 | 1727    |
| 3  | 11,158.00 | 1723    |
| 4  | 9,582.00  | 1720    |
| 5  | 7,800.00  | 1716    |
| 6  | 7,800.00  | 1712    |
| 7  | 7,800.00  | 1708    |
| 8  | 7,800.00  | 1704    |
| 9  | 17,280.00 | 1652    |
| 10 | 12,442.00 | 1640    |
| 11 | 13,979.00 | 1628    |
| 12 | 17,971.00 | 1616    |
| 13 | 23,675.00 | 1604    |
| 14 | 9,260.00  | 1726    |
| 15 | 9,072.00  | 1722    |
| 16 | 9,072.00  | 1718    |
| 17 | 9,072.00  | 1714    |
| 18 | 9,072.00  | 1710    |

UNPLATTED  
 LOTS 1-30  
 PLATTED BY [Name]  
 1/15/15



**STORM WATER POLLUTION PREVENTION PLAN**

**SITE DESCRIPTION**  
 Location: Part of Sec. 8, T70N, R26W, M30E, Moine of Commerce Activity, Single family residential  
 Area: Total site area = 10.4 acres  
 Site area affected = 6.5 acres  
 Runoff coefficient = 0.40 (national method)  
 Approximate slopes articulated 5:1, or flatter.  
 Runoff from this project will flow into unsewered ditches and easements which will flow into the South River.

- CONTROLS**
- Erosion and sediment controls
    - Stabilization practices
    - Existing vegetation is preserved whenever possible.
    - Permanent seeding and/or sodding.
  - Structural practices
    - Silt fences
    - Drainage easements
    - Rock outlet protection (riprap)
  - Storm water management
    - Infiltration of runoff onsite.
    - Velocity dissipation devices at discharge locations to provide non-erosive velocity flows.
  - Waste disposal
    - All building material wastes must be removed from the site.
    - Off-site vehicle tracking of sediments shall be minimized.

**MAINTENANCE**  
 Maintain effective operating conditions of all protective measures identified in this plan.  
 - Silt fences is cleaned when they have lost 50% of their capacity.  
 - Drainage easements remain undisturbed.  
 - Rock outlet protection (riprap) remains intact.

- INSPECTIONS**  
 Qualified personnel shall inspect disturbed areas of the construction site that have not been finally stabilized at least once every seven calendar days and within 24 hours of the end of a storm that is 0.5 inches or greater.  
 - Inspect site for evidence of, or the potential of, pollutants entering the drainage system from stored materials.  
 - Observe erosion and sediment controls to ensure that they are operating correctly.  
 - Locations where vehicles enter or exit the site shall be inspected for evidence of off-site sediment tracking.  
 - Inspect discharge locations to ascertain whether erosion control measures are effective in preventing significant impacts to receiving waters.  
 - Any modifications to the plan as a result of an inspection shall be implemented within 7 calendar days of the inspection.  
 - An inspection report shall be prepared and retained as part of the prevention plan until project termination, this report will contain the following:  
 - A summary of the scope of the inspection.  
 - Qualifications of the personnel making the inspection.  
 - Major observations relating to the implementation of the prevention plan.  
 - Any actions taken.  
 - Signature.

**NON-STORM WATER DISCHARGES**  
 Water main flushing  
 - Flushed water will be discharged into the storm sewer system where, when discharged, it will undergo erosion and sediment controls consisting of:  
 - Rock outlet protection (riprap).  
 - Silt fencing.  
 - Existing vegetation.

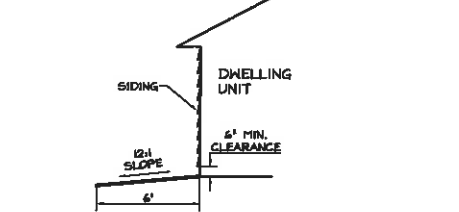
**CONTRACTORS**  
 The grading contractor shall have the responsibility of implementing the measures contained in this plan.  
 - All contractors and subcontractors shall sign a certification statement before conducting any professional service at the site relating to the National Pollutant Discharge Elimination System (NPDES) permit.

**GRADING & EROSION CONTROL CONTACT PERSON**

PEZZETTI  
 BRENT CAMBRIDGE  
 (515) 208-1474

**SEEDING / MULCHING TABLE**

- TEMPORARY**  
 A. OATS, 50 LBS. PER ACRE. PLANT MARCH 1 TO APRIL 30.  
 B. SUDAN GRASS, 40 LBS. PER ACRE. PLANT MAY 1 TO AUGUST 10.  
 C. WINTER RYE, 100 LBS. PER ACRE. PLANT AUG. 10 TO SEPT. 30.
- PERMANENT**  
 40 LBS./ACRE KENTUCKY BLUEGRASS CULTIVAR  
 40 LBS./ACRE KENTUCKY BLUEGRASS CULTIVAR (NOT SAME AS ABOVE)  
 40 LBS./ACRE KENTUCKY BLUEGRASS CULTIVAR (NOT SAME AS ABOVE)  
 10 LBS./ACRE CREeping RED FESCUE  
 10 LBS./ACRE CERTIFIED PERENNIAL RYEGRASS CULTIVAR  
 10 LBS./ACRE CERTIFIED PERENNIAL RYEGRASS CULTIVAR (NOT SAME AS ABOVE)
1. PRIOR TO SEEDING, DETERMINE IF LIME AND FERTILIZER ARE NEEDED. IF NEEDED 2000 LBS. ECCE LIME/ACRE; 100 LBS. NITROGEN/ACRE; 50 LBS. POTASH/ACRE; LIME AND FERTILIZER WILL BE INCORPORATED INTO TOP 3 INCHES OF SEEDBED MULCH.
  2. PRIOR TO SEEDING AND MULCHING, THE SEEDBED WILL BE REASONABLY FINE SMOOTH AND FREE OF RILLS AND GULLIES.
  3. IF THE SEED IS BROADCAST, THE SOIL WILL BE CULTIPACKED IMMEDIATELY PRIOR TO AND IMMEDIATELY FOLLOWING SEEDING. IF THE SEED IS DRILLED, AND THE DRILL HAS NO PRESS WHEELS, THE SEEDBED WILL BE FIRMed WITH A CULTIPACKER IMMEDIATELY PRIOR TO AND IMMEDIATELY FOLLOWING THE DRILL.
  4. DRY STRAW OR HAY, 2 TONS PER ACRE. ANCHOR STRAW WITH MUCK TALKER OR ASPHALT TACT @ 1000 PER ACRE.
  5. WOOD CHIPS OR BARK, 10-12 TONS PER ACRE.



NO SCALE  
**TYPICAL SWALE SECTION**  
 NO SCALE

**PRELIMINARY PLAT/SITE PLAN**  
**WHISPER ROCK AT QUAIL COVE**

Sheet 2 of 5

**NOTES**

1. ALL WATER WORK, PUBLIC OR PRIVATE, SHALL BE DONE IN ACCORDANCE WITH WEST DES MOINES WATER WORKS STANDARD SPECIFICATIONS.
2. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS AT LEAST ONE WEEK PRIOR TO BUILDING CONSTRUCTION.
3. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION OF WORK OF ALL SUBCONTRACTOR(S) INVOLVED IN THE PROJECT.
4. CONTACT BUILDING INSPECTION (515-222-3630) A MINIMUM OF 24 HOURS IN ADVANCE FOR PRIVATE UTILITY INSTALLATION INSPECTIONS.
5. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THE WEST DES MOINES WATER WORKS AND THE CITY'S CROSS CONNECTION CONTROL/CONTAINMENT PROVISION.
6. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROPER INSTALLATION OF AN APPROVED BACKFLOW PREVENTION ASSEMBLY(IES) FOR CONTAINMENT IN ALL NEW CONSTRUCTION. BACKFLOW PREVENTION TO BE INSTALLED PER CITY ORDINANCE 1297, 54-1998. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS, RALPH RENTERIA, ENGINEERING TECHNICIAN (515-222-3465) A MINIMUM OF 24 HOURS AFTER INSTALLATION AND TESTING OF ALL BACKFLOW DEVICES TO SCHEDULE FINAL INSPECTION.
7. DESIGNATED BUFFERS SHALL BE LABELED AS A "NO BUILD AREA".
8. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS 48 HOURS BEFORE CONSTRUCTION BEGINS BY CALLING 222-3465.
9. PAVEMENT REMOVAL FOR PRIVATE DRIVEWAY CONNECTION TO PUBLIC STREET SHALL BE TO NEAREST LONGITUDINAL JOINT APPROXIMATELY 3 FEET FROM THE BACK OF CURB AND THE NEAREST TRANSVERSE JOINT AT THE END OF RADIUS; VERIFY REMOVAL LIMITS WITH WDM CONSTRUCTION INSPECTOR PRIOR TO ANY REMOVAL.

**BENCHMARK**

**BM #041**  
 Intersection of Grand Avenue and Booneville Road, Southeast corner of intersection, 71.5 feet South of the centerline of Grand Avenue, 372 feet East of the centerline of Booneville Road. Standard Benchmark.  
 WDM DATUM - 56.57 feet  
 NAVD83 - 830.58 feet

**BM #042**  
 4000 Block of Commerce Drive, 20 feet North of the centerline of Commerce Drive, 15 feet West of the centerline of concrete entrance to 4025 Commerce Drive. Standard Benchmark.  
 WDM DATUM - 66.97 feet  
 NAVD83 - 842.98 feet

**LEGEND**

- EXISTING/PROPOSED**
- PLAT BOUNDARY
  - 5" STORM SEWER # 5/12
  - SANITARY SEWER # 8
  - WATER MAIN # 8
  - MANHOLE
  - STORM INTAKE
  - FIRE HYDRANT
  - VALVE
  - F.E.S.
  - EXISTING CONTOURS
  - PROPOSED CONTOURS
  - SILT FENCE OR APPROVED FILTRATION SOCK

**COOPER CRAWFORD & ASSOCIATES, L.L.C.**  
 CIVIL ENGINEERS  
 475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
 PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 4-27-2015  
 REVISIONS: 9-11-2015

JOB NUMBER  
**CC 1498**

APPROVED: \_\_\_\_\_ INITIALED: \_\_\_\_\_ AS-BUILT: \_\_\_\_\_

**GRADING PLAN**  
 WHISPER ROCK AT QUAIL COVE

SHEET 2 OF 5



# WHISPER ROCK AT QUAIL COVE

Sheet 3 of 5

### NOTES

1. ALL WATER WORK, PUBLIC OR PRIVATE, SHALL BE DONE IN ACCORDANCE WITH WEST DES MOINES WATER WORKS STANDARD SPECIFICATIONS.
2. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS AT LEAST ONE WEEK PRIOR TO BUILDING CONSTRUCTION.
3. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE COORDINATION OF WORK OF ALL SUBCONTRACTOR(S) INVOLVED IN THE PROJECT.
4. CONTACT BUILDING INSPECTION (515-222-3630) A MINIMUM OF 24 HOURS IN ADVANCE FOR PRIVATE UTILITY INSTALLATION INSPECTIONS.
5. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THE WEST DES MOINES WATER WORKS AND THE CITY'S CROSS CONNECTION CONTROL/CONTAINMENT PROVISION.
6. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR THE PROPER INSTALLATION OF AN APPROVED BACKFLOW PREVENTION ASSEMBLY (BES) FOR CONTAINMENT IN ALL NEW CONSTRUCTION. BACKFLOW PREVENTION TO BE INSTALLED PER CITY ORDINANCE 1247, 54-1998. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS, RALPH RENTERIA, ENGINEERING TECHNICIAN (515-222-3465) A MINIMUM OF 24 HOURS AFTER INSTALLATION AND TESTING OF ALL BACKFLOW DEVICES TO SCHEDULE FINAL INSPECTION.
7. DESIGNATED BUFFERS SHALL BE LABELED AS A "NO BUILD AREA".
8. CONTRACTOR SHALL NOTIFY WEST DES MOINES WATER WORKS 48 HOURS BEFORE CONSTRUCTION BEGINS BY CALLING 222-3465.
9. ALL SEWERS ARE PRIVATE UNLESS OTHERWISE NOTED.
10. ALL LIGHTS ARE TO BE DOWNCAST CUTOFF VARIETY. WALL PACKS ARE PROHIBITED. THE MAXIMUM ILLUMINATION ALLOWED AT THE PROPERTY LINE IS 1 FOOT-CANDLE.
11. ABANDONED UTILITY DISCONNECTS MUST BE INSPECTED BEFORE COVERING.

### UTILITIES

1. ALL SEWERS ARE PRIVATE UNLESS OTHERWISE NOTED.

### BENCHMARK

**BM 1801**  
Intersection of Grand Avenue and Booneville Road, Southeast corner of intersection, 71.8 feet South of the centerline of Grand Avenue, 572 feet East of the centerline of Booneville Road. Standard Benchmark.

**NDM DATUM** - 56.57 feet  
NAVD86 - 830.58 feet

**BM 1802**  
4000 Block of Commerce Drive, 20 feet North of the centerline of Commerce Drive, 18 feet West of the centerline of concrete entrance to 4025 Commerce Drive. Standard Benchmark.

**NDM DATUM** - 66.97 feet  
NAVD86 - 842.98 feet

### LEGEND

- |          |  |
|----------|--|
| —        | PLAT BOUNDARY                          |
| — 6" —   | STORM SEWER # SIZE                     |
| — 8" —   | SANITARY SEWER # SIZE                  |
| — 12" —  | WATER MAIN # SIZE                      |
| ○        | MANHOLE                                |
| ⊙        | STORM INTAKE                           |
| ⊕        | FIRE HYDRANT                           |
| ⊖        | VALVE                                  |
| △        | F.E.S.                                 |
| — 0.00 — | EXISTING CONTOURS                      |
| — 0.00 — | PROPOSED CONTOURS                      |
| — X —    | SILT FENCE OR APPROVED FILTRATION SOCK |

**COOPER CRAWFORD & ASSOCIATES, L.L.C.**  
CIVIL ENGINEERS

475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 4-27-2015 JOB NUMBER  
REVISIONS: 9-11-2015

SCALE: 1"=60'  
APPROVED: — INITIALED: — AS-BUILT: —

UTILITY PLAN  
WHISPER ROCK AT QUAIL COVE

CC  
1498

SHEET  
3 OF 5

### SANITARY SEWER

MH #6 TO EX CAP  
85 L.F. 8-INCH SANITARY SEWER @ 3.00%

MH #7 TO MH #6  
174 L.F. 8-INCH SANITARY SEWER @ 1.40%

MH #8 TO MH #7  
101 L.F. 8-INCH SANITARY SEWER @ 1.00%

MANHOLE #6  
RIM = 126.00  
IN N = 119.75  
OUT S = 119.65

MANHOLE #7  
RIM = 123.50  
IN N = 122.36  
OUT S = 122.26

MANHOLE #8  
RIM = 123.50  
OUT SE = 123.37

INSTALL @ EA. SERVICE  
REMOVE @ EA. SERVICE

### STORM SEWER

TYPE "1-A" MH #19  
RIM = 149.50  
IN N = 147.75  
OUT S = 147.75

TYPE "1-A" INT #20  
GRATE = 147.75  
OUT S = 149.50

TYPE "1-A" INT #21  
GRATE = 121.60  
OUT S = 116.27

MANHOLE # 19 TO EX INT #17  
385 L.F. 12-INCH RCP @ 1.00%

INT #20 TO INT #19  
107 L.F. 12-INCH RCP @ 1.00%

INSTALL @ EA. SERVICE  
REMOVE @ EA. SERVICE

### EX. STORM SEWER CHANGES

REMOVE @  
TYPE "1-A" INT #12  
GRATE = 120.00  
OUT S = 116.50

EX TYPE "1-C" INT. #4  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 112.20  
IN SW = 108.46  
IN NW = 108.61  
OUT NE = 108.00

EX TYPE "1-D" INT. #5  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 112.20  
OUT NE = 108.70

EX TYPE "1-A" MH #6  
CURRENT RIM = UNKNOWN  
ADJ. RIM TO = 118.60  
IN NW = 112.01  
IN N = 111.63  
OUT SE = 111.50

EX TYPE "1-A" INT #8  
CURRENT GRATE = 121.82  
ADJ. GRATE TO = 121.83  
OUT E = 118.30

EX TYPE "1-C" INT #9  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 124.00  
IN N = 120.26  
IN S = 114.18  
OUT S = 114.18

EX TYPE "1-A" INT #10  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 124.00  
OUT E = 120.50

EX TYPE "1-A" INT #11  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 124.00  
OUT E = 120.50

EX TYPE "1-A" INT #12  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #13  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #14  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #15  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #16  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #17  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #18  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #19  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #20  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #21  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #22  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #23  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #24  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #25  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #26  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #27  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #28  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #29  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #30  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #31  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

EX TYPE "1-C" INT #32  
CURRENT GRATE = UNKNOWN  
ADJ. GRATE TO = 123.50  
OUT N = 120.00

### EX. SANITARY SEWER CHANGES

SANITARY MANHOLE #2  
CURRENT RIM = UNKNOWN  
ADJ. RIM TO = 115.10  
IN NW = 106.75  
OUT NE = 106.64

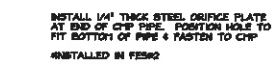
SANITARY MANHOLE #3  
CURRENT RIM = UNKNOWN  
ADJ. RIM TO = 120.00  
IN NW = 107.50  
IN NE = 107.70  
OUT SE = 107.32

