CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: December 11, 2017

ITEM: I2 Technologies, 2360 Grand Avenue - Approval and Acceptance of Sidewalk Installation Agreement – I2 Tech, LLC – MaM-003149-2016

Resolution: **Approval and Acceptance of Sidewalk Installation Agreement**

FINANCIAL IMPACT: Undetermined.

BACKGROUND: On January 23, 2017, a Major Modification was approved to connect the buildings at 2256 and 2260 Fuller Road with a building addition and add a building connection from the building at 2256 Fuller Road to the building at 2360 Grand Avenue. This major modification also included a 2nd floor addition to the building at 2360 Grand Avenue. Site improvements included changes to the parking lots, new driveway connections between parking lots and landscaping improvements.

This Major Modification included the requirement that a sidewalk be installed along Fuller Road, connecting to the existing sidewalk along Grand Avenue. There is no sidewalk installed on the property immediately to the east. The applicant is requesting that the installation of this sidewalk be deferred until such time that a sidewalk is installed on the immediately adjacent parcel to the east or as otherwise directed by action of the City Council.

Exhibit II is a copy of the agreement. For policy purposes, formal acceptance by the City Council of the agreement is required.

CITY COUNCIL SUBCOMMITTEE: Acceptance of this document by Council is a required formality; this item was not presented to the Development and Planning City Council Subcommittee.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Adopt a resolution approving and accepting the Sidewalk Installation Agreement, granted to the City as part of the approval of a Major Modification for construction of a building addition at 2256 and 2260 Fuller Road and 2360 Grand Avenue.

Lead Staff Member: Brian S. Portz, AICP BP

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In		
Date(s) Published	N/A	
Letter sent to surrounding property owners		

SUBCOMMITTEE REVIEW (if applicable)

Committee	None		
Date Reviewed			
Recommendation	Yes ☐	No ☐	Split ☐

ATTACHMENTS:

Exhibit I - Resolution
Exhibit II - Sidewalk Installation Agreement

EXHIBIT I

Prepared by: B. Portz Development Services, City of WDM, PO Box 65320, WDM, 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

RESOLUTION

A RESOLUTION APPROVING AND ACCEPTING A SIDEWALK INSTALLATION AGREEMENT RELATED TO A MAJOR MODIFICATION APPROVAL GRANTED TO CONSTRUCT A BUILDING ADDITION AT 2256 AND 2260 FULLER ROAD AND 2360 GRAND AVENUE

WHEREAS, it is the policy of the City of West Des Moines, Iowa to approve and accept all easement and agreements conveying property and other interests to the City; and

WHEREAS, the following document has been presented to the City for approval and acceptance; and

Sidewalk Installation Agreement for that property locally known as 2256 and 2260 Fuller Road and 2360 Grand Avenue and legally described as:

WARRANTY DEED BOOK 13154 PAGE 475
BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE BEING 110 FEET SOUTH 89°34' EAST AND 950 FEET NORTH 0°00' OF THE SOUTHWEST CORNER OF LOT 13, BELLAMY PLAT NO. 1, SAID SOUTHWEST CORNER OF LOT 13 ALSO BEING THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 78, RANGE 25, THENCE SOUTH 90°00' EAST, 300.0 FEET, THENCE NORTH 00°00' 383.5 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF FULLER ROAD; THENCE SOUTH 73°21' WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY 231.83 FEET; THENCE SOUTH 88°24' WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY 77.92 FEET, TO THE EAST RIGHT-OF-WAY OF GRAND AVENUE; THENCE SOUTH 00°00', ALONG SAID EAST RIGHT-OF-WAY, 314.9 FEET TO THE POINT OF BEGINNING. ALL OF THE ABOVE NOW BEING IN AND FORMING A PART OF LOT THIRTEEN (13), BELLAMY PLAT NO. 1, AN OFFICIAL PLAT, EXCEPT THE PROPERTY CONDEMNED IN CONDEMNATION RECORDED IN BOOK 12812, PAGE 376, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IA.

WARRANTY DEED BOOK 9925 PAGE 945
THAT PART OF LOT 13 IN BELLAMY PLAT NO. 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE BEING 110.0 FEET S89°34'E AND 550.0 FEET N0°00' OF THE SOUTHWEST CORNER OF SAID LOT 13, SAID SOUTHWEST CORNER ALSO BEING THE SOUTHWEST CORNER OF THE SE 1/4 OF THE SE 1/4 OF SECTION 16, TOWNSHIP 78 NORTH, RANGE 25 WEST; THENCE N0°00' ALONG THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE, 400.00 FEET; THENCE N90°00'E 300.00 FEET; S00°00' 25.0 FEET; THENCE N90°00'E 295.0 FEET; THENCE S0°00' 218.21 FEET; NORTH 90°00' E 324.93 FEET; THENCE S17°41'30"E 164.59 FEET; THENCE N90°00'E 970 FEET TO THE POINT OF BEGINNING, SUBJECT TO THE LIEN OF GENERAL TAXES FOR FISCAL YEAR 2002-2003 AND FOLLOWING, AND TO ALL

EASEMENTS, COVENANTS AND CONDITIONS OF RECORD AND APPLICABLE ZONING ORDINANCES.

