

# CITY OF WEST DES MOINES

## COUNCIL AGENDA

**date:** October 21, 2019

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

---

MAYOR ..... STEVEN K. GAER  
COUNCILMEMBER AT LARGE ..... RENEE HARDMAN  
COUNCILMEMBER AT LARGE ..... JIM SANDAGER  
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

CITY MANAGER.....TOM HADDEN  
CITY ATTORNEY.....RICHARD SCIESZINSKI  
CITY CLERK.....RYAN JACOBSON

---

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 October 7, 2019 Meeting
  - b. Motion - Approval of Bill Lists
  - c. Motion - Approval of Liquor Licenses:
    1. Aldi, Inc. d/b/a Aldi, Inc. #40, 6050 Mills Civic Parkway - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
    2. Firebirds of West Des Moines, LLC d/b/a Firebirds Wood Fired Grill, 440 South 68<sup>th</sup> Street, Suite 101 - Class LC Liquor License with Sunday Sales - Renewal
    3. Hy-Vee, Inc., d/b/a Hy-Vee Gas, 7280 University Avenue - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
    4. Tap This Concessions, LLC d/b/a Iowa Craft Beer Tent, 101 Jordan Creek Parkway, Suite 12350 - Class BC Beer Permit with Sunday Sales - New
    5. 52 Gracedieu DBA Memory Lane Antiques, LLC d/b/a Memory Lane Antiques Collectibles & Gifts, 208 5<sup>th</sup> Street - Class B Native Wine Permit with Sunday Sales - Renewal
    6. Pho Shobu, LLC d/b/a Pho Shobu, 8950 University Avenue, Suite 103 - Class LC Liquor License with Sunday Sales - Renewal
  - d. Motion - Approval of Appointments:
    1. Human Rights Commission
    2. Human Services Advisory Board
  - e. Motion - Approval to Purchase Heavy Duty Vehicle Lifts

- f. Motion - Approval of Change Orders:
  - 1. MidAmerican Energy RecPlex - Grading and Site Utilities, #2
  - 2. City Hall Renovations, #11
- g. Motion - Acknowledgement and Acceptance of Recently Re-Established Administrative Policies
- h. Motion - Approval to Purchase Building Materials - MidAmerican Energy RecPlex
- i. Resolution - Approval of Revised Petty Cash Levels
- j. Resolution - Approval of Interfund Transfers
- k. Resolution - Approval to Waive Building Permit Fees - MidAmerican Energy RecPlex
- l. Resolution - Order Construction - 2019 Sanitary Sewer Cleaning and Televising Program
- m. Resolution - Approval of Professional Services Agreement - Commerce Area Drainage Study
- n. Resolution - Accept Public Improvements:
  - 1. Elevate at Jordan Creek
  - 2. Campiello Point
  - 3. Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer
- o. Resolution - Approval and Acceptance of Easements and Agreements and Conveyance of Temporary Construction and Grading Easement - Grand Living, 540 South 51<sup>st</sup> Street
- p. Resolution - Approval of Claim for Reimbursement for Driveway at 1105 South 60<sup>th</sup> Street - South 60<sup>th</sup> Street Improvements, Phase 2 - Pheasant Ridge Drive to Mills Civic Parkway
- q. Resolution - Approval of Agreement Regarding the Construction of Public Roadway Improvements at South 88<sup>th</sup> Street and Mills Civic Parkway - MidWestOne
- r. Resolution - Approval and Acceptance of Property Interests - City Entrance Enhancements Project
- s. Proclamation - Extra Mile Day - November 1, 2019

**5. Old Business**

- a. The Preserve, generally south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway - Establish The Preserve Planned Unit Development (PUD) and Agricultural/Open Space Zoning - Raccoon River Land Company, LLC
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption (Zoning Change)
  - 2. Ordinance - Approval of Second, Third Readings and Final Adoption (PUD)

- b. Jordan West, southwest corner of EP True Parkway and Jordan Creek Parkway - Amend the Specific Plan Ordinance by Rezoning the Southern Portion of PUD Parcel 7 from Support Commercial to Regional Commercial to Allow for Construction of an Indoor Family Entertainment Venue - Ryan Companies US, Inc.
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- c. Amendment to City Code - Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District), Section 5 (Use Codes) - Modify Certain Regulations as They Pertain to Physical Fitness Facilities - City Initiated
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- d. Amendment to City Code - Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) - Update Regulations Pertaining to Rear Yard Setback Requirements for Accessory Structures in Residential Zoning Districts - City Initiated
  - 1. Ordinance - Approval of Second, Third Readings and Final Adoption

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

- a. Midtown Redevelopment, east side of 8<sup>th</sup> Street (1221 to 1261) - Establish a Planned Unit Development (PUD) to Allow Development of a Vertical Commercial and Residential Mixed-Use Development - Jarcor, LLC
  - 1. Motion - Continue Public Hearing to November 4, 2019
- b. Agreement for Private Development - The Iowa Clinic West Lakes I, LLC and The Iowa Clinic, P.C. (Continued from September 3, 2019, September 16, 2019, and October 7, 2019)
  - 1. Resolution - Approval of Agreement
- c. Agreement for Private Development - High Water Investments, LLC and Nan's Nummies, LLC
  - 1. Resolution - Approval of Agreement
- d. Nature Lodge HVAC Replacement, Roof Repairs and Exterior Improvements - City Initiated
  - 1. Resolution - Approval of Plans and Specifications
  - 2. Motion - Receive and File Report of Bids
  - 3. Resolution - Award Contract

**7. New Business**

- a. Mill Ridge Plat 4, northwest corner of South 88<sup>th</sup> Street and Sugar Creek Drive - Subdivide the Property into 70 Lots and Seven Outlots for a Townhome Development - Mill Ridge Homes, LLC
  - 1. Resolution - Approval and Release of Final Plat
- b. 214 5<sup>th</sup> Street Facade - Approval of Building Remodel for an Office Use - Legacy Capital Partners
  - 1. Resolution - Approval of Minor Modification

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

- a. Mark Hillenbrand Resignation - Human Rights Commission
- b. Chris Aldinger Resignation - Human Services Advisory Board
- c. Jered Rogers Resignation - Human Services Advisory Board

**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.

October 7, 2019

West Des Moines City Council Proceedings  
Monday, October 7, 2019

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, October 7, 2019 at 5:30 PM. Council members present were: R. Hardman, J. Sandager, K. Trevillyan, and R. Trimble.