SANITARY MANHOLE #4  
CURRENT RIM = UNKNOWN  
ADJ. RIM TO = 121.60  
IN N = 108.42  
OUT S = 108.25

SANITARY MANHOLE #5  
CURRENT RIM = UNKNOWN  
ADJ. RIM TO = 124.20  
IN N = 118.50  
OUT S = 110.60

SANITARY MANHOLE #8  
CURRENT RIM = 131.19  
ADJ. RIM TO = 131.00  
IN N = 116.00  
OUT SE = 115.90

SANITARY MANHOLE #9  
CURRENT RIM = 137.75  
ADJ. RIM TO = 137.75  
OUT S = 122.40

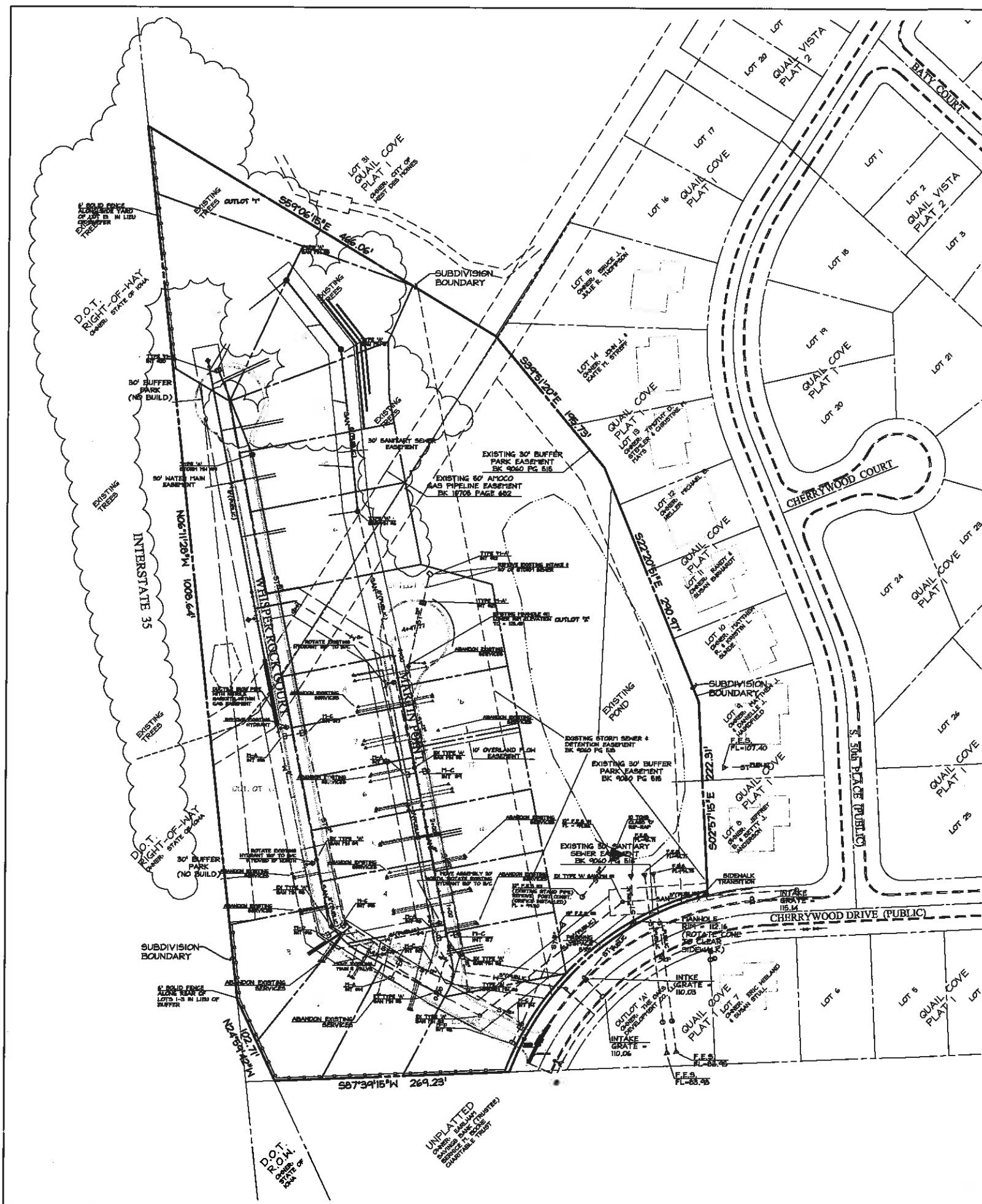


EXISTING ORIFICE DETAIL  
NO SCALE

### WATER MAIN QUANTITIES

- |     |                                     |
|-----|-------------------------------------|
| 411 | L.F. 8-INCH WATER MAIN              |
| 1   | EA. 8-INCH VALVE                    |
| 1   | EA. 8"x8"x8" TEE                    |
| 1   | EA. HYDRANT, REDUCER # 6-INCH VALVE |
| 1   | EA. HYDRANT, TEE # 6-INCH VALVE     |
| 76  | EA. DUCTILE IRON PIPE               |
| 7   | EA. SERVICE                         |
| 7   | EA. SERVICE REMOVED/ABANDONED       |

- NOTES:**
1. ALL WATERMAINS ARE LOCATED 4' BEHIND BACK OF CURB UNLESS OTHERWISE NOTED.
  2. CONTRACTOR SHALL TERMINATE ALL DEAD-END WATER MAINS WITH A BLOW-OFF HYDRANT.
  3. ALL SEWERS ARE PRIVATE UNLESS OTHERWISE NOTED.





# WHISPER ROCK AT QUAIL COVE

Sheet 4 of 5

## 30' (WEST) BUFFER PARK REQUIREMENT

**REQUIRED:**  
1 OVERSTORY, 2 UNDERSTORY AND 6 SHRUBS PER 35 LF. BUFFER.

**BASED ON 1,111 LF. BUFFER**  
OVERSTORY TREES - 32  
UNDERSTORY TREES - 64  
SHRUBS - 192

**PROPOSED:**  
OVERSTORY TREES - 26  
EVERGREEN TREES - 38  
UNDERSTORY TREES - 12  
SHRUBS - 172

EXISTING TREES TO SATISFY THE REMAINDER OF REQUIRED PLANTINGS

## BUFFER PARKS

30' BUFFER PARK (PER WEST DES MOINES ZONING ORDINANCE)

## BENCHMARK

**BM 8041**  
Intersection of Grand Avenue and Booneville Road, Southeast corner of intersection, 71.8 feet South of the centerline of Grand Avenue, 372 feet East of the centerline of Booneville Road. Standard Benchmark.

NDM DATUM - 56.57 feet  
NAVD88 - 830.56 feet

**BM 8042**  
4000 Block of Commerce Drive, 20 feet North of the centerline of Commerce Drive, 18 feet West of the centerline of concrete entrance to 4025 Commerce Drive. Standard Benchmark.

NDM DATUM - 66.97 feet  
NAVD88 - 842.96 feet

## LEGEND

- EXISTING/PROPOSED
- PLAT BOUNDARY
  - 5" S<sup>W</sup> STORM SEWER # SIZE
  - SAN<sup>W</sup> SANITARY SEWER # SIZE
  - W<sup>W</sup> WATER MAIN # SIZE
  - MANHOLE
  - STORM INTAKE
  - ▽ FIRE HYDRANT
  - ▽ VALVE
  - △ F.E.S.
  - EXISTING CONTOURS
  - PROPOSED CONTOURS
  - SILT FENCE OR APPROVED FILTRATION SOCK

**COOPER CRAWFORD & ASSOCIATES, L.L.C.**  
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PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 4-27-2015  
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**CC 1498**

APPROVED: \_\_\_\_\_ INITIALED: \_\_\_\_\_ AS-BUILT: \_\_\_\_\_

LANDSCAPE PLAN  
WHISPER ROCK AT QUAIL COVE

SHEET  
4 OF 5

## OPEN SPACE REQUIREMENT

BASE ON 26% OPEN SPACE = 113,497 S.F.  
REQUIRED:  
2 TREES / 3,000 S.F. OPEN SPACE = 76 TREES  
3 SHRUBS / 3,000 S.F. OPEN SPACE = 114 SHRUBS

PROVIDED:  
70 TREES  
114 SHRUBS

EXISTING TREES TO SATISFY THE REMAINDER OF REQUIRED PLANTINGS

## OPEN SPACE PLANTING SCHEDULE

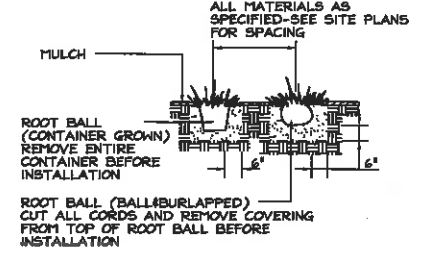
| COUNT                   | KEY | Botanical name/COMMON NAME                        | SIZE        | CONDITION | REMARKS    |
|-------------------------|-----|---|-------------|-----------|------------|
| <b>OVERSTORY TREES</b>  |     |   |             |           |            |
| 6                       | QS  | Quercus shumardii SOUTHERN RED OAK                | 2" cal.     | TS/BMB    | SEE PLAN   |
| 17                      | AR  | Acer rubrum RED MAPLE                             | 2" cal.     | TS/BMB    | SEE PLAN   |
| 12                      | GT  | Gleditsia triacanthos SKYLINE HONEYLOCUST         | 2" cal.     | TS/BMB    | SEE PLAN   |
| <b>UNDERSTORY TREES</b> |     |   |             |           |            |
| 4                       | BN  | Betula nigra RIVER BIRCH                          | 8'-10' ht.  | TS/BMB    | MULTI-STEM |
| 6                       | CC  | Cotoneaster crugallii hermii THORNLESS HAWTHORN   | 6'-7' ht.   | TS/BMB    | MULTI-STEM |
| 6                       | MP  | Malus species 'Prairiefire' PRAIRIEFIRE CRABAPPLE | 1 1/2" cal. | TS/BMB    | SEE PLAN   |
| <b>EVERGREEN TREES</b>  |     |   |             |           |            |
| 11                      | PG  | Picea glauca 'Desota' BLACK HILLS SPRUCE          | 6'-8' ht.   | TS/BMB    | SEE PLAN   |
| 8                       | PS  | Pinus strobus EASTERN WHITE PINE                  | 6'-8' ht.   | TS/BMB    | SEE PLAN   |
| <b>SHRUBS</b>           |     |   |             |           |            |
| 26                      | VT  | Viburnum trilobum ATL. CRANBERRY BUSH VIBURNUM    | 30"-36" ht. | TS/BMB    | SEE PLAN   |
| 34                      | EA  | Eurotia alata 'compacta' DWARF BURNING BUSH       | 18"-24" ht. | CONT.     | SEE PLAN   |
| 34                      | CA  | Cornus sericea REDTING DOGWOOD                    | 24"-30" ht. | CONT.     | SEE PLAN   |
| 20                      | SG  | Spiraea x 'Goldmund' GOLDFOUND SPIREA             | 18"-24" ht. | SEE PLAN  |            |

## (WEST) BUFFER PLANTING SCHEDULE

| COUNT                   | KEY | Botanical name/COMMON NAME                                   | SIZE        | CONDITION | REMARKS    |
|-------------------------|-----|--|-------------|-----------|------------|
| <b>OVERSTORY TREES</b>  |     |  |             |           |            |
| 8                       | AF  | Acer x fraxinifolium 'Jefferson' AUTUMN BLAZE FREEBORN MAPLE | 2" cal.     | TS/BMB    | SEE PLAN   |
| 7                       | GB  | Ginkgo biloba GINKGO   | 2" cal.     | TS/BMB    | SEE PLAN   |
| 10                      | GT  | Gleditsia triacanthos 'hermii' SKYLINE HONEYLOCUST           | 2" cal.     | TS/BMB    | SEE PLAN   |
| <b>UNDERSTORY TREES</b> |     |  |             |           |            |
| 2                       | BN  | Betula nigra RIVER BIRCH                                     | 8'-10' ht.  | TS/BMB    | MULTI-STEM |
| 4                       | CC  | Cotoneaster crugallii hermii THORNLESS HAWTHORN              | 6'-7' ht.   | TS/BMB    | MULTI-STEM |
| 4                       | MP  | Malus species 'Prairiefire' PRAIRIEFIRE CRABAPPLE            | 1 1/2" cal. | TS/BMB    | SEE PLAN   |
| <b>EVERGREEN TREES</b>  |     |  |             |           |            |
| 12                      | PP  | Picea pungens glauca COLORADO BLUE SPRUCE                    | 6'-8' ht.   | TS/BMB    | SEE PLAN   |
| 20                      | PS  | Pinus strobus WHITE PINE                                     | 6'-8' ht.   | TS/BMB    | SEE PLAN   |
| <b>SHRUBS</b>           |     |  |             |           |            |
| 42                      | CA  | Cornus sericea RED-TING DOGWOOD                              | 5 gal.      | CONT.     | SEE PLAN   |
| 34                      | SG  | Spiraea x 'Goldmund' GOLDFOUND SPIREA                        | 18"-24" ht. | CONT.     | SEE PLAN   |
| 34                      | VD  | Viburnum dentatum ARROWHOOD VIBURNUM                         | 18"-24" ht. | CONT.     | SEE PLAN   |
| 44                      | EA  | Eurotia alata 'compacta' DWARF BURNING BUSH                  | 18"-24" ht. | CONT.     | SEE PLAN   |

## GENERAL NOTES:

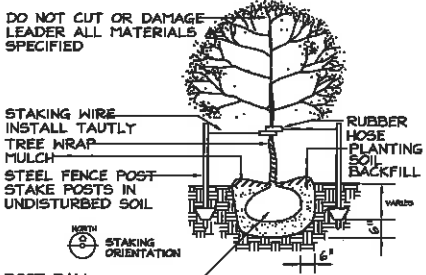
- ANY SUBSTITUTIONS OF MATERIAL IN EITHER SIZE OF SPECIES MUST HAVE APPROVAL OF LANDSCAPE ARCHITECT PRIOR TO PLANTING.
- LANDSCAPE CONTRACTOR TO HAVE ALL UTILITIES LOCATED IN FIELD BEFORE STARTING WORK. LANDSCAPE CONTRACTOR SHALL ALSO MAKE A THOROUGH FIELD INVESTIGATION BEFORE WORK BEGINS AND INFORM THE CITY OF WEST DES MOINES OF ANY CORRECTIVE MEASURES NEEDED. ALL DAMAGE TO UTILITIES OF OTHER UNDERGROUND STRUCTURES CAUSED BY THE LANDSCAPE CONTRACTOR SHALL BE REPAIRED, AT THE CONTRACTOR'S EXPENSE, TO THE SATISFACTION OF THE OWNER.
- THE LANDSCAPE ARCHITECT/OWNER SHALL RETAIN THE RIGHT TO INSPECT ALL MATERIAL BEFORE INSTALLATION, INCLUDING AT THE LANDSCAPE CONTRACTOR'S SOURCE NURSERY.
- PLANT QUANTITIES SHOWN FOR INFORMATION ONLY. DRAWING SHALL PREVAIL IF CONFLICT OCCURS.
- THE LANDSCAPE CONTRACTOR SHALL STAKE OR PRELOCATE ALL MATERIAL FOR APPROVAL PRIOR TO INSTALLATION AND CONTACT LANDSCAPE ARCHITECT @ COOPER CRAWFORD & ASSOCIATES, LLC (224-1344).
- LANDSCAPE CONTRACTOR RESPONSIBLE FOR FIRST INITIAL WATERING ON SAME DAY OF MATERIAL PLANTING AND SUBSEQUENT WATERINGS FOR A PERIOD OF TWO WEEKS FOLLOWING PLANTING. QUANTITY AND FREQUENCY OF WATERING WILL BE DETERMINED BY LANDSCAPE ARCHITECT AND WEATHER CONDITIONS AT THE TIME.
- PROTECT ALL EXISTING STRUCTURES INCLUDING SIGNAGE, WILDFLOWER AREAS, PARKING LOTS, BUILDINGS, SIDEWALKS, AND EXISTING TREES. THE SITE TO BE CLEAN AND CLEAR OF ANY DEBRIS RESULTING FROM LANDSCAPE WORK.
- PLACE A MINIMUM OF 3' OF SHREDDED BARK MULCH AROUND EACH INDIVIDUAL TREE, SHRUB AND PERENNIAL GROUPINGS WHERE SHOWN ON PLAN.
- ALL DISTURBED TURF AREAS SHALL BE REPLACED, AT THE EXPENSE OF THE CONTRACTOR, TO THE SATISFACTION OF THE LANDSCAPE ARCHITECT.
- LANDSCAPE CONTRACTOR SHALL GUARANTEE ALL PLANT MATERIALS FOR A PERIOD OF ONE YEAR FROM THE DATE OF INSTALLATION.
- ALL PLANT MATERIAL SHALL CONFORM TO THE "AMERICAN STANDARD FOR NURSERY STOCK ANSI Z60.1 - 1996" OR MOST RECENT EDITION.
- PLANT BED PREPARATION FOR PERENNIAL AND GRASS LOCATIONS - SOIL IN THESE AREAS TO BE AMENDED WITH 2" HORSE MANURE, BLACK COMPOST, OR SPHAGNUM PEAT AND THOROUGHLY TILLED IN. A "DUSTING" OF FERTILITE PRIOR TO TILLING WILL ALSO BE REQUIRED. "TREFLAN" OR APPROVED EQUAL PRE-EMERGENT TO BE APPLIED PRIOR TO PLANTING.
- NO TREES ARE ALLOWED WITHIN THE PUBLIC RIGHT-OF-WAY.
- THE LANDSCAPING BUFFER ALONG THE INTERSTATE WILL NEED TO BE INSTALLED PRIOR TO THE FINAL PLAT BEING APPROVED.



## SHRUB PLANTING DETAIL

NO SCALE

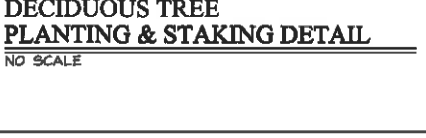
DO NOT CUT OR DAMAGE LEADER ALL MATERIALS SPECIFIED



## DECIDUOUS TREE PLANTING & STAKING DETAIL

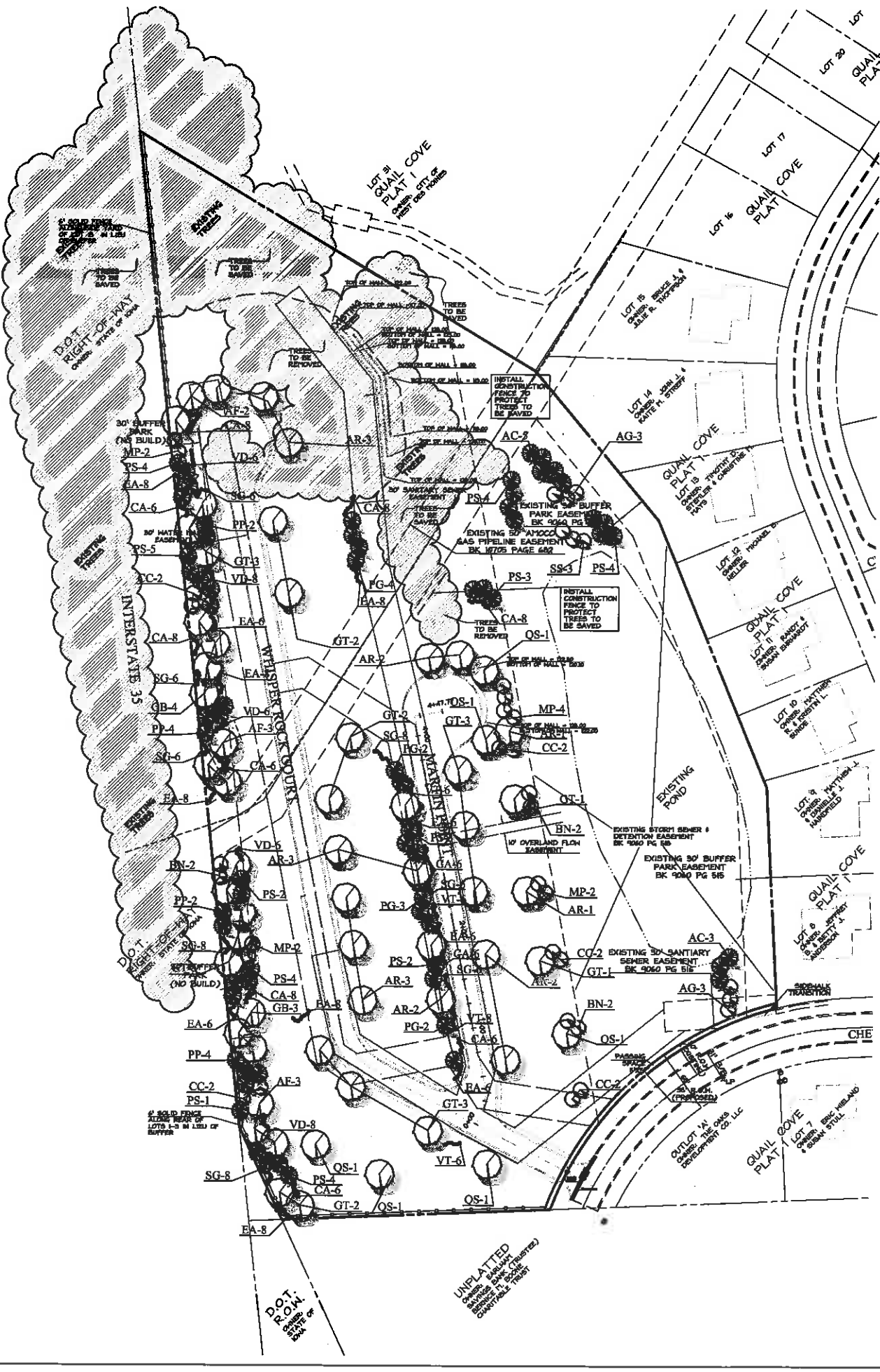
NO SCALE

DO NOT CUT OR DAMAGE LEADER ALL MATERIALS AS SPECIFIED



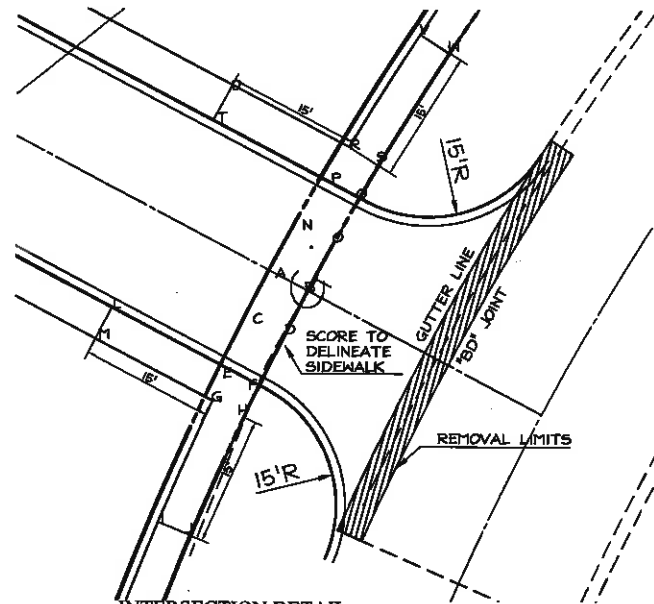
## EVERGREEN TREE PLANTING & STAKING DETAIL