WHEREAS, it is in the best interest of the citizens of the City to approve and accept the above-described document.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT the document described above conveying property and other interests to the City of West Des Moines, Iowa, is hereby approved and accepted and shall be filed with the county recorder as appropriate.

PASSED AND ADOPTED this 11th day of December, 2017.

_____
Steven K. Gaer, Mayor

ATTEST:

_____
Ryan T. Jacobson
City Clerk

EXHIBIT II

Prepared by B. Portz, Development Services, PO Box 65320, West Des Moines IA 50265 (515) 222-3620
Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265 (515) 222-3614

AN AGREEMENT BY I2-TECH, L.L.C. TO THE CITY OF WEST DES MOINES, IOWA REGARDING THE INSTALLATION OF PUBLIC SIDEWALKS

The undersigned, on behalf of I2-Tech L.L.C., (hereinafter "Applicant"), states the following:

WHEREAS, the Applicant, as owner of property located at 2260 and 2256 Fuller Road and 2360 Grand Avenue, West Des Moines, Iowa, (hereinafter "Site") has applied to the City of West Des Moines for approval of Major Modification (MaM-003149-2016), legally described as:

WARRANTY DEED BOOK 13154 PAGE 475
BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE BEING 110 FEET SOUTH 89°34' EAST AND 950 FEET NORTH 0°00' OF THE SOUTHWEST CORNER OF LOT 13, BELLAMY PLAT NO. 1, SAID SOUTHWEST CORNER OF LOT 13 ALSO BEING THE SOUTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 16, TOWNSHIP 78, RANGE 25, THENCE SOUTH 90°00' EAST, 300.0 FEET, THENCE NORTH 00°00' 383.5 FEET TO THE SOUTHERLY RIGHT-OF-WAY OF FULLER ROAD; THENCE SOUTH 73°21' WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY 231.83 FEET; THENCE SOUTH 88°24' WEST, ALONG SAID SOUTHERLY RIGHT-OF-WAY 77.92 FEET, TO THE EAST RIGHT-OF-WAY OF GRAND AVENUE; THENCE SOUTH 00°00', ALONG SAID EAST RIGHT-OF-WAY, 314.9 FEET TO THE POINT OF BEGINNING. ALL OF THE ABOVE NOW BEING IN AND FORMING A PART OF LOT THIRTEEN (13), BELLAMY PLAT NO. 1, AN OFFICIAL PLAT, EXCEPT THE PROPERTY CONDEMNED IN CONDEMNATION RECORDED IN BOOK 12812, PAGE 376, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IA.

WARRANTY DEED BOOK 9925 PAGE 945
THAT PART OF LOT 13 IN BELLAMY PLAT NO. 1, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT ON THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE BEING 110.0 FEET S89°34'E AND 550.0 FEET N0°00' OF THE SOUTHWEST CORNER OF SAID LOT 13, SAID SOUTHWEST CORNER ALSO BEING THE SOUTHWEST CORNER OF THE SE 1/4 OF THE SE 1/4 OF SECTION 16, TOWNSHIP 78 NORTH, RANGE 25 WEST; THENCE N0°00' ALONG THE EAST RIGHT-OF-WAY LINE OF GRAND AVENUE, 400.00 FEET; THENCE N90°00'E 300.00 FEET; S00°00' 25.0 FEET; THENCE N90°00'E 295.0 FEET; THENCE S0°00' 218.21 FEET; NORTH 90°00' E 324.93 FEET; THENCE S17°41'30"E 164.59 FEET; THENCE N90°00'E 970 FEET TO THE POINT OF BEGINNING, SUBJECT TO THE LIEN OF GENERAL TAXES FOR FISCAL YEAR 2002-2003 AND FOLLOWING, AND TO ALL EASEMENTS, COVENANTS AND CONDITIONS OF RECORD AND APPLICABLE ZONING ORDINANCES.

WHEREAS, on the 23rd day of January, 2017, the City Council approved a Major Modification application submitted by the Applicant, subject to several conditions, one of which requires the Applicant to install a public sidewalk adjacent to 2260 and 2256 Fuller Road at such time that that sidewalks are installed on the immediately adjacent parcel or as otherwise directed by action of the City Council.

THEREFORE, in consideration for approval of the Major Modification by the City of West Des Moines, and pursuant to the Resolution of the 23rd day of January, 2017, and the conditions imposed and included in the Resolution, the undersigned, on behalf of the Applicant, hereby agrees to the following:

> In lieu of providing surety for the performance of such improvement at date uncertain, the applicant agrees to payment of all costs associated with the installation of a public sidewalk adjacent to Fuller Road across the property legally described above.

This document shall be recorded in the Office of the Polk County, Iowa, Recorder and shall be binding upon the Applicant, its successors and assigns and shall run with the land.

I2-Tech, L.L.C.

Josh Janeczko, President

STATE OF IOWA)
) ss
COUNTY OF POLK)

On this 21 day of November, 2017, before me, the undersigned, a Notary Public in and for said County and State personally appeared Josh Janeczko, to me personally known, who being by me duly sworn, did say that he is President of I2-Tech, L.L.C., executing the within and foregoing instrument and acknowledged that he executed the same as his voluntary act and deed of the corporation, by it and by him voluntarily executed.

MORGAN ENDECOTT
Commission Number 750585
My Commission Expires

Notary Public - State of Iowa