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

Vote 19-464: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 2. Public Forum

Don Newquist, 4204 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows through his property during rainfalls, and he requested that the City address the issue.

Mayor Gaer requested that staff look into the matter, identify some recommendations, and then present those recommendations at an upcoming meeting of the Public Services Subcommittee.

City Attorney Dick Scieszinski stated this is an unfortunate situation, as Mr. Newquist's property is at the lowest point along Commerce Drive, so it receives a majority of the storm water runoff. He reported that an investigator from the Iowa Communities Assurance Pool (ICAP) conducted an investigation on the property, but determined that the property was built to the standard at the time, therefore the City is not liable for these issues.

Richard Adams, 4510 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows through the Newquist property during rainfalls. He suggested the issue could be resolved by installing a culvert or a swale with a steel plate.

Bob Perkins, 4307 Commerce Drive, reported he believes he may have hit a spring while installing a sump pump in his basement, and he requested that City staff visit his property to assess the situation and provide some direction.

Steve Morris, 4035 Commerce Drive, expressed concerns about the excessive amount of storm water runoff that flows through the properties along Commerce Drive during rainfalls. He reported the storm water previously flowed to the north, but due to the new houses that have been built to the north, the water now flows to the south, and their properties are receiving more storm water than ever before.

October 7, 2019

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

Council member Trimble reported the Finance and Administration Subcommittee met and received a financial update regarding the MidAmerican Energy RecPlex project, a new lobbying services agreement, and FY2019-20 budget amendment #1.

Council member Hardman commended Fire Chief Craig Leu and the Fire Department for hosting the annual memorial ceremony on Sunday, October 6<sup>th</sup>. She reported the Public Safety Subcommittee met, where discussion was held on the upcoming visit by Vice President Pence. She also reported she attended a meeting of the Library Board of Trustees, where discussion was held on the upcoming renovation project.

Mayor Gaer congratulated West Des Moines Human Services for a successful “Sunday Supper in Our Town” fundraiser, which raised approximately \$50,000.

**On Item 4. Consent Agenda.**

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

- a. Approval of Minutes of September 16, 2019 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
  1. On The Rise Valley West, LLC, d/b/a Blaze Pizza, 1551 Valley West Drive, Suite 225 - Class BW Permit with Sunday Sales and Outdoor Service - Renewal
  2. Two Tees, LLC d/b/a Blu Toro, 5585 Mills Civic Parkway, Suite 110 - Class LC Liquor License with Sunday Sales and Outdoor Service - Renewal
  3. 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
  4. Kiss My Grits, LLC, d/b/a The Irish, 560 South Prairie View Drive - Class LC Liquor License with Sunday Sales and Outdoor Services - Renewal
  5. Jethro’s and Jaspers, Inc. d/b/a Jethro’s Jambalaya, 9350 University Avenue - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
  6. Kum & Go, LC, d/b/a Kum & Go #532, 5901 Mills Civic Parkway, Building 2000 - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
  7. Kum & Go, LC, d/b/a Kum & Go #1097, 220 50th Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
  8. Monterrey III, LLC, d/b/a Monterrey III, 6630 Mills Civic Parkway, Unit 3116 - Class LC Liquor License with Sunday Sales - Renewal
  9. SA Petro Mart, Inc., d/b/a SA Petro Mart, 136 1st Street - Class LE Liquor License with Carryout Wine, Carryout Beer, and Sunday Sales - Renewal

October 7, 2019

10. Shri Hari, LLC d/b/a West D Liquors, 5014 EP True Parkway - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - New
11. Xcaret Club and Lounge, LLC d/b/a Xcaret Club and Lounge, 2700 University Avenue, Suite 200 - Class LC Liquor License - Renewal
- d. Approval of Appointment - Civil Service Commission
- e. Approval of Memorandum of Understanding - Public Safety Cadet Program
- f. Approval of Professional Service Agreements - Youth Justice Initiative Director and Consultant
- g. Approval of Agreement - Lobbying Services
- h. Approval of Purchase - Ice Resurfacer for MidAmerican Energy RecPlex
- i. Approval of Real Estate Donation Agreement - Whisper Ridge
- j. Approval of Change Order #1 - Fiber Conduit Interconnect Project (Green Route)
- k. Approval of Updated Bond Disclosure Policy
- l. Accept Work:
  1. 2018 HMA Resurfacing Program
  2. Human Services Child Care Center and Medical Clinic
  3. 2019 Concrete Trail Renovation
  4. Woodland Hills Park Loop Trail
- m. Accept Public Improvements - Covenant Cove Plat 1
- n. Approval of Agreement with MidAmerican Energy Company to Extend Electrical Services - City Entrance Enhancements, Phase 1B
- o. Approval of Lease for Library Temporary Storage - Library Interior Renovations
- p. Approval of Transfer of Public Road Jurisdiction - Portion of Wendover Road on the South Side of I-80
- q. Approval and Acceptance of Hold Harmless and Maintenance Agreement - Holiday Lighting in Railroad Park and the 5th Street Arch
- r. Approval of Pole Attachment Contract with MidAmerican Energy Company - Valley Junction Broadband Equity Pilot
- s. Approval of Termination of Development Agreement - Chelious, LLC, Tea Times Two, LLC and Judy Ks
- t. Approval to Release Lot 2 of Osmium West Plat 1 from the Project Osmium Development Agreement and Minimum Assessment Agreement

Vote 19-465: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 5(a) Vacation of a Portion of Booneville Road Right-of-Way, initiated by the City of West Des Moines

It was moved by Trimble, second by Hardman to consider the second reading of the ordinance.