NO SCALE



PRELIMINARY PLAT/SITE PLAN  
**WHISPER  
 ROCK AT  
 QUAIL COVE**

Sheet 5 of 5

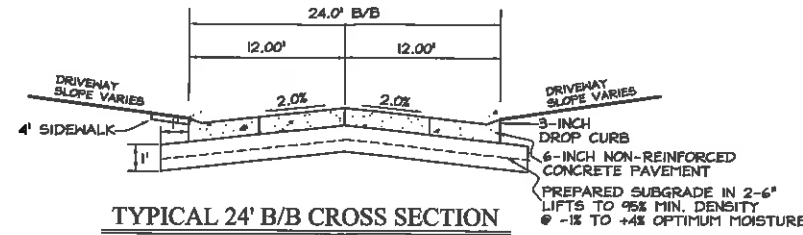


**INTERSECTION DETAIL**  
 SCALE: NO SCALE (GRADES @ TOP OF SLAB)

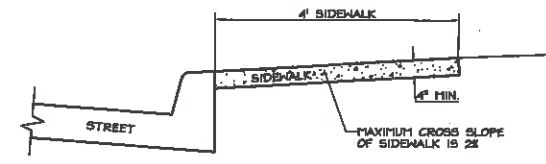
**RAMP ELEVATIONS**

SCALE: NONE (GRADES @ TOP OF SLAB)

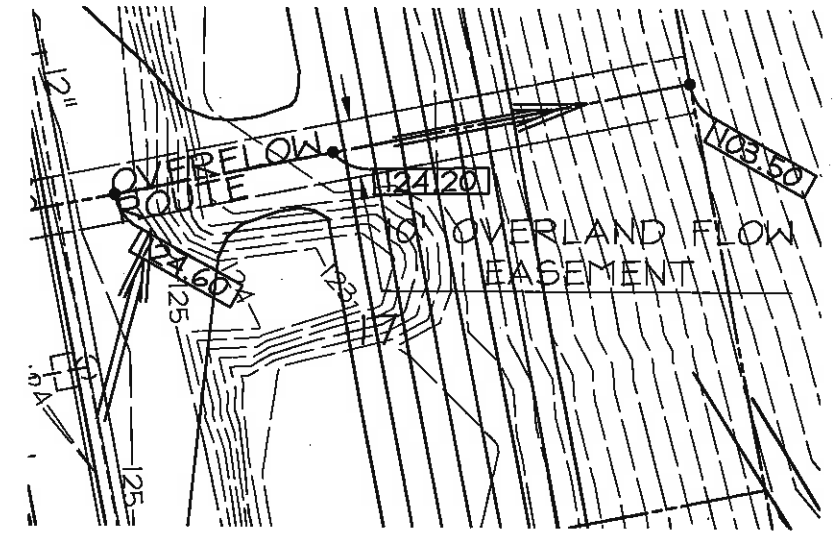
- A = 112.30'
- B = 112.22'
- C = 112.18'
- D = 112.10'
- E = 112.06'
- F = 111.98'
- G = 112.12'
- H = 112.04'
- I = 113.37'
- J = 113.29'
- L = 112.87'
- M = 112.93'
- N = 112.18'
- O = 112.10'
- P = 112.06'
- Q = 111.98'
- R = 112.12'
- S = 112.06'
- T = 112.89'
- U = 112.95'
- V = 112.42'



**TYPICAL 24' B/B CROSS SECTION**  
 NO SCALE



**SIDEWALK DETAIL**  
 NO SCALE

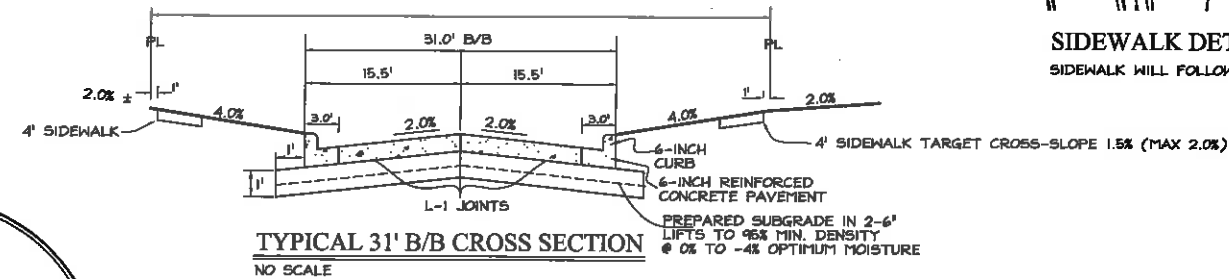


**SIDEWALK DETAIL @ OVERFLOW LOCATIONS**

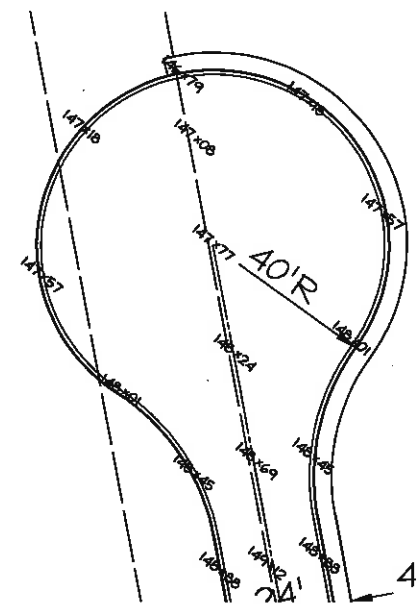
SIDEWALK WILL FOLLOW THE BACK OF CURB ELEVATIONS. MINIMUM SLOPE THROUGH THE SWALE WILL BE 1.0%.

**INTERSECTION NOTES:**

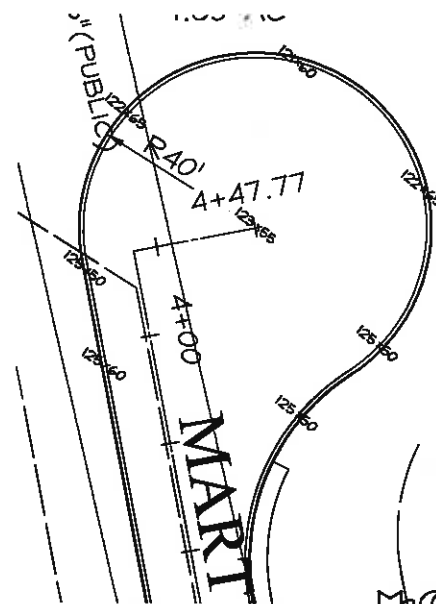
1. BEFORE THE CONCRETE IS PLACED, THE SAW CUT JOINTS SHALL BE COMPLETELY CLEANED OF ALL LOOSE CONCRETE OR FOREIGN MATERIAL.
2. SAW CUT AND REMOVE EXISTING CONCRETE PAVEMENT A WIDTH OF 3' WHEN EXISTING JOINT IS 3' FROM BACK OF CURB. CUT TO NEAREST LONGITUDINAL JOINT AT END OF RADIUS.
3. SAW CUT PAVEMENT JOINTS IN GENERAL CONFORMANCE WITH PORTLAND CEMENT CONCRETE INTERSECTION DETAILS.



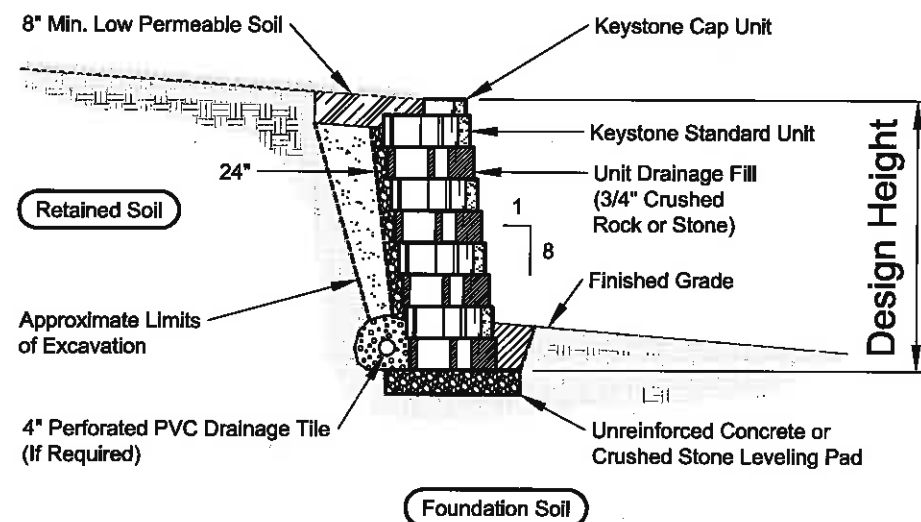
**TYPICAL 31' B/B CROSS SECTION**  
 NO SCALE



**CUL-DE-SAC DETAIL**  
 SCALE: 1"=30' (GRADES @ TOP OF SLAB)



**CUL-DE-SAC DETAIL**  
 SCALE: 1"=30' (GRADES @ TOP OF SLAB)



**Typical Gravity Wall Section**

Standard Unit - 1" Setback

**LEGEND**

- EXISTING/PROPOSED
- PLAT BOUNDARY
  - ST" STORM SEWER # SIZE
  - SAN" SANITARY SEWER # SIZE
  - W" WATER MAIN # SIZE
  - MANHOLE
  - ⊕ STORM INTAKE
  - ⊕ FIRE HYDRANT
  - ⊕ VALVE
  - △ F.E.S.
  - - - EXISTING CONTOURS
  - - - PROPOSED CONTOURS
  - \* \* \* SILT FENCE OR APPROVED FILTRATION SOCK

**BENCHMARK**

**BM 8041**  
 Intersection of Grand Avenue and Booneville Road, Southeast corner of intersection, 71.8 feet South of the centerline of Grand Avenue, 572 feet East of the centerline of Booneville Road. Standard Benchmark.

MDM DATUM - 66.57 feet  
 NAVD88 - 850.56 feet

**BM 8042**  
 4000 Block of Commerce Drive, 20 feet North of the centerline of Commerce Drive, 15 feet West of the centerline of concrete entrance to 4025 Commerce Drive. Standard Benchmark.

MDM DATUM - 66.97 feet  
 NAVD88 - 842.96 feet

**COOPER CRAWFORD  
 & ASSOCIATES, L.L.C.**  
 CIVIL ENGINEERS

475 S. 50th STREET, SUITE 800, WEST DES MOINES, IOWA 50265  
 PHONE: (515) 224-1344 FAX: (515) 224-1345

DATE: 4-27-2015 JOB NUMBER  
 REVISIONS: 9-11-2015



APPROVED: — INITIALED: — AS-BUILT: —

**CC  
 1498**  
 DETAILS  
 WHISPER ROCK AT QUAIL COVE SHEET 5 OF 5



Prepared by: KTragesser City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620  
When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

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**RESOLUTION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING THE PRELIMINARY PLAT (PP-002705-2015) TO SUBDIVIDE PROPERTY INTO 18 LOTS FOR SINGLE FAMILY DEVELOPMENT, ONE OUTLOT FOR DEDICATION TO THE CITY FOR PARKLAND, THREE OUTLOTS FOR COMMON SPACE, AND ONE OUTLOT FOR STORM WATER DETENTION**

**WHEREAS**, pursuant to the provisions of Title 9, Chapter 1 et seq, of the West Des Moines Municipal Code, Prairie Building and Development requests approval for a preliminary plat to subdivide property into the 18 lots for single family residential development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention on property legally described as:

**Legal Description of Property**

Lot 30, Quail Cove Plat 1, an official plat now in and forming a part of the City of West Des Moines, Polk County, Iowa.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, the Plan and Zoning Commission recommend to the City Council approval of the Preliminary Plat; and

**WHEREAS**, on October 5, 2015, this City Council held a duly-noticed hearing to consider the application for Preliminary Plat.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:**

**SECTION 1.** The findings, for approval, in the staff report for the preliminary plat, or as amended orally at the City Council hearing on this date, are adopted.

**SECTION 2.** The Preliminary Plat to subdivide property into 18 lots for single family residential development, one outlot for dedication to the City for parkland, three outlots for common space, and one outlot for storm water detention is approved, subject to compliance with all the conditions in the staff report, including conditions added at the Hearing, and attached hereto as Exhibit "A" is approved. Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.



**PASSED AND ADOPTED** on October 5, 2015.

---

Steven K. Gaer, Mayor

ATTEST:

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Ryan Jacobson  
City Clerk

**EXHIBIT "A"**  
**CONDITIONS OF APPROVAL**

1. That the City Council accept a fence in lieu of a buffer along I-35 for lots 2, 3, and 13.
2. That the City Council waive the buffer requirement for double frontage lots for lots 4-8.

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**Date: October 5, 2015**

**ITEM:** 1<sup>st</sup> Street Redevelopment – Southwest corner of Grand Avenue and 1<sup>st</sup> Street – Approval of Master Plan for building and infrastructure modifications – 1<sup>st</sup> Street, LP – MP-002403-2014

**RESOLUTION: Approval of a Master Plan**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, 1<sup>st</sup> Street LP, is requesting approval of a Master Plan for building and infrastructure modifications at the southwest corner of 1<sup>st</sup> Street and Grand Avenue. The applicant is proposing to demolish existing buildings on the property to allow for redevelopment of the site. The site will be redeveloped to be consistent with the Grand Avenue Redevelopment Plan (Val-Gate), which governs the redevelopment of this area.

Plan and Zoning Commission Action:

Vote: 7-0 approval

Date: 9/28/2015

Motion: Adopt a resolution recommending the City Council approve the Master Plan Request

**OUTSTANDING ISSUES:** There are no outstanding issues. The applicant has stated that they are in agreement with all of staff's recommendations and conditions. The following items of interest are noted in the attached Plan and Zoning Commission report (see Exhibit I):

- Applicant's Request
- History
- City Council Subcommittee; *Development and Planning; September 10, 2015*
- Staff Review and Comment
  - *Grand Avenue Redevelopment*
  - *Phase Plan*
  - *Regional Storm Water Infrastructure Project*
  - *PUD/Site Development*
  - *Access Points*
  - *Cross Connections*
  - *Streetscape*
  - *Shared Parking*
  - *Adjacent Property Acquisition*
- Comprehensive Plan Consistency
- Findings
- Staff Recommendations and Conditions of Approval
- Owner/Applicant/Applicant Representative Information

**RECOMMENDATION:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, the Plan and Zoning Commission recommends the City Council approve the Master Plan to allow building and infrastructure modifications for that property located at the southwest corner of Grand Avenue and 1<sup>st</sup> Street, subject to the applicant meeting all City Code requirements and the following:

1. Per the City Code, a Master Plan shall serve only as a guide for development and shall not be binding on the City for subsequent plan review and approvals. City Council approval of the Rezoning Request (PUD) is required prior to any construction as proposed by the Master Plan, however, footing and foundation permits may be issued prior to City Council 2<sup>nd</sup> and 3<sup>rd</sup> Readings and adoption of the PUD to keep individual projects moving forward.
2. The re-development of the Master Plan area will be multi-phased to accommodate existing tenants and market conditions. To plan for the incremental installation of the improvements related to the Master Plan, a Phasing Plan has been created that addresses obligations of improvements for all parcels currently contained in or affected

by the Master Plan. Said Phasing Plan shall be noted on the Master Plan and recorded with the Council Resolution for the Master Plan.

Lead Staff Member: Brian S. Portz, AICP, Planner *BSP*

**Staff Reviews:**

|                        |   |
|------------------------|---|
| Department Director    |   |
| Appropriations/Finance | <i>[Handwritten initials]</i>               |
| Legal                  | <i>[Handwritten initials]</i>               |
| Agenda Acceptance      | <i>[Handwritten initials]</i> <i>for Rf</i> |

**PUBLICATION(S) (if applicable)**

|  |     |
|--|-----|
| Published In                               | n/a |
| Date(s) Published                          | n/a |
| Letter sent to surrounding property owners | n/a |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development and Planning                |                             |                                |
| Date Reviewed  | September 10, 2015                      |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**ATTACHMENTS:**

- Exhibit I - Plan and Zoning Commission Communication
  - Attachment A - Plan & Zoning Commission Resolution
  - Exhibit A - Conditions of Approval
  - Exhibit B - Phase Plan
  - Exhibit A - Site Plan
- Attachment B - Location Map
- Attachment C - Master Plan
- Exhibit II - City Council Resolution
  - Exhibit A - Conditions of Approval
  - Exhibit B - Phase Plan
  - Exhibit A - Site Plan

**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** September 28, 2015

**Item:** 1<sup>st</sup> Street Redevelopment – Southwest corner of Grand Avenue and 1<sup>st</sup> Street – Approval of Master Plan for building and infrastructure modifications – 1<sup>st</sup> Street, LP – MP-002403-2014

**Requested Action:** Approval of Master Plan

**Case Advisor:** Linda Schemmel and Brian Portz

**Applicant's Request:** The applicant, 1<sup>st</sup> Street LP, is requesting approval of a Master Plan for building and infrastructure modifications at the southwest corner of 1<sup>st</sup> Street and Grand Avenue. The applicant is proposing to demolish existing buildings on the property to allow for redevelopment of the site. The site will be redeveloped to be consistent with the Grand Avenue Redevelopment Plan (Val-Gate), which governs the redevelopment of this area.