Vote 19-466: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

October 7, 2019

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the second reading of the ordinance.

Vote 19-467: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

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

Vote 19-468: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(a) Mayor Gaer indicated this was the time and place for a public hearing to consider The Preserve, generally south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway - Amend Comprehensive Plan Land Use Map to Designate Single Family, Medium Density Residential and Agricultural/Open Space Land Use and Establish The Preserve Planned Unit Development (PUD) and Agricultural/Open Space Zoning, 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 18, 2019 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 4-0, with two members abstaining and one member absent, the Plan and Zoning Commission recommended City Council approval of the comprehensive plan amendment and PUD ordinance. He also stated one citizen correspondence was received, which was included with the council communication.

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

It was moved by Trevillyan, second by Hardman to adopt Resolution - Approval of Comprehensive Plan Amendment.

Vote 19-469: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

It was moved by Trevillyan, second by Trimble to consider the first reading of the ordinance (zoning change).

Vote 19-470: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

October 7, 2019

It was moved by Trevillyan, second by Hardman to approve the first reading of the ordinance (zoning change).

Vote 19-471: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

It was moved by Trimble, second by Hardman to consider the first reading of the ordinance (PUD).

Vote 19-472: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Trimble, second by Hardman to approve the first reading of the ordinance (PUD).

Vote 19-473: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(b) Mayor Gaer indicated this was the time and place for a public hearing to consider Jordan West, southwest corner of EP True Parkway and Jordan Creek Parkway - Amend the Specific Plan Ordinance by Rezoning the Southern Portion of PUD Parcel 7 from Support Commercial to Regional Commercial to Allow for Construction of an Indoor Family Entertainment Venue, initiated by Ryan Companies US, Inc. He asked for the date the notice was published and the City Clerk indicated the notice was published on September 18, 2019 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the zone change specific plan.

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

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

Vote 19-474: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

October 7, 2019

Vote 19-475: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(c) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District), Section 5 (Use Codes) - Modify Certain Regulations as They Pertain to Physical Fitness Facilities, 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 18, 2019 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

It was moved by Trimble, second by Hardman to consider the first reading of the ordinance.

Vote 19-476: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 19-477: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(d) Mayor Gaer indicated this was the time and place for a public hearing to consider Amendment to City Code - Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) - Update Regulations Pertaining to Rear Yard Setback Requirements for Accessory Structures in Residential Zoning Districts, 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 17, 2019 in the Des Moines Register. Mayor Gaer asked if any written comments had been received. The City Clerk stated on a vote of 6-0, with one member absent, the Plan and Zoning Commission recommended City Council approval of the ordinance amendment.

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

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

Council member Sandager requested clarification on this ordinance amendment.

October 7, 2019

Lynne Twedt, Development Services Director, reported there is a growing trend to put a covered deck on the back of a house, which makes it part of the principal structure and subject to the more stringent principal structure setbacks. This ordinance amendment essentially reverts back to the previous ordinance by reducing the principal structure rear yard setback to 20 feet.

Vote 19-478: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 19-479: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(e) Agreement for Private Development, initiated by The Iowa Clinic West Lakes I, LLC and The Iowa Clinic, P.C. (Continued from September 3, 2019 and September 16, 2019).

It was moved by Sandager, second by Trevillyan to adopt Motion - Continue Public Hearing to October 21, 2019.

Vote 19-480: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(f) Mayor Gaer indicated this was the time and place for a public hearing to consider Corrected Michael's Landing Plat 1, Outlot C - Termination of Permanent Storm Sewer Easement and Approval and Acceptance of Conveyance of Property Interests, 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 28, 2019 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 Trimble, second by Hardman to adopt Resolution - Approval of Termination of Permanent Storm Sewer Easement and Approval and Acceptance of Property Interests.

Vote 19-481: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(g) Mayor Gaer indicated this was the time and place for a public hearing to consider Conveyance of Permanent Public Utility Easement to MidAmerican Energy Company -

October 7, 2019

Northeast corner of South 81st Street and Mills Civic Parkway, 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 28, 2019 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 Trimble, second by Sandager to adopt Resolution - Approval of Conveyance of Easement.

Vote 19-482: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(h) Mayor Gaer indicated this was the time and place for a public hearing to consider 2019-20 FY Operating and Capital Budget - Amendment #1, 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 27, 2019 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 Trimble, second by Sandager to adopt Resolution - Approval of Budget Amendment #1.

Vote 19-483: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(i) Mayor Gaer indicated this was the time and place for a public hearing to consider Fiber Conduit Inter-Connect Project - Purple Route and Duct Bank, 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 27, 2019 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 Trimble, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Kramer Service Group.

October 7, 2019

Vote 19-484: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(j) Mayor Gaer indicated this was the time and place for a public hearing to consider South 85th Street, Cascade Avenue to Mills Civic Parkway, 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 27, 2019 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 Trimble, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Alliance Construction Group, LLC.

Vote 19-485: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(k) Mayor Gaer indicated this was the time and place for a public hearing to consider Library Interior Improvements, 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 27, 2019 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 Hardman, second by Sandager to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Edge Commercial, LLC.

Vote 19-486: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 6(l) Mayor Gaer indicated this was the time and place for a public hearing to consider City Entrance Enhancements, Phase 1B, 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 27, 2019 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.

October 7, 2019

Mayor Gaer noted staff is recommending the project be re-bid later this fall with an extended completion date.

It was moved by Sandager, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Reject All Bids.

Vote 19-487: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(a) Woodsprings Suites, 7255 Lake Drive - Approval of Site Plan to Develop a Four-Story, 81 Room Hotel, initiated by VKB Management

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval of Site Plan, subject to the applicant complying with all applicable City Code requirements and the conditions of approval listed in the Resolution.

Vote 19-488: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(b) Excess Property Related to Installation of Storm Sewer near 1st Street and Grand Avenue - Plat of Survey to Create Two Parcels for Transfer of Ownership, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval and Release of Two Plats of Survey.

Vote 19-489: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(c) Excess Property Related to Realignment of Mills Civic Parkway and South 88th Street - Plat of Survey to Create Two Parcels for Transfer of Ownership, initiated by the City of West Des Moines

It was moved by Trimble, second by Trevillyan to adopt Resolution - Approval and Release of Two Plats of Survey.

Vote 19-490: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 7(d) Scotty's Pub 1, LLC d/b/a Scotty's Pub & Grub, 3781 EP True Parkway - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal

October 7, 2019

Mayor Gaer noted the council communication explains the reasons for the staff recommendation to deny this renewal application.

It was moved by Trevillyan, second by Trimble to adopt Motion - Denial of Liquor License Application.

Mindy West, 1624 22<sup>nd</sup> Street, Des Moines, representing Scotty's Pub & Grub, spoke in support of the renewal application for Scotty's Pub & Grub. She stated it is not fair because he was not able to get an attorney to represent him tonight, and she inquired why the City is denying this application.

City Attorney Dick Sciesinski reported in order to qualify to hold a liquor license, a person must be of "good moral character," which would include following the law and being in good financial standing. He stated that Scott Thomas' record indicates he does not meet the definition of "good moral character." He also noted that the renewal application failed to disclose his most recent criminal charges, which is considered a misrepresentation of material fact and is also cause for denial.

Ms. West stated the application did not disclose the pending criminal charges because they were not alcohol-related. She also inquired why the City granted the liquor license to Mr. Thomas initially with his previous record, but is now denying his renewal.

City Attorney Scieszinski responded a number of the incidents and issues listed in the council communication have occurred since his previous renewal was approved in 2018.

Ms. West stated it is sad that the renewal for Scotty's Pub & Grub is being denied, because Mr. Thomas just wanted to provide a family restaurant for the community, but then these unfortunate events occurred, however she does not have enough information to speak to them herself tonight.

Vote 19-491: Hardman, Sandager, Trevillyan, Trimble...4 yes  
Motion carried.

On Item 8(a) Lori Lavorato Resignation - Civil Service Commission - Received and Filed

On Item 9 - Other Matters

Council member Hardman reported she attended a farewell reception for Mark Hillenbrand, who is a former citizen of the year and current member of the Human Rights Commission, but is moving out of the City of West Des Moines. She expressed appreciation to Mark for his service to the community.

The meeting was adjourned at 6:22 p.m.

October 7, 2019

Respectfully submitted,

---

Ryan T. Jacobson, CMC  
City Clerk

ATTEST:

---

Steven K. Gaer, Mayor

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

**ITEM:** Motion – Approval of Bill Lists

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** Section 1-10-3(b) of the West Des Moines City Code provides that no disbursement shall be made from a fund unless such disbursement is authorized by law, ordinance or resolution, was properly budgeted, and supported by a claim approved by the City Council. 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 staff, are, with this agenda item, being submitted to the City Council for approval:

Regular Bi-Weekly Claims	10/21/2019	\$ 6,631,277.51
EFT Claims	10/21/2019	\$ 2,733,577.29
Control Pay	10/21/2019	\$ 308,495.37
End of Month & Off-Cycle	09/17/19 to 11/03/19	\$ 252,724.29

**RECOMMENDATION:** Move to approve Bill Lists as presented.

**Lead Staff Member:** Tim Stiles, Finance Director

**STAFF REVIEWS**

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	AS

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee	
Date Reviewed	
Recommendation	