**History:** The Master Plan includes 5 parcels containing 6 buildings (True Value Hardware, The Blue Tomato, Long Johns Silvers and Valley Junction Plaza which consists of 3 retail/office buildings), originally constructed from the mid 1950's to 1995. The City Council did review and approve a Site Plan for the most recently constructed building, Bruegger's Bagels, now The Blue Tomato, on October 9, 1995 (SP-95-30). A Minor Modification for the True Value site was approved by City Staff on November 19, 1998. The City Council also reviewed and approved a Minor Modification to a Site Plan that included various site modifications and façade improvements for the True Value Store and Scooters Coffee House (former Bruegger's Bagels) on April 5, 2010.

Affected by, but not part of the Master Plan at this point are the buildings just west of True Value – the Grand Avenue Vet Clinic and Sully's Irish Pub. Both buildings were constructed in the 1950s.

Staff would note that this Master Plan is located within the Grand Avenue (Val-Gate) Redevelopment Area. The City Council approved and accepted the Grand Avenue Redevelopment Plan for the area from 1st Street to 4th Street along Grand Avenue on February 6, 2012.

**City Council Subcommittee:** This Master Plan component was presented at the September 10, 2015, Development and Planning Subcommittee meeting as an informational item. On August 27, 2015, a joint Finance & Administration and Development & Planning Council Subcommittee meeting was held. Information regarding financial assistance requested by the developer was presented at the meeting. No action on the developer's request was taken by the Subcommittee as they preferred to wait for details on a Redevelopment Incentive Policy for the City which is being prepared by the Economic Development Department. The subcommittee did direct staff to pursue the acquisition of the Vet Clinic and Sully's as part of a storm water management project for the area.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. Staff would summarize the following key points of interest:

- **Grand Avenue Redevelopment:** This property is located within what is known as the Val-Gate District which is an area identified for redevelopment along Grand Avenue from 1st Street to 4th Street. The intent of the plan is to provide the opportunity for properties within the plan area to redevelop while creating a unique and identifiable district within the City. To achieve this, the plan includes several contextual development standards/guidelines that will be encouraged during redevelopment. In the interest of promoting redevelopment and recognizing the real site constraints caused by being located within an infill development area, there are certain current zoning code requirements which need to be relaxed within the area. Due to the constraints and challenges for infill development, it is anticipated that a Planned Unit Development (PUD) will be created at the time of each site's redevelopment which will establish specific design standards that respond to the unique aspects for each site.

The Grand Avenue Redevelopment plan will serve as the basis and justification for developing these customized PUDs.

- **Phase Plan:** The Phase Plan is intended to define the responsibilities & obligations related to the First Street Redevelopment Master Plan. The Phase Plan specifically addresses the Comprehensive Plan Amendment and Rezoning of adjacent properties if acquired by the applicant, the conveyance of right-of-way for the future reconstruction of Grand Avenue, timing of streetscape requirements along the Grand Avenue and 1<sup>st</sup> Street frontage for Parcel 1 (True Value) and Parcel 2 (Blue Tomato), timing of the relocation of the existing northeasterly right in/right out driveway, and the timing of the relocation of the southern full access drive.
- **Regional Storm Water Infrastructure Project:** As part of the Grand Avenue Redevelopment Stormwater project, it is anticipated that a storm water structure will be installed across the western and southern portion of the applicant's property. The City will endeavor to structure the construction of the stormwater improvements in such a manner as to minimize the impact on the business operations of the businesses within the 1st Street Redevelopment area.
- **PUD/Site Development:** The 1<sup>st</sup> Street Redevelopment PUD will be created for this site which will outline the development regulations for the redevelopment of the site. The PUD Ordinance will outline requirements for building setbacks, number of parking spaces, building architecture, landscaping requirements, etc.
- **Access Points:** There will be 3 points of access to the site, one from Grand Avenue and two from 1<sup>st</sup> Street. A permanent access drive to the site from Grand Avenue will be allowed and located to the northwest of the existing True Value building and aligned with the existing Casey's/West Bank driveway to the north. However, this access will remain in its current location, which does not align with the Casey's/West Bank driveway, until such time that Outlot 1 and Outlot 2 (on the Master Plan) are redeveloped. With the redevelopment of these outlots, the Grand Avenue access location will move to the west and align with the Casey's/West Bank driveway, providing a north/south access point on the west side of the PUD. Initially, this access will allow for full turning movements; however, at such time that a median is constructed on Grand Avenue; the access will be restricted to a right in/right out access only.

Two permanent access drives to the site will be allowed from 1<sup>st</sup> Street. In the interim, the existing northern access drive will be retained in its current location until such time that Parcel 3 or 4 develops. At that time, the access drive shall be reconstructed further south to provide a straight east/west drive aisle through Parcels 3 and 4 as depicted on the Master Plan. The southern access drive on 1<sup>st</sup> Street shall be retained in its current location until such time of approval of a Site Plan that results in construction of over 50% of the total building area contained in Parcels 3, 4, 5, 6 and 7. If the City initiated regional storm sewer infrastructure project has not been completed to allow installation of the private access drive at the point the developer wishes to proceed with construction of over 50% of the total building area contained in Parcels 3, 4, 5, 6 and 7, a Site Plan resulting in construction of over 50% of the subject parcels may proceed through the review and approval process. With said Site Plan, additional temporary improvements or measures to mitigate traffic circulation issues may be required.

- **Cross Connections:** A future cross access connection will be provided across the 1<sup>st</sup> Street Redevelopment to the property at the northwest corner of the property. Design and location of said access shall be determined at such time the property to the northwest is developed and the building on Outlot 1 is removed. In addition, two additional future cross accesses may be permitted to the PUD if the property to the west of the property redevelops in the future. Design and location of the additional access shall be determined at such time the property to the west is redeveloped.
- **Streetscape:** A landscaped edge with hardscape elements or 'streetscape' will be provided along Grand Avenue and a portion of 1<sup>st</sup> Street. These streetscapes are intended to provide desired green to the City, reinforce a district identity, provide visual screening of parking and other negative site elements, bring human scale to adjoining buildings and provide traffic calming benefits. The streetscape shall be accomplished in accordance with the Grand Avenue Redevelopment Plan streetscaping intent and shall include vegetation, furniture, and ornamental stone wall screening elements as illustrated in the Grand Avenue Redevelopment Plan.

Since no changes are proposed to the True Value and Blue Tomato properties within the Master Plan at this time, within 24 months of the PUD approval for the property, the Developer must submit a Minor Modification Application for Parcels 1 (True Value) and 2 (Blue Tomato) to initiate installation of the streetscape improvements along the Grand Avenue frontage and the 1<sup>st</sup> Street frontage for Parcels 1 and 2. Streetscape improvements along Grand Avenue will involve modifications to the existing parking lot and possibly to the existing monument sign for the True Value property.

- **Shared Parking:** With the approval of the City Council and the execution of an appropriate cross-parking easement, required spaces for one parcel may be located on an adjacent parcel. If shared parking is utilized, the total parking spaces provided within the Master Plan area must meet the minimum number of parking stalls for all uses within the Master Plan.
- **Adjacent Property Acquisition:** At such time that the regional storm water infrastructure improvements to be constructed adjacent to and within the Master Plan area are designed and installed, additional City-owned remnant parcels adjacent to the redevelopment parcels may be available for incorporation into the Master Plan area. These remnant parcels (Outlots 1, 2, & 3) will be sold pursuant to the required public property disposal process, which may allow the Master Plan applicant to obtain one or more of the parcels. Although not sufficient in size to provide buildable area for the development, the subject parcels will be available primarily for the location of utilities or related easements, traffic circulation and interconnections to serve properties both within the Master Plan area and adjacent properties and, secondarily, to provide additional parking or open space for development within the Master Plan area.

**Comprehensive Plan Consistency:** The project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**Findings:** This proposed project was distributed to various city departments for review and comment. Based upon that review, the following findings have been made on the proposed project:

1. The proposed development and use is consistent with the West Des Moines Comprehensive Plan in that the project has been reviewed for consistency with the Comprehensive Plan. Based upon that review, a finding has been made that the proposed project is consistent with the Comprehensive Plan in that the project is consistent with all of the goals and policies of the Comprehensive Plan.
2. The proposed development and use does assure compatibility of property uses within the zone and general area in that this project was reviewed by various City Departments for compliance with the Zoning Ordinance.
3. All applicable standards and conditions have been imposed which protects the public health, safety and welfare in that this project was reviewed by various City Departments and public agencies for compliance with the various state and local regulations. Based upon that review a finding is made that the project has been adequately conditioned to protect the health, welfare and safety of the community.
4. There is adequate on-site and off-site public infrastructure to support the proposed development in that this project was reviewed by various public agencies and City Departments and public utilities to ensure that either the petitioner will construct or the project has been conditioned to construct adequate public infrastructure to serve the development.
5. The proposed development and use has met the requirements contained in the City Code in that this project was reviewed by various City Departments and the project has complied with or has been conditioned to comply with all City Code requirements.
6. The proposed development and use is in keeping with the scale and nature of the surrounding neighborhood in that the proposed project is consistent with the zoning designation and Comprehensive Plan which designates this site as suitable for development such as that proposed by this project.

**Staff Recommendation And Conditions Of Approval:** Based upon the preceding review and a finding of consistency with the goals and policies of the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution recommending the City Council approve the Master Plan for building and infrastructure modifications for that property located at the southwest corner of Grand Avenue and 1<sup>st</sup> Street, subject to the applicant meeting all City Code requirements and the following:

1. Per the City Code, a Master Plan shall serve only as a guide for development and shall not be binding on the City for subsequent plan review and approvals. City Council approval of the Rezoning Request (PUD) is required prior to any construction as proposed by the Master Plan.
2. The re-development of the Master Plan area will be multi-phased to accommodate existing tenants and market conditions. To plan for the incremental installation of the improvements related to the Master Plan, a Phasing Plan has been created that addresses obligations of improvements for all parcels currently contained in or affected by the Master Plan. Said Phasing Plan shall be noted on the Master Plan and recorded with the Council Resolution for the Master Plan.

**Owner/Applicant:**  
First Street, LP  
John Mandelbaum  
4500 Westown Parkway  
West Des Moines, IA 50266  
[john@mandelbaumproperties.com](mailto:john@mandelbaumproperties.com)  
515-222-6200

**Applicant's Representative:**  
Studio Melee  
Jamie Malloy, AIA  
820 1<sup>st</sup> Street, Suite 115  
West Des Moines, IA 50266  
[jamie@studiomelee.com](mailto:jamie@studiomelee.com)  
515-314-9852

**ATTACHMENTS:**

|              |   |                                       |
|--------------|---|---------------------------------------|
| Attachment A | - | Plan and Zoning Commission Resolution |
| Exhibit A    | - | Conditions of Approval                |
| Exhibit B    | - | Phase Plan                            |
| Attachment B | - | Location Map                          |
| Attachment C | - | Master Plan                           |



RESOLUTION NO. PZC-15-074

**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE THE MASTER PLAN (MP-002403-2014) FOR THE PURPOSE OF BUILDING AND INFRASTRUCTURE MODIFICATIONS**

**WHEREAS**, pursuant to the provisions of Title 10, Subdivision Regulations, et seq, of the West Des Moines Municipal Code, the applicant, First Street, LP, has requested approval for a Master Plan (MP-002403-2014) for that approximately 5.37 acre site located on the southwest corner of 1<sup>st</sup> Street and Grand Avenue for the purpose of building and infrastructure modifications;

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015 this Commission held a duly-noticed meeting to consider the application for Master Plan (MP-002403-2014);

**NOW, THEREFORE**, THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

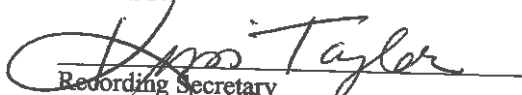
**SECTION 1.** The findings, for approval, in the staff report, dated September 28, 2015, or as amended orally at the Plan and Zoning Commission hearing of September 28, 2015, are adopted.

**SECTION 2.** MASTER PLAN (MP-002403-2014) is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report, dated September 28, 2015, including conditions added at the meeting, and attached hereto as Exhibit A, and the Phase Plan as noted on the Master Plan and as described in the staff report, dated September 28, 2015, and attached hereto as Exhibit B. Violation of any such conditions shall be grounds for revocation of the permit, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on September 28, 2015.

  
Craig Erickson, Chairperson  
Plan & Zoning Commission

ATTEST:

  
Recording Secretary

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Plan and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on September 28, 2015 by the following vote:

- AYES: Andersen, Brown, Costa, Crowley, Erickson, Hatfield, Southworth
- NAYS: -0-
- ABSTENTIONS: -0-
- ABSENT: -0-

ATTEST:

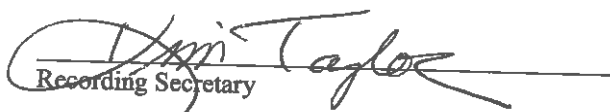
  
Recording Secretary

EXHIBIT A  
CONDITIONS OF APPROVAL

1. Per the City Code, a Master Plan shall serve only as a guide for development and shall not be binding on the City for subsequent plan review and approvals. City Council approval of the Rezoning Request (PUD) is required prior to any construction as proposed by the Master Plan.
2. The re-development of the Master Plan area will be multi-phased to accommodate existing tenants and market conditions. To plan for the incremental installation of the improvements related to the Master Plan, a Phasing Plan has been created that addresses obligations of improvements for all parcels currently contained in or affected by the Master Plan. Said Phasing Plan shall be noted on the Master Plan and recorded with the Council Resolution for the Master Plan.

## First Street Redevelopment Master Plan Phase Plan

*This Phase Plan is intended to define the responsibilities & obligations related to the First Street Redevelopment Master Plan. Development of any parcel included in this Phase Plan shall comply with the West Des Moines Comprehensive Plan, the City of West Des Moines Code of Ordinances, the Grand Avenue Redevelopment Plan and the First Street Redevelopment Planned Unit Development.*

*Required site improvements and locations referenced in the Master Plan are shown on the attached Exhibit A.*

At such time that the regional storm water infrastructure improvements to be constructed adjacent to and within the Master Plan area are designed and installed, additional City-owned remnant parcels adjacent to the redevelopment parcels may be available for incorporation into the Master Plan area. These remnant parcels will be sold pursuant to the required public property disposal process, which may allow a Master Plan applicant to obtain one or more of the parcels. Although not sufficient in size to provide buildable area for the development, the subject parcels will be available primarily for the location of utilities or related easements, traffic circulation and interconnections to serve properties both within the Master Plan area and adjacent properties and, secondarily, to provide additional parking or open space for development within the Master Plan area. Conditions of purchase of the remnant parcels will include the requirement that the resulting Owner be responsible for:

- executing a development agreement with the City to initiate a zoning change for a remnant parcel located on or adjacent to Outlot 1 (Lot 2, Linnwill Plat 2) or/and Outlot 2 (Lot 3, Linnwill Plat 2) and installation of the proposed access drive and related improvements for Outlot 1 and Outlot 2;
- executing a development agreement with the City to initiate a land use amendment and zoning change for Lot 1, Linnwill Place and any adjacent remnant parcels (indicated as Outlot 3) and installation of the proposed 36' wide south private access drive and related improvements, including median and turn lane modifications along First Street/63<sup>rd</sup> Street at the south private drive intersection.

Upon final determination of the design and location of the regional storm water infrastructure improvements to be constructed south of Grand Avenue, the owner of any property located within the Master Plan area on which the stormwater infrastructure will be located will be required to provide an easement to the City, for which the owner will be compensated per the City's real property acquisition policy.

- At the time of approval of the First Street Redevelopment PUD, an irrevocable offer of right-of-way dedication to meet Comprehensive Plan requirements for that portion of Grand Avenue located adjacent to the Master Plan area will be required.
- Conveyance of the right-of-way will be triggered upon City approval of a Major Modification (Site Plan)/Redevelopment of Parcel 1 or City approval of the reconstruction of said segment of Grand Avenue as a capital improvement project.

At the time of approval of the First Street Redevelopment PUD, an agreement and waiver for the Applicant's proportionate share of the cost of the traffic signal to be located at the proposed 36' south private full access drive at First Street will be required. As determined by the City, the signal will be installed at the time a traffic study determines traffic conditions warrant its installation and/or that installation of the signal will improve the safety and operation of the intersection. The Applicant may pursue under separate process reimbursement from the City for a portion of the cost of installation of the traffic signal, with conditions and qualified expenses to be made part of a separate development agreement with the City.

Within 24 months of approval of the First Street Redevelopment PUD, the Applicant must initiate the installation of:

- Streetscape improvements along the Grand Avenue frontage and the First Street frontage for Parcels 1 and 2. Streetscape improvements along Grand Avenue will involve modifications to the existing parking lot and possibly the existing monument sign.

The Owner of Parcels 1 and 2 may pursue under separate process reimbursement from the City for all or a portion of the costs of the modifications to the existing parking lot and removal of the existing sign, with conditions and qualified expenses to be made part of a separate development agreement with the City.

At the time of Site Plan approval for either Parcel 3 or Parcel 4, or upon the installation of the west interconnection aligning with the north drive aisle across Parcel 3 and Parcel 4, the Applicant(s) shall be responsible for:

- Relocating the existing northeast right-in/right-out (RI/RO) access drive on First Street further south to align with the future drive aisle indicated on the Master Plan.
- Removing the existing drive-thru lane on Parcel 2 and paying the cost of the related site restoration/landscape.