**City of West Des Moines**  
**City Council Report**  
**Bank Account: WB VENDOR DISB - WB Vendor Disbursement**

Type	Date	Number	Source	Payee Name	Transaction Amount
<b>Bank Account: WB VENDOR DISB - WB Vendor Disbursement</b>					
Check	10/21/2019	314368	Accounts Payable	3 PRINCIPLES NETWORK	25.00
Check	10/21/2019	314369	Accounts Payable	ABSOLUTE CONCRETE CONSTRUCTION INC	277,810.83
Check	10/21/2019	314370	Accounts Payable	ACCU STEEL INC	450.00
Check	10/21/2019	314371	Accounts Payable	ADP SCREENING & SELECTION SVCS	135.21
Check	10/21/2019	314372	Accounts Payable	ADVANCED TRACKER TECHNOLOGIES INC	2,125.00
Check	10/21/2019	314373	Accounts Payable	ALL AUTO GLASS	300.00
Check	10/21/2019	314374	Accounts Payable	ALLIANCE CONSTRUCTION GROUP LLC	426,023.65
Check	10/21/2019	314375	Accounts Payable	AMERICAN ABSTRACT & TITLE CO	300.00
Check	10/21/2019	314376	Accounts Payable	AMERICAN SECURITY LLC	3,145.06
Check	10/21/2019	314377	Accounts Payable	AMP CONSTRUCTION	200.00
Check	10/21/2019	314378	Accounts Payable	ARENA WAREHOUSE	80,000.00
Check	10/21/2019	314379	Accounts Payable	AWARDS PROGRAM SERVICES INC	1,314.31
Check	10/21/2019	314380	Accounts Payable	BASICLEIGH COMMUNICATIONS LLC	7,155.00
Check	10/21/2019	314381	Accounts Payable	BDS PLANNING & URBAN DESIGN INC	2,255.65
Check	10/21/2019	314382	Accounts Payable	BEELINE AND BLUE	319.00
Check	10/21/2019	314383	Accounts Payable	BELLER DISTRIBUTING, LLC	386.03
Check	10/21/2019	314384	Accounts Payable	BENJAMIN DESIGN COLLABORATIVE	13,517.76
Check	10/21/2019	314385	Accounts Payable	BEST PORTABLE TOILETS	2,390.00
Check	10/21/2019	314386	Accounts Payable	BLAUER TACTICAL SYSTEMS INC	1,200.00
Check	10/21/2019	314387	Accounts Payable	BOLTON & MENK INC	6,135.50
Check	10/21/2019	314388	Accounts Payable	BONNIE'S BARRICADES	229.60
Check	10/21/2019	314389	Accounts Payable	BOOT BARN INC	860.86
Check	10/21/2019	314390	Accounts Payable	BOUND TREE MEDICAL LLC	8,749.02
Check	10/21/2019	314391	Accounts Payable	BRILAR LLC	3,412.37
Check	10/21/2019	314392	Accounts Payable	BUELOW , LISA	92.00
Check	10/21/2019	314393	Accounts Payable	CAMPBELL , MEREDITH	161.00
Check	10/21/2019	314394	Accounts Payable	CAPPEL'S ACE HARDWARE	15.76
Check	10/21/2019	314395	Accounts Payable	CENTRAL IOWA EMS DIRECTORS	150.00
Check	10/21/2019	314396	Accounts Payable	CENTRAL IOWA FLORAL INC	30.50
Check	10/21/2019	314397	Accounts Payable	CENTRAL IOWA READY-MIX	811.00
Check	10/21/2019	314398	Accounts Payable	CENTURYLINK	64.46
Check	10/21/2019	314399	Accounts Payable	CINTAS CORP FIRST AID & SAFETY	196.91

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number	Source	Payee Name	Transaction Amount
Check	10/21/2019	314400	Accounts Payable	CITY OF DES MOINES	538,378.69
Check	10/21/2019	314401	Accounts Payable	CITY OF WAUKEE	6,850.00
Check	10/21/2019	314402	Accounts Payable	CIVIL DESIGN ADVANTAGE LLC	13,943.60
Check	10/21/2019	314403	Accounts Payable	CONCRETE CONNECTION LLC	191,718.55
Check	10/21/2019	314404	Accounts Payable	CONCRETE TECHNOLOGIES INC	260,858.50
Check	10/21/2019	314405	Accounts Payable	CONFLUENCE INC	12,354.19
Check	10/21/2019	314406	Accounts Payable	CONSTRUCTION & AGGREGATE PRODUCTS INC	434.50
Check	10/21/2019	314407	Accounts Payable	CONSTRUCTION MATERIALS INC	1,969.93
Check	10/21/2019	314408	Accounts Payable	CONTRACTOR SALES AND SERVICE	617.10
Check	10/21/2019	314409	Accounts Payable	CORELL CONTRACTOR INC	22.16
Check	10/21/2019	314410	Accounts Payable	CTI READY MIX LLC	4,366.50
Check	10/21/2019	314411	Accounts Payable	DALLAS COUNTY RECORDER	205.00
Check	10/21/2019	314412	Accounts Payable	DE LAGE LANDEN	2,795.00
Check	10/21/2019	314413	Accounts Payable	DES MOINES GOLF & COUNTRY CLUB	1,181.46
Check	10/21/2019	314414	Accounts Payable	DES MOINES TOUCH RUGBY	518.50
Check	10/21/2019	314415	Accounts Payable	DEVRIES , CAROLL	200.00
Check	10/21/2019	314416	Accounts Payable	DICKEY , PHIL	2,418.00
Check	10/21/2019	314417	Accounts Payable	EARL MAY SEED AND NURSERY	197.82
Check	10/21/2019	314418	Accounts Payable	EMSLRC	70.00
Check	10/21/2019	314419	Accounts Payable	EVIDENT INC	270.00
Check	10/21/2019	314420	Accounts Payable	EXECUTIVE LASER WASH INC	24.00
Check	10/21/2019	314421	Accounts Payable	FASTENAL COMPANY	159.85
Check	10/21/2019	314422	Accounts Payable	FEDERAL EXPRESS CORP	29.97
Check	10/21/2019	314423	Accounts Payable	FEH ASSOCIATES INC	65,413.75
Check	10/21/2019	314424	Accounts Payable	FERGUSON , JULIE	230.00
Check	10/21/2019	314425	Accounts Payable	FURRY FRIENDS REFUGE	10,260.00
Check	10/21/2019	314426	Accounts Payable	GBA SYSTEMS INTEGRATORS LLC	6,765.00
Check	10/21/2019	314427	Accounts Payable	GEORGE BUTLER ASSOCIATES INC	623.00
Check	10/21/2019	314428	Accounts Payable	GILGE , DANNY	27.00
Check	10/21/2019	314429	Accounts Payable	GRAINGER INC	178.22
Check	10/21/2019	314430	Accounts Payable	GREATER DALLAS COUNTY DEVELOPMENT ALLIANCE	80.00
Check	10/21/2019	314431	Accounts Payable	GRIMES ASPHALT & PAVING	1,226.92
Check	10/21/2019	314432	Accounts Payable	GUARDIAN TRACKING LLC	2,476.00
Check	10/21/2019	314433	Accounts Payable	HAHN , JENNIFER	147.99