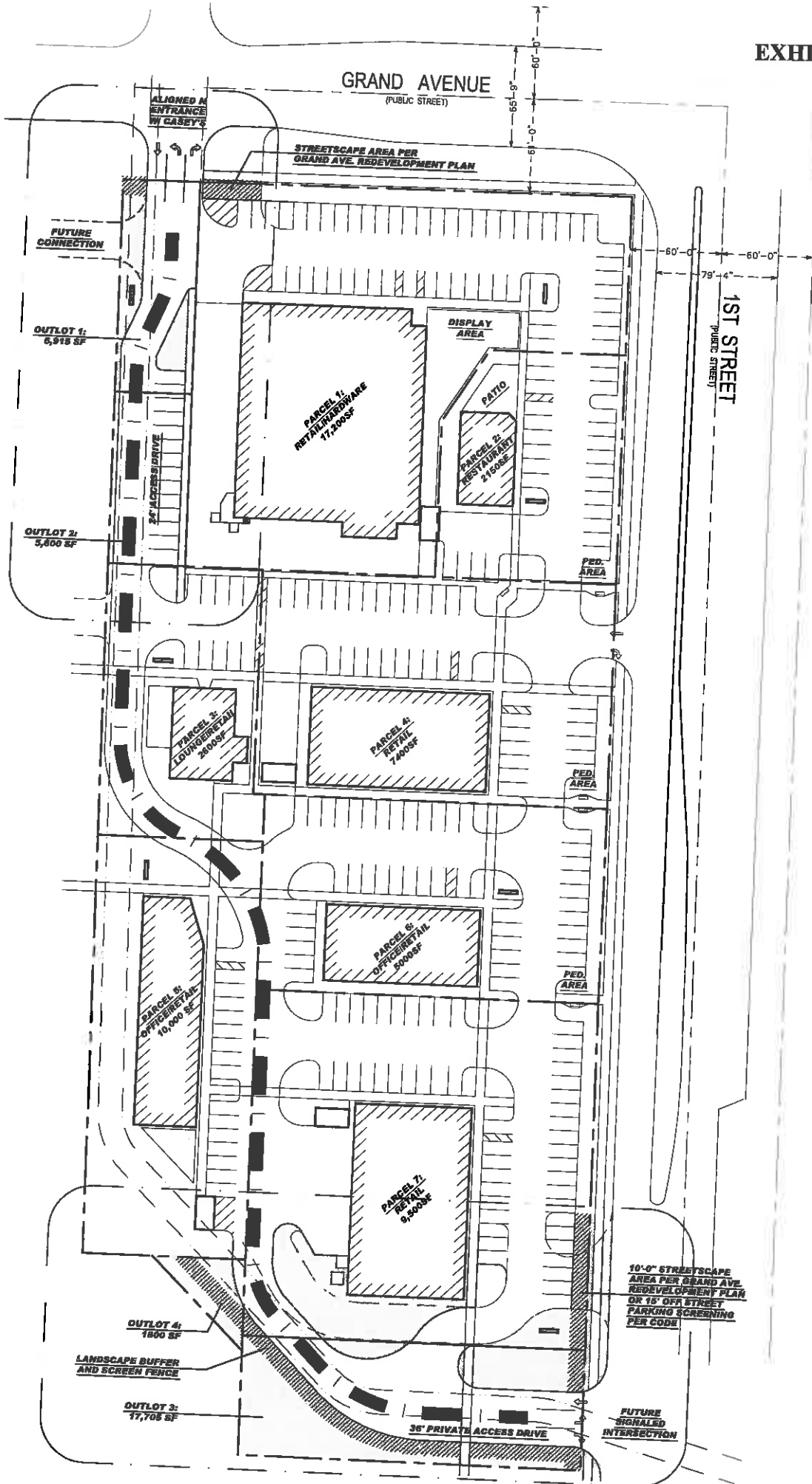
Prior to approval of a Site Plan that results in construction of over 50% of the total building area comprising Parcels 3, 4, 5, 6 and 7 the following must be in place:

- A continuous private access drive from Grand Avenue to the proposed 36' south private full access drive at First Street as indicated on the Master Plan.

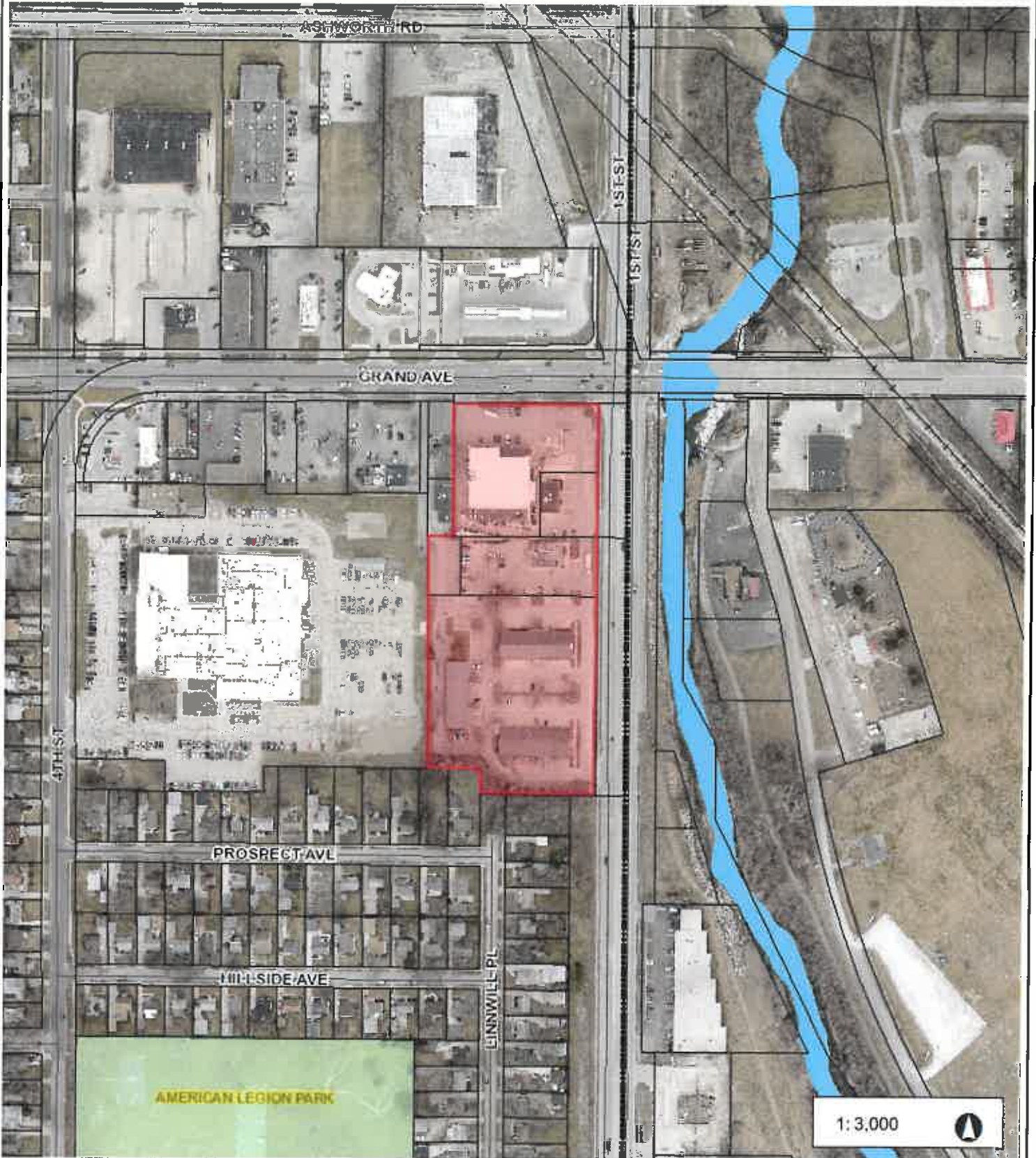
If construction of the City-initiated regional storm sewer infrastructure project has not been completed to allow installation of the private access drive at the point Developer wishes to proceed with construction of over 50% of the total building area comprising Parcels 3, 4, 5, 6 and 7, a site plan resulting in construction of over 50% of the subject parcels may proceed through the review and approval process upon the condition that additional temporary improvements or measures to mitigate traffic circulation issues may be required.

- At the time the private drive access from Grand Avenue to the proposed 36' south private full access drive at First Street is installed, improvements related to the fenced loading and storage area for Parcel 1 must be installed, either in conjunction with the drive improvements or as a separate project.
- As noted in the Master Plan Traffic Analysis, at such time as determined by the City, installation of an eastbound to southbound right-turn lane at Grand Avenue & First Street will need to be installed.

EXHIBIT A







500.0 0 250.00 500.0 Feet

NAD\_1983\_StatePlane\_Iowa\_South\_FIPS\_1402\_Feet  
© City of West Des Moines, Iowa

Disclaimer: The City of West Des Moines makes no warranties regarding the accuracy or completeness of the data provided herein.

THIS MAP IS NOT TO BE USED FOR NAVIGATION

MASTER PLAN SUBMITTAL  
SUBMITTED FOR REVIEW: SEPT 08, 2015

# FIRST STREET REDEVELOPMENT

FIRST STREET & GRAND, WEST DES MOINES, IOWA 50265

**OWNER:** MANDELBAUM PROPERTIES  
4500 WESTOWN PKWY, SUITE 115  
WEST DES MOINES, IOWA 50265  
PHONE: 515-222-6201 | FAX: 515-265-8702

**ARCHITECT:** STUDIO MELEE  
820 1ST STREET, SUITE 220, WEST DES MOINES, IOWA 50265  
PHONE: 515-493-0003 | PHONE: 515-314-9852



CIVIL/SITE: BISHOP ENGINEERING

**Bishop Engineering Company, Inc.**  
3501 104th Street  
Des Moines, Iowa 50322  
PHONE: (515)276-0467 FAX: (515)276-0217

## SYMBOLS LEGEND

|                                  |         |                      |  |
|----------------------------------|---------|----------------------|--|
| PROPERTY CORNER - FOUND AS NOTED |         | BOUNDARY LINE        |  |
| MEASURED DISTANCE                | 0.00' M | LOT LINE             |  |
| PLATTED DISTANCE                 | 0.00' P | CENTER LINE          |  |
| DEEDED DISTANCE                  | 0.00' D | EASEMENT LINE        |  |
| RIGHT-OF-WAY                     | R.O.W.  | BUILDING LINE        |  |
| SANITARY SEWER MANHOLE           |         | FENCE LINE           |  |
| STORM SEWER MANHOLE              |         | SANITARY SEWER       |  |
| UTILITY MANHOLE                  |         | STORM SEWER          |  |
| SIGNAL POLE                      |         | GAS LINE             |  |
| LIGHT POLE                       |         | WATER LINE           |  |
| POWER POLE                       |         | UNDERGROUND ELECTRIC |  |
| CURB INTAKE                      |         | OVERHEAD ELECTRIC    |  |
| SURFACE INTAKE                   |         | TELEPHONE LINE       |  |
| FIRE HYDRANT                     |         |                      |  |
| WATER VALVE                      |         |                      |  |
| GAS VALVE                        |         |                      |  |
| CLEAN OUT                        |         |                      |  |

## CERTIFICATIONS

I HEREBY CERTIFY THAT THE PORTION OF THE TECHNICAL SUBMISSION DESCRIBED BELOW WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND RESPONSIBLE CHARGE. I AM A DULY REGISTERED ARCHITECT UNDER THE LAWS OF THE STATE OF IOWA.

PRINTED OR TYPED NAME \_\_\_\_\_  
SIGNATURE & DATE \_\_\_\_\_  
DISCIPLINE & REGISTRATION NO. \_\_\_\_\_  
PAGES OR SHEETS COVERED \_\_\_\_\_

I HEREBY CERTIFY THAT THE PORTION OF THE TECHNICAL SUBMISSION DESCRIBED BELOW WAS PREPARED BY ME OR UNDER MY DIRECT SUPERVISION AND RESPONSIBLE CHARGE. I AM A DULY REGISTERED ENGINEER UNDER THE LAWS OF THE STATE OF IOWA.

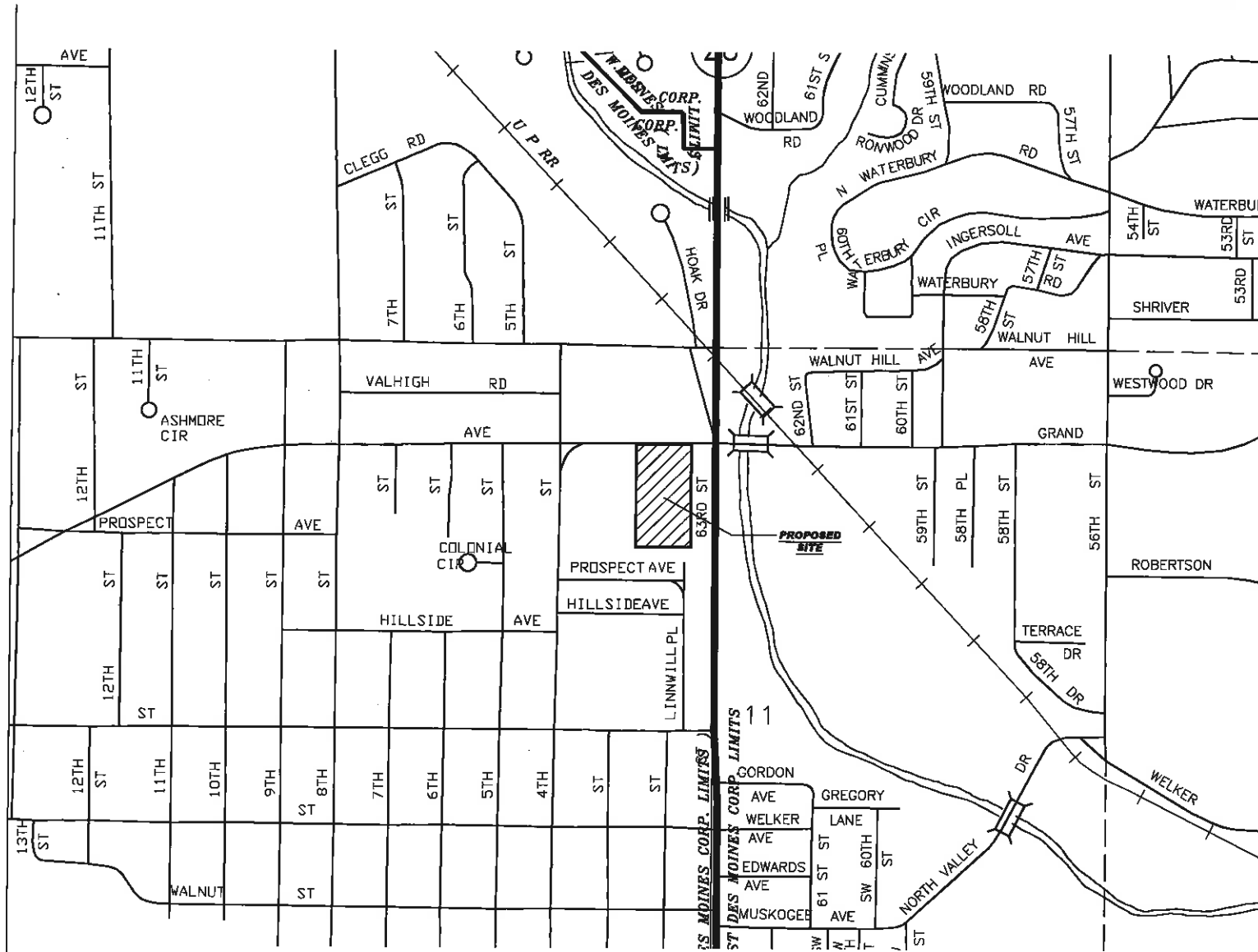
PRINTED OR TYPED NAME \_\_\_\_\_  
SIGNATURE & DATE \_\_\_\_\_  
DISCIPLINE & REGISTRATION NO. \_\_\_\_\_  
PAGES OR SHEETS COVERED \_\_\_\_\_

## INDEX OF DRAWINGS

- MPC MASTER PLAN COVER SHEET
- MP1 EXISTING SITE & PARCEL PLAN
- MP2 MASTER PLAN & FINAL BUILD-OUT PLAN
- MP3 MASTER UTILITIES AND GRADING PLANS



PRELIMINARY NOT FOR CONSTRUCTION  
MASTER PLAN SUBMITTAL



1 VICINITY MAP  
NOT TO SCALE

STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265  
(515) 314-9852  
(515) 493-0003

FIRST STREET REDEVELOPMENT  
PRELIMINARY  
MASTER PLAN  
FIRST STREET AND GRAND AVENUE  
WEST DES MOINES, IOWA 50265

PRINT DATE:  
SEPT 08, 2015  
SHEET NAME:  
SITE MASTER PLAN

MPC



**LAND OWNER & APPLICANT:**

FIRST STREET LP  
4500 WESTOWN PKWY, SUITE 115  
WEST DES MOINES, IOWA 50266

**CONTACT (PREPARED BY):**

STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265  
PH: 515-314-9852

BISHOP ENGINEERING  
3501 104TH STREET  
URBANDALE, IOWA 50322  
PH: 515-278-0467

**EXISTING LEGAL DESCRIPTIONS:**

- EX N 115F LT 1 LINNWILL PLAT 2 (VJ PLAZA)
- EX W 65F N 115F LT 1 LINNWILL PLAT 2 (FORMER LJS)
- EX E 60F & W 168F LOT 96 LINNWILL (BLUE TOMATO)
- EX E 80F LOT 95 & W 168F LOT 96 LINNWILL (TRUE VALUE)
- LOT 3 LINNWILL PLAT 2 (GRAND AVE VET)
- LOT 2 LINNWILL PLAT 2 (SULLYS)
- LOT 1 LINNWILL (CITY OF WDM PROPERTY)

**PROPOSED COMBINED LEGAL DESCRIPTION:**

LOTS 95 & 96 OF LINNWILL PLAT 1, AN OFFICIAL PLAT  
IN THE CITY OF WEST DES MOINES, POLK COUNTY, IA,  
EXCEPT FOR THE EAST 60 FEET.

AND

LOT 1 OF LINNWILL PLAT 2, AN OFFICIAL PLAT  
IN THE CITY OF WEST DES MOINES, POLK COUNTY, IA

CONTAINING APPROXIMATELY 5.37 ACRES

**SITE AREA:**

EXISTING: 5.37 acres, (234,111 sqft)  
PROPOSED: 6.03 acres, (262,958 sqft)

**DISTURBED AREA:**

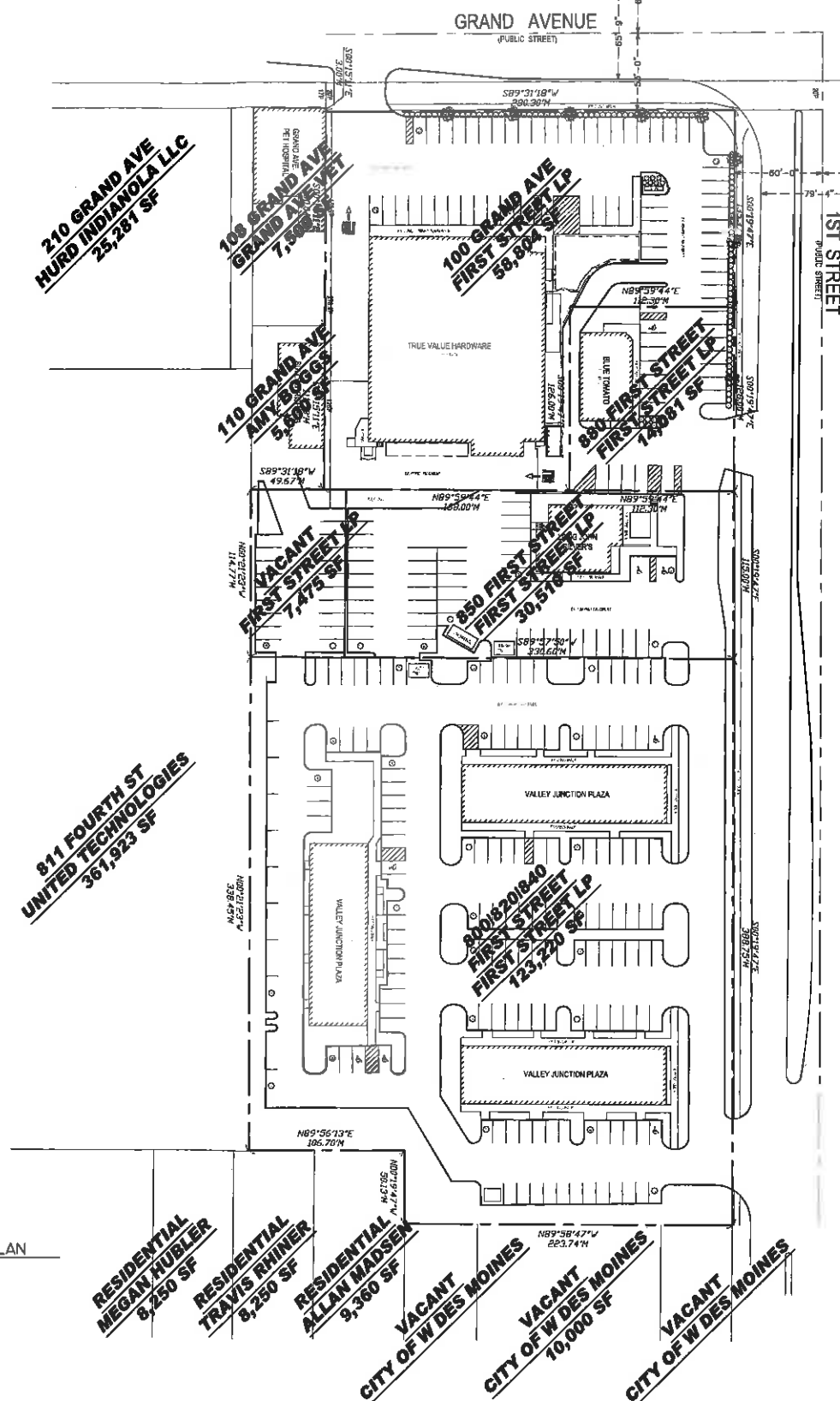
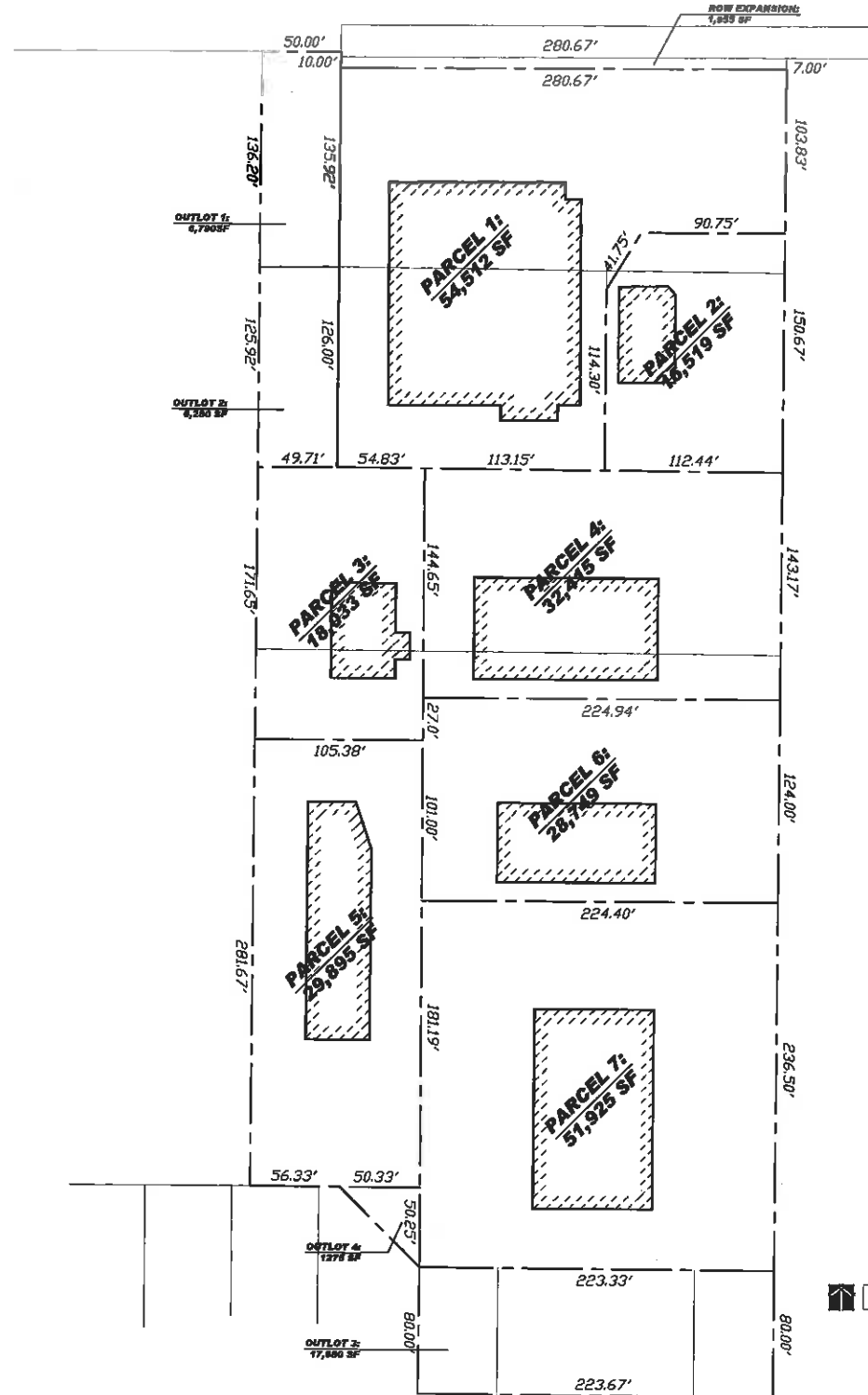
4.41 acres, (192,091 sqft)

**BUILDING AREA:**

EXISTING: 38,100 SQFT  
PROPOSED: 49,850 SQFT

**PERVIOUS AREA:**

EXISTING: 35,958 SQFT (15%)  
PROPOSED: 60,213 SQFT (22%)

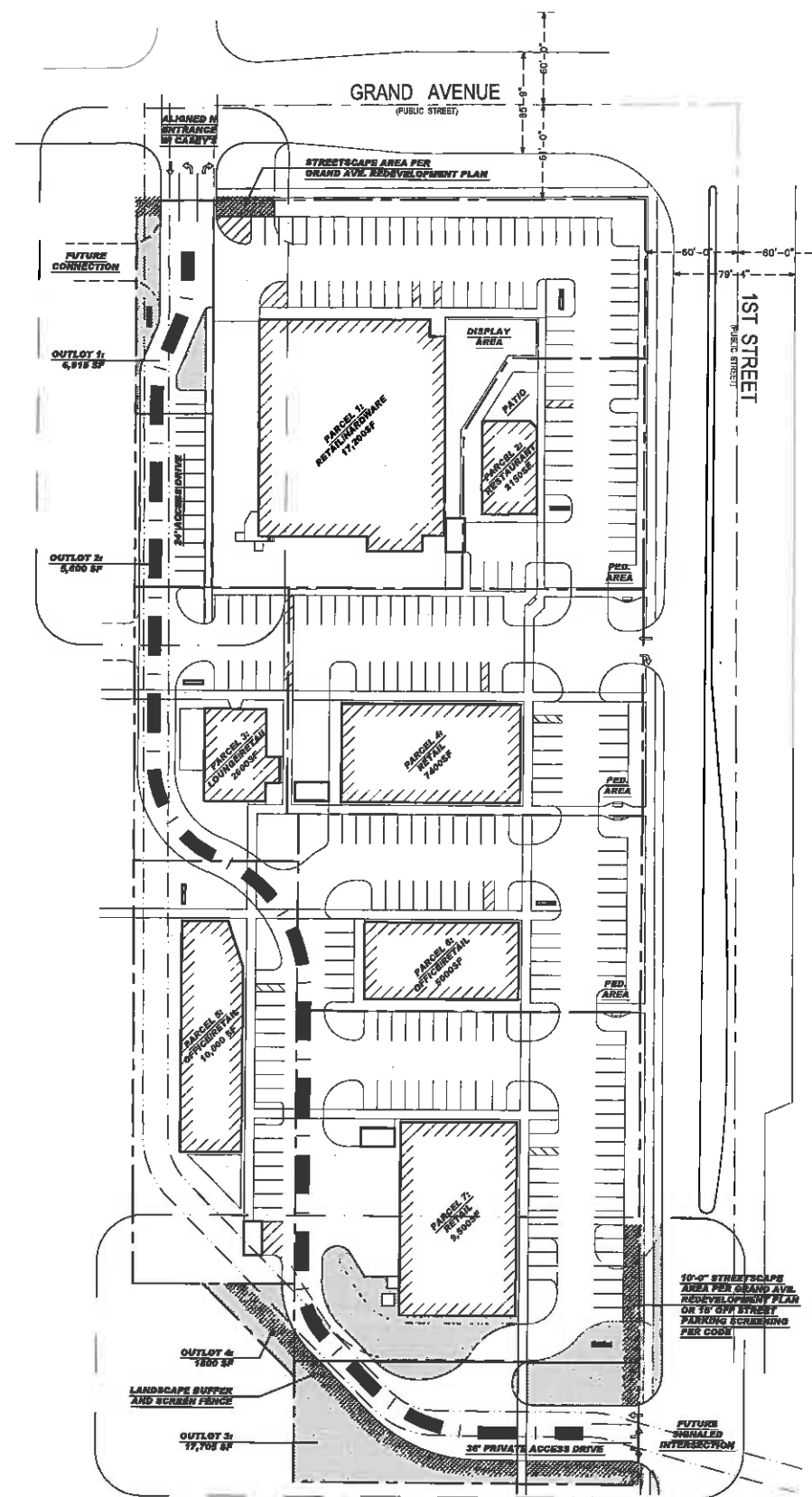


PRINT DATE: SEPT 08, 2015  
SHEET NAME: SITE MASTER PLAN  
SHEET NUMBER: 11  
MP1

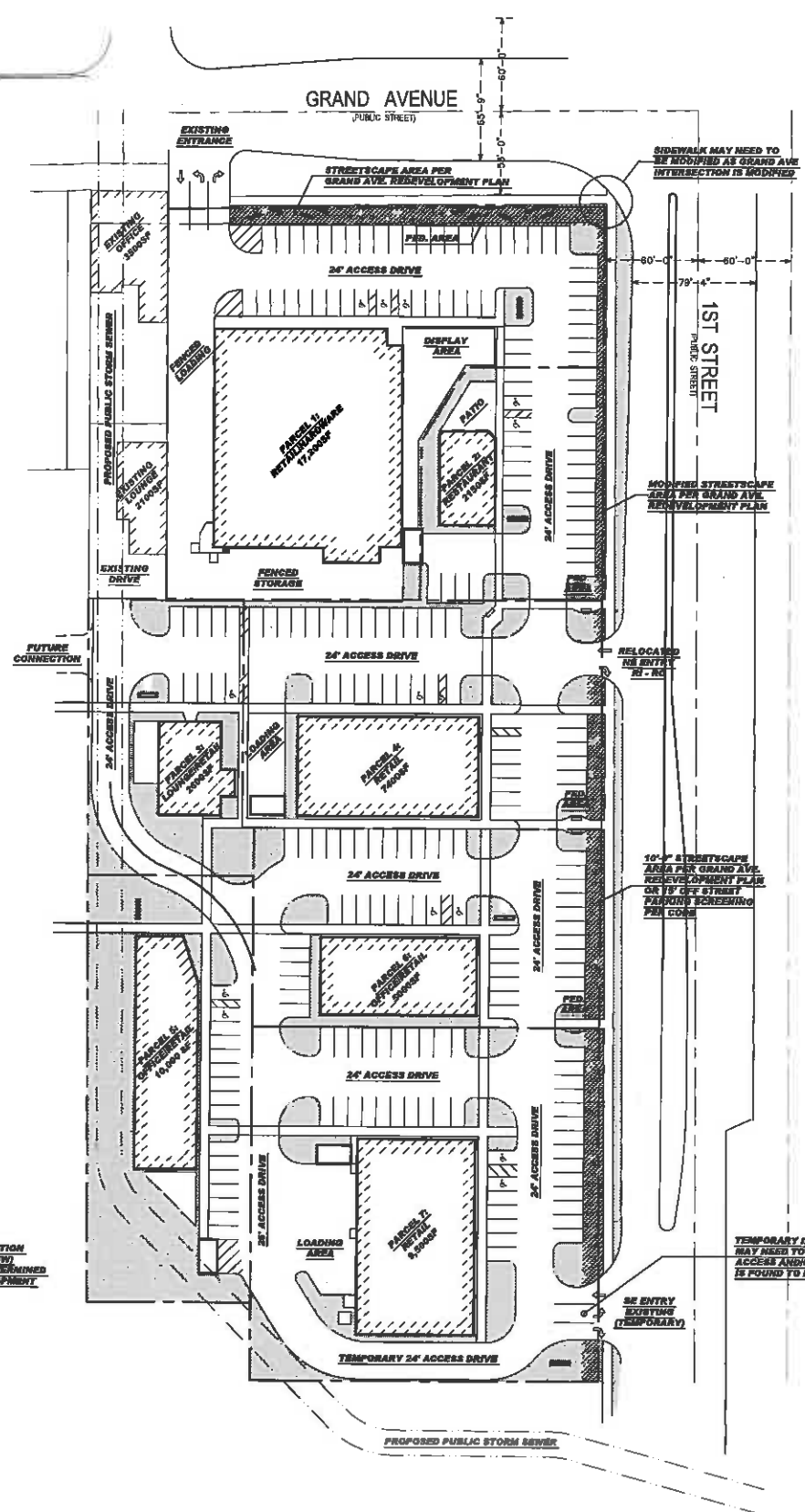
FIRST STREET REDEVELOPMENT  
FIRST STREET AND GRAND AVENUE  
WEST DES MOINES, IOWA 50265  
PRELIMINARY MASTER PLAN

STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265  
PH: (515) 314-9852  
(515) 493-0003

PRELIMINARY NOT FOR CONSTRUCTION  
MASTER PLAN SUBMITTAL



**2 FULL BUILD OUT PLAN**  
SCALE: 1" = 50'-0"



**1 OVERALL SITE PLAN**  
SCALE: 1" = 50'-0"

**LAND OWNER & APPLICANT:**  
FIRST STREET LP  
4500 WESTOWN PKWY, SUITE 115  
WEST DES MOINES, IOWA 50266

**CONTACT (PREPARED BY):**  
STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265  
PH: 515-314-9852

BISHOP ENGINEERING  
3501 104TH STREET  
URBANDALE, IOWA 50322  
PH: 515-278-0487

**EXISTING ZONING:**  
CMC COMMUNITY COMMERCIAL

**PROPOSED LAND USE & ZONING:**  
FIRST STREET PUD, UNDERLYING ZONING CMC

**BULK REGULATIONS:**  
THE INTENT OF THIS MASTER PLAN IS TO PERMIT REDEVELOPMENT OF THE AREA INTO A UNIQUE AND IDENTIFIABLE AREA AND TO RESPOND TO THE CONSTRAINTS OF AN INFILL SITE. AS PARCELS ARE BROUGHT FORTH FOR REDEVELOPMENT, THEY WILL NEED TO BE IN GENERAL CONFORMANCE WITH THE MASTER PLAN, THE GRAND AVENUE REDEVELOPMENT PLAN AND THE ESTABLISHED PUD. PROPOSED USES, BUILDING SIZES AND LOCATIONS INDICATED ON THE MASTER PLAN MAY CHANGE SLIGHTLY TO ACCOMMODATE PROPOSED INFRASTRUCTURE IMPROVEMENTS AND SPECIFIC USER NEEDS.

THE PARCELS WITHIN THE MASTER PLAN ARE GOVERNED BY THE PHASING PLAN AGREED UPON BETWEEN THE CITY OF WDM AND THE PROPERTY OWNER.

**OPEN SPACE REQUIREMENTS:**  
AS EACH PARCEL MOVES FORWARD TO REDEVELOP, IT IS EXPECTED THAT THE SITE DESIGN WILL COME AS CLOSE TO 25% OPEN SPACE AS POSSIBLE AND MITIGATE THE LOSS OF OPEN SPACE WITH PROVISION OF SITE AMENITIES AS NOTED IN THE GRAND AVENUE REDEVELOPMENT PLAN. HOWEVER, NO SITE SHALL BE PERMITTED TO HAVE MORE THAN 85% IMPERVIOUS SURFACE AND THE ENTIRE SITE SHALL HAVE NO MORE THAN 82% IMPERVIOUS SURFACE.

**PARKING REQUIREMENTS:**  
IT IS UNDERSTOOD THAT INDIVIDUAL PARCELS WITHIN THE REDEVELOPMENT MAY NOT BE ABLE TO PROVIDE ALL REQUIRED PARKING ON SITE AND SOME SHARED PARKING WILL BE REQUIRED. RECIPROCAL INGRESS AND EGRESS PARKING EASEMENTS WILL BE REQUIRED FOR ALL PARCELS IN THE DEVELOPMENT.

OFFICE AND RETAIL USES SHALL PROVIDE A MINIMUM OF 1 PARKING SPACE PER 300SF GROSS FLOOR AREA. RESTAURANTS (BOTH SIT-DOWN AND DRIVE-THRU) AND DRINKING ESTABLISHMENTS SHALL PROVIDE A MINIMUM OF 1 PARKING SPACE PER 150SF GROSS FLOOR AREA. ANY USES WITH DRIVE-THRU FACILITIES MUST PROVIDE QUEUE SPACES AS NOTED IN CITY CODE AT THE TIME OF SITE PLAN APPROVAL.

**LANDSCAPING REQUIREMENTS:**  
AS EACH PARCEL MOVES FORWARD TO REDEVELOP, IT IS EXPECTED THAT SITE DESIGN WILL COME AS CLOSE AS POSSIBLE TO PLANTING STANDARDS FOR 25% OPEN SPACE. IT IS UNDERSTOOD THAT INDIVIDUAL PARCELS WITHIN THE REDEVELOPMENT MAY NOT BE ABLE TO PROVIDE ALL REQUIRED LANDSCAPING ON SITE AND ADDITIONAL PLANT MATERIAL CAN BE PROVIDED ON OTHER PARCELS, AS LONG AS THE ENTIRE DEVELOPMENT MEETS THE MINIMUM PLANTING STANDARDS FOR 25% OPEN SPACE.

IN ADDITION TO OPEN SPACE PLANTINGS, STREETSCAPE AND PEDESTRIAN AREAS AS NOTED IN THE GRAND AVENUE REDEVELOPMENT PLAN MUST BE PROVIDED ALONG GRAND AVENUE FRONTAGE AND THE NORTH SECTION OF THE DEVELOPMENT FRONTAGE ALONG FIRST STREET AS INDICATED ON THE PLAN. THE SOUTH SECTION OF THE FRONTAGE ALONG FIRST STREET CAN BE STANDARD OFF-STREET PARKING SCREENING PER CODE OR A CONTINUATION OF THE STREETSCAPE.