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number	Source	Payee Name	Transaction Amount
Check	10/21/2019	314434	Accounts Payable	HAWKEYE TRUCK EQUIPMENT	315.00
Check	10/21/2019	314435	Accounts Payable	HDR ENGINEERING INC	561.80
Check	10/21/2019	314436	Accounts Payable	HERITAGE BUILDING MAINTENANCE	700.00
Check	10/21/2019	314437	Accounts Payable	HIGH LINE SOFTWARE INC	1,200.00
Check	10/21/2019	314438	Accounts Payable	HILL CONTRACTING	7,096.50
Check	10/21/2019	314439	Accounts Payable	HISTORIC VALLEY JUNCTION FOUNDATION	75,000.00
Check	10/21/2019	314440	Accounts Payable	HY VEE INC	139.22
Check	10/21/2019	314441	Accounts Payable	IDEMIA IDENTITY & SECURITY USA LLC	8,874.00
Check	10/21/2019	314442	Accounts Payable	INCENTIVE SERVICES INC	944.58
Check	10/21/2019	314443	Accounts Payable	INDUSTRIAL ORGANIZATIONAL SOLUTIONS INC	453.00
Check	10/21/2019	314444	Accounts Payable	INSIGHT PUBLIC SECTOR	235.68
Check	10/21/2019	314445	Accounts Payable	INSITUFORM TECHNOLOGIES USA LLC	193,518.42
Check	10/21/2019	314446	Accounts Payable	INTERSTATE ALL BATTERY CENTER	1,317.60
Check	10/21/2019	314447	Accounts Payable	INVISION ARCHITECTURE LTD	7,817.50
Check	10/21/2019	314448	Accounts Payable	IOWA CIVIL CONTRACTING INC	154,626.59
Check	10/21/2019	314449	Accounts Payable	IOWA CONCRETE LEVELING	5,125.00
Check	10/21/2019	314450	Accounts Payable	IOWA CRIME PREVENTION ASSN	50.00
Check	10/21/2019	314451	Accounts Payable	IOWA ENGINEERING SOCIETY	490.00
Check	10/21/2019	314452	Accounts Payable	IOWA PRISON INDUSTRIES	4,218.75
Check	10/21/2019	314453	Accounts Payable	IOWA SIGNAL INC	115,937.30
Check	10/21/2019	314454	Accounts Payable	IOWA SPORTS TURF MANAGEMENT INC	9,868.00
Check	10/21/2019	314455	Accounts Payable	ITERIS INC	805.00
Check	10/21/2019	314456	Accounts Payable	J&K CONTRACTING LLC	13,509.00
Check	10/21/2019	314457	Accounts Payable	JACOBSEN AUTO BODY	2,410.61
Check	10/21/2019	314458	Accounts Payable	JAS CONSTRUCTION LLC	7,759.12
Check	10/21/2019	314459	Accounts Payable	JEFFREY L BRUCE & COMPANY LLC	1,273.00
Check	10/21/2019	314460	Accounts Payable	JENCO CONSULTING GROUP INC	76,366.47
Check	10/21/2019	314461	Accounts Payable	JEO CONSULTING GROUP INC	5,986.85
Check	10/21/2019	314462	Accounts Payable	JOHN HEMRY LLC	4,100.00
Check	10/21/2019	314463	Accounts Payable	JOHNSON CONTROLS LP- IL	9,235.27
Check	10/21/2019	314464	Accounts Payable	KABEL BUSINESS SERVICES	1,032.00
Check	10/21/2019	314465	Accounts Payable	KALDENBERG'S PBS LANDSCAPING	852.75
Check	10/21/2019	314466	Accounts Payable	KIESLER POLICE SUPPLY INC	429.00

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number	Source	Payee Name	Transaction Amount
Check	10/21/2019	314467	Accounts Payable	KLAHN, RICHARD	138.00
Check	10/21/2019	314468	Accounts Payable	KLOCKE'S EMERGENCY VEHICLES	530.79
Check	10/21/2019	314469	Accounts Payable	KOESTER CONSTRUCTION CO INC	2,198,299.59
Check	10/21/2019	314470	Accounts Payable	LACINA, WENDY	345.00
Check	10/21/2019	314471	Accounts Payable	LANG CONTRUCTION GROUP INC	184,132.79
Check	10/21/2019	314472	Accounts Payable	LANGUAGE LINE SERVICES	706.00
Check	10/21/2019	314473	Accounts Payable	LASER RESOURCES	2,106.44
Check	10/21/2019	314474	Accounts Payable	LOGOED APPAREL & PROMOTIONS	621.94
Check	10/21/2019	314475	Accounts Payable	LOMBARD, KINSEY	138.00
Check	10/21/2019	314476	Accounts Payable	LOUNSBURY LANDSCAPING SAND & GRAVEL	62.41
Check	10/21/2019	314477	Accounts Payable	LOWE'S HOME CENTER INC	1,346.72
Check	10/21/2019	314478	Accounts Payable	LYONS, DAVID JOSEPH	15,000.00
Check	10/21/2019	314479	Accounts Payable	MACDONALD LETTER SERVICE	1,268.55
Check	10/21/2019	314480	Accounts Payable	MACQUEEN EQUIPMENT LLC	4,663.93
Check	10/21/2019	314481	Accounts Payable	MADISON COUNTY RECORDER	84.00
Check	10/21/2019	314482	Accounts Payable	MERCY WEST PHARMACY	3,229.81
Check	10/21/2019	314483	Accounts Payable	METRE LLC	2,000.00
Check	10/21/2019	314484	Accounts Payable	MTI DISTRIBUTING, INC.	404.27
Check	10/21/2019	314485	Accounts Payable	MUNICIPAL COLLECTIONS OF AMERICA INC	29.00
Check	10/21/2019	314486	Accounts Payable	NESTINGEN INC	9,100.00
Check	10/21/2019	314487	Accounts Payable	NORTH AMERICAN RESCUE LLC	2,233.75
Check	10/21/2019	314488	Accounts Payable	O'HALLORAN INTERNATIONAL INC	971.77
Check	10/21/2019	314489	Accounts Payable	OCCUPATIONAL SAFETY CONSULTANTS	3,500.00
Check	10/21/2019	314490	Accounts Payable	OPN ARCHITECTS	13,569.41
Check	10/21/2019	314491	Accounts Payable	ORTON HOMES	5,500.00
Check	10/21/2019	314492	Accounts Payable	OTANEZ, EVA DER ROCIO ORTIZ	577.50
Check	10/21/2019	314493	Accounts Payable	PALMER GROUP	1,858.75
Check	10/21/2019	314494	Accounts Payable	PEAK DISTRIBUTING	120.00
Check	10/21/2019	314495	Accounts Payable	PER MAR SECURITY	166.83
Check	10/21/2019	314496	Accounts Payable	PERFICUT COMPANIES INC	1,999.20
Check	10/21/2019	314497	Accounts Payable	PI MIDWEST	24,000.00
Check	10/21/2019	314498	Accounts Payable	POLK COUNTY TREASURER	150.00
Check	10/21/2019	314499	Accounts Payable	POWERPLAN	444.49