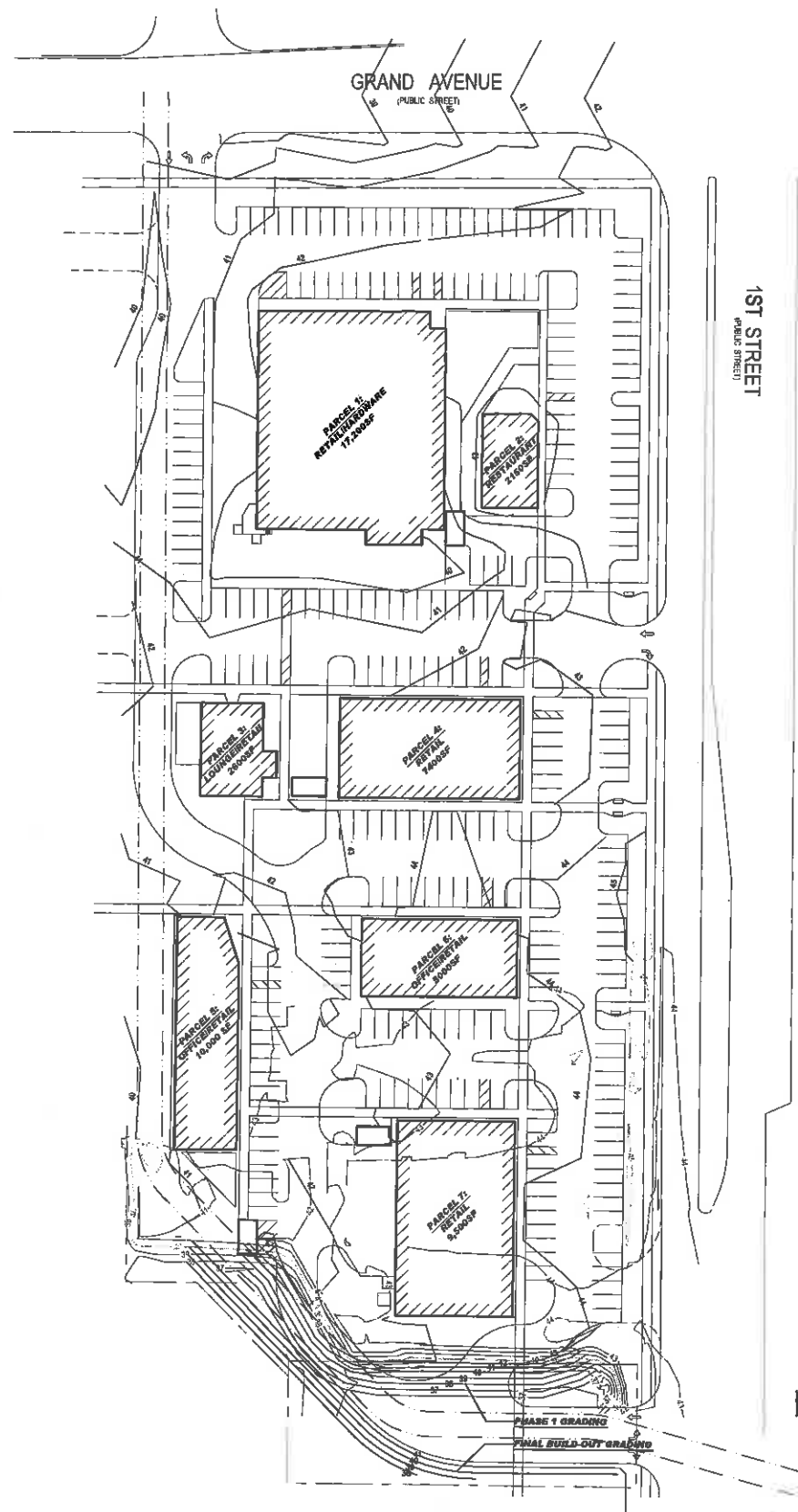
REQUIRED BUFFERS ALONG THE ADJACENT RESIDENTIAL AREAS MAY BE PROVIDED WITH A COMBINATION OF FENCING AND PLANTINGS.

SCREENING FOR MECHANICAL UNITS (GROUND AND ROOFTOP) AS WELL AS OTHER OUTDOOR STORAGE YARDS MUST MEET SCREENING REQUIREMENTS AS NOTED IN CITY CODE AT THE TIME OF SITE PLAN APPROVAL.

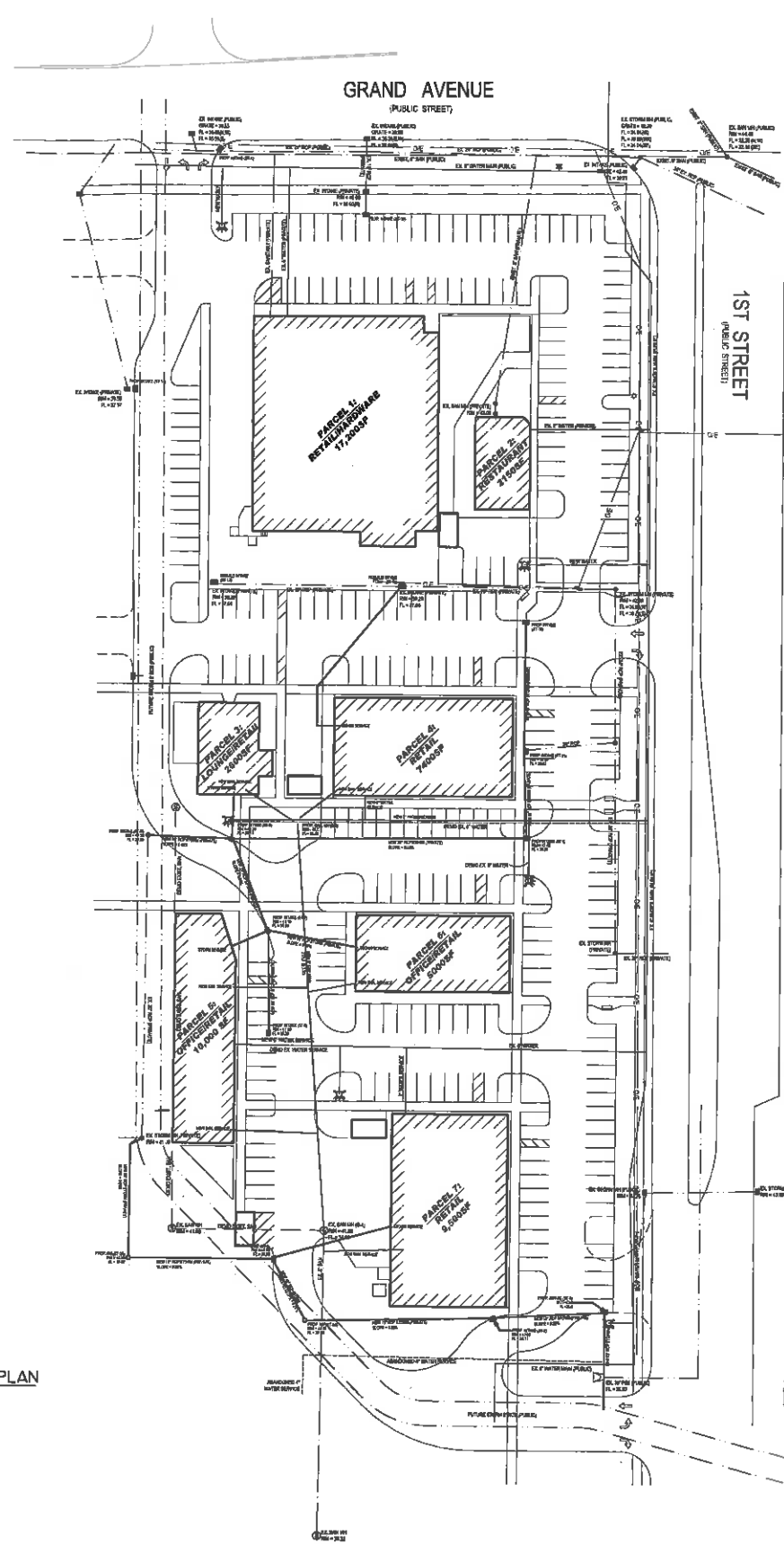
PRINT DATE: SEPT 08, 2015  
 SHEET NAME: SITE MASTER PLAN  
 FIRST STREET REDEVELOPMENT  
 FIRST STREET AND GRAND AVENUE  
 WEST DES MOINES, IOWA 50265  
 PRELIMINARY MASTER PLAN  
 STUDIO MELEE  
 820 FIRST STREET, SUITE 220  
 WEST DES MOINES, IOWA 50265  
 (515) 314-9852  
 (515) 493-0003

PRELIMINARY NOT FOR CONSTRUCTION  
MASTER PLAN SUBMITTAL

MP2



2 MASTER GRADING PLAN  
SCALE: 1" = 50'-0"



1 MASTER UTILITY PLAN  
SCALE: 1" = 50'-0"

**LAND OWNER & APPLICANT:**  
FIRST STREET LP  
4500 WESTOWN PKWY, SUITE 115  
WEST DES MOINES, IOWA 50265

**CONTACT (PREPARED BY):**  
STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265  
PH: 515-314-9852

BISHOP ENGINEERING  
3501 104TH STREET  
URBANDALE, IOWA 50322  
PH: 515-276-0467

**STORMWATER MANAGEMENT:**

AS PART OF THE PUD, THE APPLICANT WILL BE REQUIRED TO PERFORM A STORMWATER MANAGEMENT PLAN TO DETERMINE STORMWATER FLOWS AND DOWNSTREAM CAPACITY. IN LIEU OF ON-SITE DETENTION, INDIVIDUAL PROPERTIES WILL BE EXPECTED TO PARTICIPATE IN THE GRAND AVENUE STORMWATER FEE DISTRICT. THE CITY OF WEST DES MOINES SHALL DETERMINE THE ULTIMATE STORMWATER MANAGEMENT SOLUTION FOR THE AREA. COORDINATION OF ANY CONNECTIONS REQUIRED FOR ON-SITE STORMWATER INFRASTRUCTURE WILL BE NEEDED IN CONJUNCTION WITH THE WANTU CREEK OUTFALL PROJECT.

**SITE UTILITIES NOTES:**

1. THE UTILITIES SHOWN HAVE BEEN LOCATED FROM FIELD SURVEY INFORMATION AND/OR RECORDS OBTAINED. THE SURVEYOR MAKES NO GUARANTEE THAT THE UTILITIES OR SUBSURFACE FEATURES SHOWN COMPRISE ALL SUCH ITEMS IN THE AREA, EITHER IN SERVICE OR ABANDONED. THE SURVEYOR FURTHER DOES NOT WARRANT THAT THE UTILITIES OR SUBSURFACE FEATURES SHOWN ARE IN THE EXACT LOCATION INDICATED.
2. CONTRACTOR SHALL VERIFY ALL ELEVATIONS FOR ALL EXISTING UTILITIES PRIOR TO STARTING WORK, INCLUDING ELEVATIONS OF EXISTING LINES CROSSING NEW LINES.
3. CONTRACTOR SHALL FIELD ADJUST ALL SITE UTILITIES (NEW AND EXISTING) TO MATCH PROPOSED FINISH GRADES, INCLUDING HYDRANTS, VALVES, MANHOLE RIMS, INLETS AND POLE BASES.
4. ALL SANITARY SEWER, STORM SEWER MATERIALS AND INSTALLATION SHALL BE BUILT IN ACCORDANCE WITH THE CITY OF WEST DES MOINES 'URBAN STANDARD SPECIFICATIONS FOR PUBLIC IMPROVEMENTS,' 1998 BY THE URBAN STANDARDS SPECIFICATIONS COMMITTEE- CENTRAL IOWA METROPOLITAN AREAS AND MUNICIPALITIES.

**SITE GRADING NOTES:**

1. TAKE ALL NECESSARY MEASURES TO PROTECT AGAINST EROSION AND DUST POLLUTION ON AND AROUND THE PROJECT SITE TO INCLUDE ALL OFF-SITE BORROW AND SPOIL AREAS.
2. FOR ALL AREAS INDICATING PROPOSED CONSTRUCTION, STRIP AND HAUL AWAY ALL ORGANIC MATERIAL TO A 2' MINIMUM DEPTH. UPON COMPLETION OF WORK, A MINIMUM OF 6-INCHES OF TOPSOIL SHALL BE PLACED ON ALL NON-PAVED DISTURBED SURFACES. SOIL STOCKPILE AREA MAY NOT BE AVAILABLE ON-SITE, HAUL AWAY AND BRING BACK AS REQUIRED.
3. NATIVE SOILS MAY BE REUSED FOR COMMON FILL (OUTSIDE OF BUILDING) AFTER THEY ARE SORTED TO REMOVE ALL DELETERIOUS MATERIALS SUCH AS CONCRETE, BRICKS AND OTHER RUBBLE. DELETERIOUS MATERIALS SHALL BE REMOVED FROM PROJECT SITE. ALL EXCESS MATERIAL SHALL BE REMOVED FROM THE SITE BY THE CONTRACTOR.
4. SUBGRADE FOR PAVEMENTS SHALL BE PROOF ROLLED AND CHECKED FOR SOFT SPOTS. ANY SOFT SPOTS FOUND SHALL HAVE UNACCEPTABLE MATERIAL REMOVED AND REPLACED WITH SELECT MATERIAL.
5. PROPOSED CONTOURS AND SPOT ELEVATIONS REPRESENT FINISHED GRADE. CONTRACTOR SHALL ENSURE POSITIVE DRAINAGE (1/4" PER FOOT MIN.) AWAY FROM ALL BUILDINGS TO A DISTANCE OF 10'-0" OR MORE.
6. ALL SIDEWALKS SHALL HAVE 1/4" PER FOOT TRANSVERSE SLOPE IN THE DIRECTION OF NATURAL DRAINAGE AWAY FROM THE BUILDING.
7. MATCH EXISTING GRADES AT INTERFACE OF NEW AND EXISTING GRADES OR PAVING.
8. CONTRACTOR SHALL REVIEW AND FOLLOW THE GEOTECHNICAL SOILS REPORT IN THE PROJECT MANUAL.



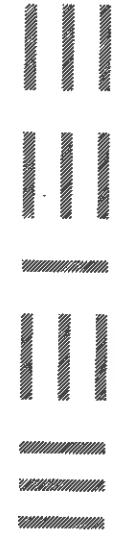
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MASTER PLAN SUBMITTAL

PRINT DATE:  
SEPT 08, 2015  
SHEET NAME:  
SITE MASTER PLAN

FIRST STREET REDEVELOPMENT  
FIRST STREET AND GRAND AVENUE  
WEST DES MOINES, IOWA 50265  
PRELIMINARY  
MASTER PLAN

STUDIO MELEE  
820 FIRST STREET, SUITE 220  
WEST DES MOINES, IOWA 50265

(515) 314-9852  
(515) 493-0003



MP3

Prepared by: B. Portz, City of West Des Moines Development Services, P.O. Box 65320, West Des Moines, IA 50265-0320, 515-222-3620

When Recorded, Return to: City Clerk, City of West Des Moines, P. O. Box 65320, West Des Moines, IA 50265-0320

**RESOLUTION**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, APPROVING THE MASTER PLAN (MP-002403-2014) FOR THE PURPOSE OF BUILDING AND INFRASTRUCTURE MODIFICATIONS.**

**WHEREAS**, pursuant to the provisions of Title 9, Zoning, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, First Street, LP, has requested approval for a Master Plan (MP-002403-2014) for that approximately 5.37 acre site located on the southwest corner of 1<sup>st</sup> Street and Grand Avenue for the purpose of building and infrastructure modifications;

**Legal Description of Property**

LOTS 95 AND 96 OF LINNWILL, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, POLK COUNTY, IA, EXCEPT FOR THE EAST 60' FEET;

AND

LOT 1 OF LINNWILL PLAT 2, AN OFFICIAL PLAT IN THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA.

**WHEREAS**, studies and investigations were made, and staff reports and recommendations were submitted which is made a part of this record and herein incorporated by reference;

**WHEREAS**, on September 28, 2015, the Plan and Zoning Commission did recommend to the City Council approval of the 1<sup>st</sup> Street Redevelopment Master Plan (MP-002403-2014);

**WHEREAS**, on, October 5, 2015, this City Council held a duly-noticed meeting to consider the application for the 1<sup>st</sup> Street Redevelopment Master Plan (MP-002403-2014);

**NOW, THEREFORE**, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES DOES RESOLVE AS FOLLOWS:

**SECTION 1.** The findings, for approval, stated in the staff report, dated October 5, 2015, or as amended orally at the City Council meeting of October 5, 2015, are adopted.

**SECTION 2.** MASTER PLAN (MP-2010-001) for the purpose of building and infrastructure modifications is approved, subject to compliance with all the conditions in the staff report, dated October 5, 2015, including conditions

added at the meeting, and attached hereto as Exhibit "A" and the Phase Plan as noted on the Master Plan and as described in the staff report, dated October 5, 2015, and attached hereto as Exhibit "B." Violation of any such conditions shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

**PASSED AND ADOPTED** on October 5, 2015.

---

Steven K. Gaer  
Mayor

ATTEST:

---

Ryan T. Jacobson  
City Clerk

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on October 5, 2015, by the following vote:

ATTEST:

---

Ryan T. Jacobson  
City Clerk

**EXHIBIT A**  
**CONDITIONS OF APPROVAL**

1. Per the City Code, a Master Plan shall serve only as a guide for development and shall not be binding on the City for subsequent plan review and approvals. City Council approval of the Rezoning Request (PUD) is required prior to any construction as proposed by the Master Plan, however, footing and foundation permits may be issued prior to City Council 2<sup>nd</sup> and 3<sup>rd</sup> Readings and adoption of the PUD to keep individual projects moving forward.
2. The re-development of the Master Plan area will be multi-phased to accommodate existing tenants and market conditions. To plan for the incremental installation of the improvements related to the Master Plan, a Phasing Plan has been created that addresses obligations of improvements for all parcels currently contained in or affected by the Master Plan. Said Phasing Plan shall be noted on the Master Plan and recorded with the Council Resolution for the Master Plan.

## First Street Redevelopment Master Plan Phase Plan

*This Phase Plan is intended to define the responsibilities & obligations related to the First Street Redevelopment Master Plan. Development of any parcel included in this Phase Plan shall comply with the West Des Moines Comprehensive Plan, the City of West Des Moines Code of Ordinances, the Grand Avenue Redevelopment Plan and the First Street Redevelopment Planned Unit Development.*

*Required site improvements and locations referenced in the Master Plan are shown on the attached Exhibit A.*

At such time that the regional storm water infrastructure improvements to be constructed adjacent to and within the Master Plan area are designed and installed, additional City-owned remnant parcels adjacent to the redevelopment parcels may be available for incorporation into the Master Plan area. These remnant parcels will be sold pursuant to the required public property disposal process, which may allow a Master Plan applicant to obtain one or more of the parcels. Although not sufficient in size to provide buildable area for the development, the subject parcels will be available primarily for the location of utilities or related easements, traffic circulation and interconnections to serve properties both within the Master Plan area and adjacent properties and, secondarily, to provide additional parking or open space for development within the Master Plan area. Conditions of purchase of the remnant parcels will include the requirement that the resulting Owner be responsible for:

- executing a development agreement with the City to initiate a zoning change for a remnant parcel located on or adjacent to Outlot 1 (Lot 2, Linnwill Plat 2) or/and Outlot 2 (Lot 3, Linnwill Plat 2) and installation of the proposed access drive and related improvements for Outlot 1 and Outlot 2;
- executing a development agreement with the City to initiate a land use amendment and zoning change for Lot 1, Linnwill Place and any adjacent remnant parcels (indicated as Outlot 3) and installation of the proposed 36' wide south private access drive and related improvements, including median and turn lane modifications along First Street/63<sup>rd</sup> Street at the south private drive intersection.