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number Source	Payee Name	Transaction Amount
Check	10/21/2019	314500	PRICE INDUSTRIAL ELECTRIC INC	285,742.90
Check	10/21/2019	314501	PUBLIC RELATIONS SOCIETY OF AMERICA	310.00
Check	10/21/2019	314502	QUESTCDN.COM	195.00
Check	10/21/2019	314503	RANGEMASTERS TRAINING CENTER	12,220.00
Check	10/21/2019	314504	RELIANT FIRE APPARATUS INC	431.75
Check	10/21/2019	314505	RESERVE ACCOUNT	4,000.00
Check	10/21/2019	314506	RICHERT CONSTRUCTION	200.00
Check	10/21/2019	314507	ROBERT HALF TECHNOLOGY	5,967.50
Check	10/21/2019	314508	ROTO-ROOTER	79.00
Check	10/21/2019	314509	SCHEELS ALL SPORTS INC	989.96
Check	10/21/2019	314510	SECRETARY OF STATE	60.00
Check	10/21/2019	314511	SHANK CONSTRUCTORS INC	32,025.95
Check	10/21/2019	314512	SHOWTIME ENTERTAINMENT	200.00
Check	10/21/2019	314513	SILVERSTONE GROUP INC	5,100.00
Check	10/21/2019	314514	SIXTA, ANDREW	230.00
Check	10/21/2019	314515	SKOLD DOOR & FLOOR CO	276.00
Check	10/21/2019	314516	SM HENTGES & SONS INC	47,130.34
Check	10/21/2019	314517	SOIL TEK	3,076.50
Check	10/21/2019	314518	STAPLES CONTRACT & COMMERCIAL LLC	46,112.64
Check	10/21/2019	314519	STATE HYGIENIC LAB	19.50
Check	10/21/2019	314520	STIVERS FORD	32,427.00
Check	10/21/2019	314521	STORAGE MART 1052	542.97
Check	10/21/2019	314522	SYNERGY CONTRACTING LLC	19,000.00
Check	10/21/2019	314523	TERRY'S QUALITY CONCRETE	200.00
Check	10/21/2019	314524	THE CONCRETE COMPANY INC	105,107.05
Check	10/21/2019	314525	THE UNDERGROUND COMPANY	15,870.74
Check	10/21/2019	314526	THE WALDINGER CORPORATION	2,027.65
Check	10/21/2019	314527	TIRECHECK INC	609.01
Check	10/21/2019	314528	TRACK INC	200,216.67
Check	10/21/2019	314529	TRIZETTO PROVIDER SOLUTIONS	292.79
Check	10/21/2019	314530	TRUE VALUE & V&S VARIETY STORE	271.76
Check	10/21/2019	314531	UNITED SEEDS INC	195.00
Check	10/21/2019	314532	VALLEY POOL & HOT TUBS INC	22.40
Check	10/21/2019	314533	VAN WALL EQUIPMENT	2,532.07