Upon final determination of the design and location of the regional storm water infrastructure improvements to be constructed south of Grand Avenue, the owner of any property located within the Master Plan area on which the stormwater infrastructure will be located will be required to provide an easement to the City, for which the owner will be compensated per the City's real property acquisition policy.

- At the time of approval of the First Street Redevelopment PUD, an irrevocable offer of right-of-way dedication to meet Comprehensive Plan requirements for that portion of Grand Avenue located adjacent to the Master Plan area will be required.
- Conveyance of the right-of-way will be triggered upon City approval of a Major Modification (Site Plan)/Redevelopment of Parcel 1 or City approval of the reconstruction of said segment of Grand Avenue as a capital improvement project.

At the time of approval of the First Street Redevelopment PUD, an agreement and waiver for the Applicant's proportionate share of the cost of the traffic signal to be located at the proposed 36' south private full access drive at First Street will be required. As determined by the City, the signal will be installed at the time a traffic study determines traffic conditions warrant its installation and/or that installation of the signal will improve the safety and operation of the intersection. The Applicant may pursue under separate process reimbursement from the City for a portion of the cost of installation of the traffic signal, with conditions and qualified expenses to be made part of a separate development agreement with the City.

Within 24 months of approval of the First Street Redevelopment PUD, the Applicant must initiate the installation of:

- Streetscape improvements along the Grand Avenue frontage and the First Street frontage for Parcels 1 and 2. Streetscape improvements along Grand Avenue will involve modifications to the existing parking lot and possibly the existing monument sign.

The Owner of Parcels 1 and 2 may pursue under separate process reimbursement from the City for all or a portion of the costs of the modifications to the existing parking lot and removal of the existing sign, with conditions and qualified expenses to be made part of a separate development agreement with the City.

At the time of Site Plan approval for either Parcel 3 or Parcel 4, or upon the installation of the west interconnection aligning with the north drive aisle across Parcel 3 and Parcel 4, the Applicant(s) shall be responsible for:

- Relocating the existing northeast right-in/right-out (RI/RO) access drive on First Street further south to align with the future drive isle indicated on the Master Plan.
- Removing the existing drive-thru lane on Parcel 2 and paying the cost of the related site restoration/landscape.

Prior to approval of a Site Plan that results in construction of over 50% of the total building area comprising Parcels 3, 4, 5, 6 and 7 the following must be in place:



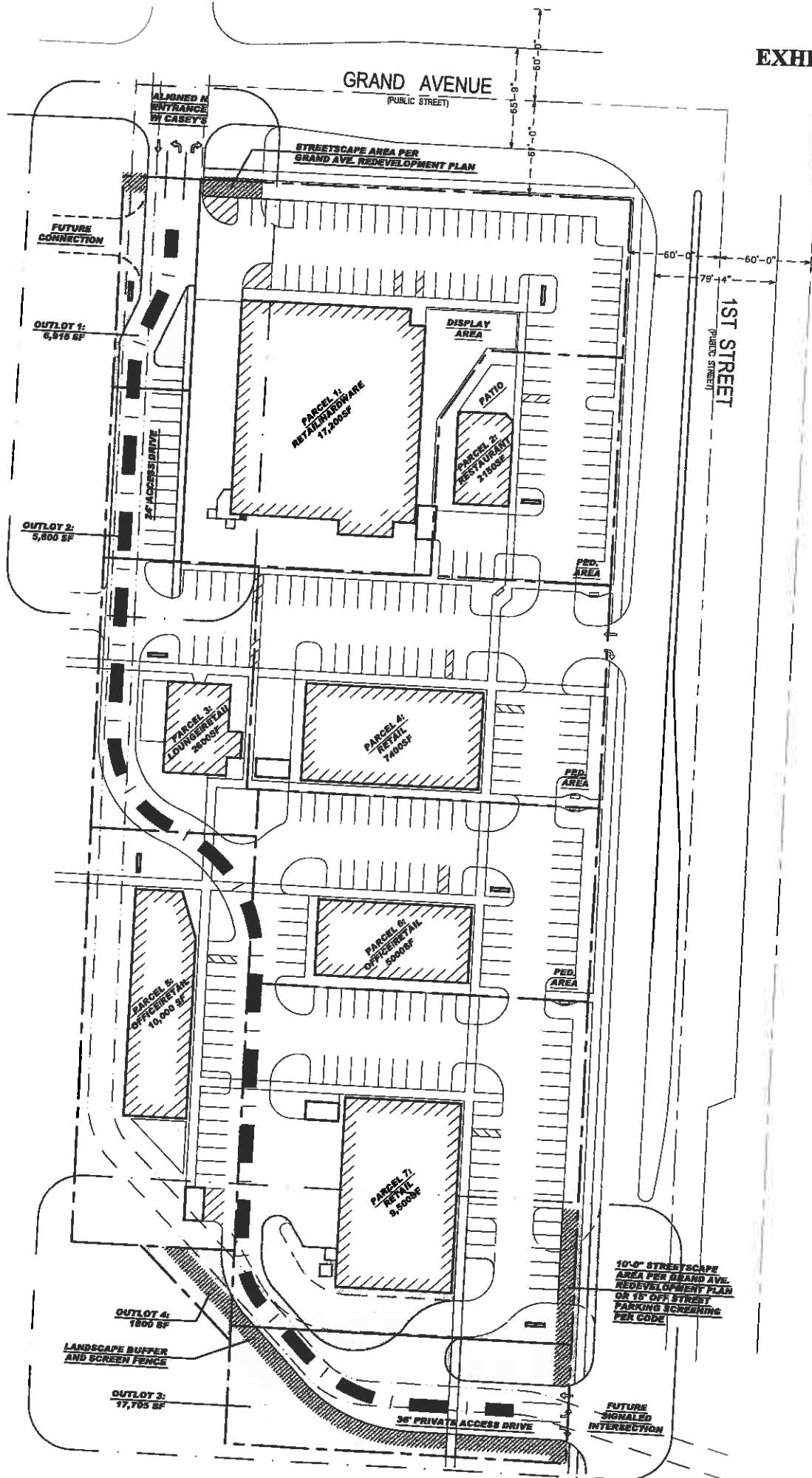
- A continuous private access drive from Grand Avenue to the proposed 36' south private full access drive at First Street as indicated on the Master Plan.

If construction of the City-initiated regional storm sewer infrastructure project has not been completed to allow installation of the private access drive at the point Developer wishes to proceed with construction of over 50% of the total building area comprising Parcels 3, 4, 5, 6 and 7, a site plan resulting in construction of over 50% of the subject parcels may proceed through the review and approval process upon the condition that additional temporary improvements or measures to mitigate traffic circulation issues may be required.

- At the time the private drive access from Grand Avenue to the proposed 36' south private full access drive at First Street is installed, improvements related to the fenced loading and storage area for Parcel 1 must be installed, either in conjunction with the drive improvements or as a separate project.
- As noted in the Master Plan Traffic Analysis, at such time as determined by the City, installation of an eastbound to southbound right-turn lane at Grand Avenue & First Street will need to be installed.

DRAFT

**EXHIBIT A**



## CITY OF WEST DES MOINES CITY COUNCIL MEETING COMMUNICATION

**ITEM:** First Reading of a proposed Ordinance to Title 5, Section 3, Chapter 3 of the Municipal Code to revise the City's Animal Licensing Fee      **DATE:** October 5, 2015

**FINANCIAL IMPACT:** The change to this section of City Code removes the one-time deduction of \$5.00 in their animal licensing fee. Total reductions taken in 2014 totaled \$1,430.00 and in 2015, \$2,300 has been reduced (thru August). Note that due to on-line registration software limitations, some of these were taken without consideration for previous deduction. It is worth noting that the deduction also impacts the staff time (expense) required to process applications, as more than half of staff/resident contact during the 2015 licensing season was due to residents underpaying or having confusion regarding this credit.

**BACKGROUND:** WestPet is an agreement between the cities of Clive, Urbandale and West Des Moines. As part of the 28E agreement, sections of each City's Code related to animal licensing are required to mirror each other. When the 28E for WestPet was originally executed, it was in partnership with Humane Enterprises. One of the techniques Humane Enterprises used to increase licensing was microchip clinics and incenting the process with a one-time \$5.00 reduction in the licensing fee, so all cities adopted an one-time \$5.00 deduction for microchipped animals.

In November of 2014 the relationship with Humane Enterprises was terminated and the City of West Des Moines took on administrative duties for WestPet. During the City's first licensing season (2015) it was found that the microchip credit greatly impacted processing time for renewals. Many individuals were confused as to the one-time status of the credit and underpaid as a result. Many continued to take the deduction as an annual credit instead of its intended one-time use. Staff believes that this credit is not an effective tool to increase licensing without also continuing the microchip clinics.

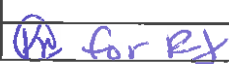
On September 4, 2015 the WestPet Animal Control Oversight Committee voted to eliminate the microchip credit. All cities have agreed to this change – in fact the City of Clive has already removed the relevant section of their Code and the City of Urbandale will most likely follow suit.

**OUTSTANDING ISSUES:** Approval by the City Council of Urbandale– scheduled for later this month.

**RECOMMENDATION:** Approve the removal of West Des Moines City Code Section 5-3A-3:(C).

**Lead Staff Member:** Tim Stiles, Finance Director 

**STAFF REVIEWS**

|                        |   |
|------------------------|---|
| Department Director    |   |
| Appropriations/Finance |   |
| Legal                  |   |
| Agenda Acceptance      |  |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                                      |                          |                             |
|----------------|--------------------------------------|--------------------------|-----------------------------|
| Committee      | Finance & Administration             |                          |                             |
| Date Reviewed  | September 23, 2015                   |                          |                             |
| Recommendation | <input checked="" type="radio"/> Yes | <input type="radio"/> No | <input type="radio"/> Split |

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, TITLE 5, "POLICE REGULATIONS", CHAPTER 3, "ANIMAL CONTROL", ARTICLE A, "DOGS AND CATS", SECTION 3, "LICENSE FEE"**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1:** Title 5, Chapter 3, Article A, Section 3, "License Fee", is hereby amended by deleting ~~strike-through~~ text.

**5-3A-3: LICENSE FEE:**

The amount of the annual license fee for dogs and cats shall be established by resolution approved by the city council, subject to the following provisions:

A. The owner of a certified service animal who applies for a dog or cat license may qualify for a waiver of the annual license fee.

B. If the owner of a dog or cat acquires the animal less than six (6) months prior to the expiration date of the license for that period, the license fee shall be reduced fifty percent (50%) and the full regular license fee as herein provided shall henceforth be in effect the following calendar year.

~~C. If the owner's dog or cat has been microchipped and the owner has included the microchip number on the license application, the owner shall be entitled to a onetime five dollar (\$5.00) reduction in the license fee for the microchipped dog or cat.~~

**SECTION 2. REPEALER.** All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 3. SAVINGS CLAUSE.** If any section, provision, sentence, clause, phrase, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

**ATTEST:**

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**ITEM:**

**DATE: October 5, 2015**

First reading of proposed Ordinance to amend Title 6, Chapter 5 of the Municipal Code to distinguish between accident-related and non-accident-related failure to provide proof of liability insurance traffic citations within the electronic system now utilized by Iowa courts.

**FINANCIAL IMPACT:**

This proposed Ordinance amendment should have no new financial impact to the City.

**BACKGROUND:**

This proposed Ordinance would help separate accident-related from non-accident-related failure to provide proof of liability insurance traffic citations because both types of violations have been addressed in a single Iowa Code provision (Iowa Code Section 321.20B). The distinction between the two has only been made in the penalty provision of the Iowa Code (Section 805.8A(14)(f)). The Polk County Clerk of Court's office has asked the City's Police Department to distinguish between these two types of no insurance traffic violations for entry and handling within the Electronic Document Management System (EDMS) now utilized for all traffic tickets and other court cases. It is important to distinguish between the two types of no insurance traffic violations because the Iowa Code provides that a person cited for no proof of insurance related to a motor vehicle accident is subject to a \$500.00 fine, plus surcharge and court costs, while a person cited for no proof of insurance unrelated to a motor vehicle accident is subject to a \$250.00 fine, plus surcharge and court costs. Adding subparagraphs (1) and (2) to West Des Moines Code Section 6-5G-10(A) should sufficiently address the concerns raised by the Polk County Clerk of Court's office and make their use of EDMS easier and more efficient.

The Public Safety City Council subcommittee approved of this proposed new Ordinance at its meeting held on October 2, 2015.

**OUTSTANDING ISSUES (if any):** None

**RECOMMENDATION:**

It is recommended that the City Council approve the first reading of this proposed Ordinance.

**Lead Staff Member:** Jason B. Wittgraf, Assistant City Attorney *JB for JBU*

**STAFF REVIEWS**

|                        |                                       |
|------------------------|---------------------------------------|
| Department Director    | Richard J. Scieszinski, City Attorney |
| Appropriations/Finance | <i>[Signature]</i>                    |
| Legal                  | <i>[Signature]</i>                    |
| Agenda Acceptance      | <i>[Signature] for RJ</i>             |

**PUBLICATION(S) (if applicable)**

|                    |  |
|--------------------|--|
| Published In       |  |
| Dates(s) Published |  |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                 |    |       |
|----------------|-----------------|----|-------|
| Committee      | Public Safety   |    |       |
| Date Reviewed  | October 2, 2015 |    |       |
| Recommendation | Yes             | No | Split |

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

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2014, BY AMENDING TITLE 6, "MOTOR VEHICLES AND TRAFFIC", CHAPTER 5, "RULES OF THE ROAD", ARTICLE G, "MISCELLANEOUS RULES", SECTION 10 "GENERAL TRAFFIC REGULATIONS"

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1: Title 6, Chapter 5, Article G, Section 10 is hereby amended by adding underline text.

**6-5G-10: GENERAL TRAFFIC REGULATIONS:**

A. Proof of security against liability - driving without liability coverage. Iowa Code (2011) section 321.20B is adopted by reference.

1. The person cannot provide proof of vehicle liability insurance coverage with the occurrence of a motor vehicle accident.
2. The person cannot provide proof of vehicle liability insurance coverage without the occurrence of a motor vehicle accident.

B. Operation without registration. Iowa Code (2011) section 321.98 is adopted by reference.

C. Fraudulent use of registration. Iowa Code (2011) section 321.99 is adopted by reference.

D. Operation without proper driver's license. Iowa Code (2011) section 321.174 is adopted by reference.

E. Child restraint devices. Iowa Code (2011) section 321.446 is adopted by reference.

F. Safety belts and safety harnesses - use required. Iowa Code section 321.445 is adopted by reference.

G. Operation of motor vehicle with expired license. Iowa Code (2015) section 321.174A is adopted by reference.

H. Permitting unauthorized minor to drive. Iowa Code (2015) section 321.219 is adopted by reference.

I. Permitting unauthorized person to drive. Iowa Code (2015) section 321.220 is adopted by reference.

J. Display of plates. Iowa Code (2015) section 321.37 is adopted by reference.

K. Injuring or tampering with vehicle. Iowa Code (2015) section 321.78 is adopted by reference.

**SECTION 2. REPEALER.** All Ordinances or parts of Ordinances in conflict with the provisions of this Ordinance are hereby repealed.

**SECTION 3. SAVINGS CLAUSE.** If any section, provision, sentence, clause, phrase, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase, or part hereof not adjudged invalid or unconstitutional.

**SECTION 4. EFFECTIVE DATE.** This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

**PASSED AND APPROVED** this \_\_\_\_ day of \_\_\_\_\_, 2015.

\_\_\_\_\_  
Steven K. Gaer, Mayor

ATTEST:

\_\_\_\_\_  
Ryan T. Jacobson, City Clerk



**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Roll-Up Doors and Window – Amend Title 9, Zoning, Chapter 10 Performance Standards to establish regulations regarding the implementation of roll-up doors and windows in restaurants and bars – City Initiated – AO-002860-2015

**MOTION:** Refer to Plan and Zoning Commission

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The City of West Des Moines requests an amendment to Title 9, Zoning, Chapter 10, Performance Standards, to establish regulations for roll-up doors and windows for restaurants and bars that are within 300 feet of residential property. A recent trend appears to be the implementation of this element that allows an open-air connection between the inside of the business and a patio or deck. This amendment will restrict implementation of these doors and windows when near residential development.

At this time the City is requesting that the City Council initiate the ordinance amendment request and refer it to the Plan and Zoning Commission for their review and recommendation. The initiation of the ordinance amendment request by the City Council does not indicate support or opposition to the request.

**RECOMMENDATION:** Staff recommends initiation of the ordinance amendment request and forwarding it to the Plan and Zoning Commission for their review and recommendation.

Lead Staff Member: Kara Tragesser, AICP

*K. Tragesser*

**STAFF REVIEWS:**

|                        |                 |
|------------------------|-----------------|
| Department Director    | <i>JK</i>       |
| Appropriations/Finance | <i>JK</i>       |
| Legal                  | <i>JBW</i>      |
| Agenda Acceptance      | <i>R for Rg</i> |

**PUBLICATION(S) (if applicable)**

|  |     |
|--|-----|
| Published In                               | n/a |
| Date(s) Published                          | n/a |
| Letter sent to surrounding property owners | n/a |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |                              |                             |                                |
|----------------|------------------------------|-----------------------------|--------------------------------|
| Committee      | N/A                          |                             |                                |
| Date Reviewed  |                              |                             |                                |
| Recommendation | Yes <input type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |

**CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 5, 2015**

**ITEM:** Event Venues – Amend Title 9, Zoning, to establish definitions, amend parking standards, amend use matrix, and establish regulations related to event venues– City Initiated – AO-002851-2015

**MOTION:** Refer to Plan and Zoning Commission

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The City of West Des Moines requests an amendment to Title 9, Zoning, to establish definitions, amend the parking standards, amend the use matrix, and establish regulations related to event venues. Places of business are desiring to use assembly space within their building or tenant space for uses not incidental to the operation of the principal use that is permitted or conditionally permitted in a zoning district. These events are receptions, meeting, and other gatherings that effect parking availability and life-safety requirements. This ordinance addresses those issues.

At this time the City is requesting that the City Council initiate the ordinance amendment request and refer it to the Plan and Zoning Commission for their review and recommendation. The initiation of the ordinance amendment request by the City Council does not indicate support or opposition to the request.

**RECOMMENDATION:** Staff recommends initiation of the ordinance amendment request and forwarding it to the Plan and Zoning Commission for their review and recommendation.

Lead Staff Member: Kara Tragesser, AICP

**STAFF REVIEWS:**

|                        |  |
|------------------------|--|
| Department Director    |         |
| Appropriations/Finance |         |
| Legal                  | JBW  |
| Agenda Acceptance      |  for RJ |

**PUBLICATION(S) (if applicable)**

|  |     |
|--|-----|
| Published In                               | n/a |
| Date(s) Published                          | n/a |
| Letter sent to surrounding property owners | n/a |

**SUBCOMMITTEE REVIEW (if applicable)**

|                |   |                             |                                |
|----------------|---|-----------------------------|--------------------------------|
| Committee      | Development & Planning                  |                             |                                |
| Date Reviewed  | September 24, 2015                      |                             |                                |
| Recommendation | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | Split <input type="checkbox"/> |