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number	Source	Payee Name	Transaction Amount
Check	10/21/2019	314534	Accounts Payable	VEENSTRA & KIMM INC	13,619.55
Check	10/21/2019	314535	Accounts Payable	VISION SERVICE PLAN	1,414.41
Check	10/21/2019	314536	Accounts Payable	WATCHGUARD INC	2,370.00
Check	10/21/2019	314537	Accounts Payable	WATER'S EDGE AQUATIC DESIGN LLC	2,700.00
Check	10/21/2019	314538	Accounts Payable	WEST DES MOINES COMM SCHOOLS - FACILITIES	301.73
Check	10/21/2019	314539	Accounts Payable	WEX BANK	1,962.66
Check	10/21/2019	314540	Accounts Payable	WIN WATCH LLC	133.19
Check	10/21/2019	314541	Accounts Payable	ZIEGLER INC	570.69
Check	10/21/2019	314542	Accounts Payable	BOWEN , GARY	2,940.00
Check	10/21/2019	314543	Accounts Payable	NAN'S NUMMIES	17,825.00
Check	10/21/2019	314544	Accounts Payable	PETTY CASH	720.92
Check	10/21/2019	314545	Accounts Payable	SCHMITZ , GREGORY	21,750.00
Check	10/21/2019	314546	Accounts Payable	SIGNATURE REAL ESTATE HOLDINGS LLC	345.00
Check	10/21/2019	314547	Accounts Payable	AMERICAN BUILDINGS COMPANY	577,221.52
Check	10/21/2019	314548	Accounts Payable	CENTURYLINK	1,313.30
Check	10/21/2019	314549	Accounts Payable	CITY OF BOONE	290.00
Check	10/21/2019	314550	Accounts Payable	IOWA LAW ENFORCEMENT ACADEMY	100.00
Check	10/21/2019	314551	Accounts Payable	MILLER NURSERY	263.76
Check	10/21/2019	314552	Accounts Payable	ORTON HOMES	3,194.00
Check	10/21/2019	314553	Accounts Payable	ULI-THE URBAN LAND INSTITUTE	240.00
EFT	10/21/2019	3702	Accounts Payable	ABC ELECTRICAL SERVICES LLC	3,941.21
EFT	10/21/2019	3703	Accounts Payable	ALL CITY MANAGEMENT SERVICES INC	13,869.91
EFT	10/21/2019	3704	Accounts Payable	ALLEN , NICK	82.50
EFT	10/21/2019	3705	Accounts Payable	ARNOLD MOTOR SUPPLY LLP	2,547.53
EFT	10/21/2019	3706	Accounts Payable	BARRETT , WAYNE	137.50
EFT	10/21/2019	3707	Accounts Payable	BAUER BUILT	5,587.64
EFT	10/21/2019	3708	Accounts Payable	BENJAMIN , SUZANNE	825.00
EFT	10/21/2019	3709	Accounts Payable	BOIKE , ERIC	137.50
EFT	10/21/2019	3710	Accounts Payable	BROCK , KEN	418.00
EFT	10/21/2019	3711	Accounts Payable	BROWNELLS INC	451.15
EFT	10/21/2019	3712	Accounts Payable	CENTERPOINT ENERGY SVCS RETAIL	1,619.97
EFT	10/21/2019	3713	Accounts Payable	CLARK , JAMES	82.50
EFT	10/21/2019	3714	Accounts Payable	CORNWELL , MADISON	696.00
EFT	10/21/2019	3715	Accounts Payable	COYLE , ADAM	137.50

City of West Des Moines  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number Source	Payee Name	Transaction Amount
EFT	10/21/2019	3716	Accounts Payable	
EFT	10/21/2019	3716	DECKER, AUSTIN	82.50
EFT	10/21/2019	3717	Accounts Payable	
EFT	10/21/2019	3717	DES MOINES ASPHALT & PAVING	7,827.30
EFT	10/21/2019	3718	Accounts Payable	
EFT	10/21/2019	3718	DIAMOND VOGEL PAINT	4,886.75
EFT	10/21/2019	3719	Accounts Payable	
EFT	10/21/2019	3719	EIDE BAILLY LLP	18,000.00
EFT	10/21/2019	3720	Accounts Payable	
EFT	10/21/2019	3720	ELDER CORPORATION	8,761.28
EFT	10/21/2019	3721	Accounts Payable	
EFT	10/21/2019	3721	EMC RISK SERVICES	12,324.91
EFT	10/21/2019	3722	Accounts Payable	
EFT	10/21/2019	3722	EXCEL MECHANICAL INC	22,807.01
EFT	10/21/2019	3723	Accounts Payable	
EFT	10/21/2019	3723	FACTORY MOTOR PARTS CO.	91.13
EFT	10/21/2019	3724	Accounts Payable	
EFT	10/21/2019	3724	FBG SERVICE CORPORATION	5,788.00
EFT	10/21/2019	3725	Accounts Payable	
EFT	10/21/2019	3725	FORRESTER, JAKE	137.50
EFT	10/21/2019	3726	Accounts Payable	
EFT	10/21/2019	3726	FOTH INFRASTRUCTURE & ENVIRONMENT LLC	131,055.71
EFT	10/21/2019	3727	Accounts Payable	
EFT	10/21/2019	3727	GEIL, NATHAN	192.50
EFT	10/21/2019	3728	Accounts Payable	
EFT	10/21/2019	3728	GENESER, MARGARETTA	705.00
EFT	10/21/2019	3729	Accounts Payable	
EFT	10/21/2019	3729	GERDNER, RONALD	82.50
EFT	10/21/2019	3730	Accounts Payable	
EFT	10/21/2019	3730	GRAVES, PAT	82.50
EFT	10/21/2019	3731	Accounts Payable	
EFT	10/21/2019	3731	GREATER DES MOINES HABITAT FOR HUMANITY INC	26,995.79
EFT	10/21/2019	3732	Accounts Payable	
EFT	10/21/2019	3732	HOME INC	19,672.00
EFT	10/21/2019	3733	Accounts Payable	
EFT	10/21/2019	3733	HR GREEN CO	99,235.91
EFT	10/21/2019	3734	Accounts Payable	
EFT	10/21/2019	3734	HYDRO KLEAN LLC	2,225.00
EFT	10/21/2019	3735	Accounts Payable	
EFT	10/21/2019	3735	INGERSOLL-RAND CO	725.56
EFT	10/21/2019	3736	Accounts Payable	
EFT	10/21/2019	3736	IOWA DEPARTMENT OF PUBLIC SAFETY	6,804.00
EFT	10/21/2019	3737	Accounts Payable	
EFT	10/21/2019	3737	IOWA WORKFORCE DEVELOPMENT-UIS DIVISION	4,329.00
EFT	10/21/2019	3738	Accounts Payable	
EFT	10/21/2019	3738	ISG	70,984.50
EFT	10/21/2019	3739	Accounts Payable	
EFT	10/21/2019	3739	JOHNSON, KATIE	39.98
EFT	10/21/2019	3740	Accounts Payable	
EFT	10/21/2019	3740	JOYNT, BRIAN	82.50
EFT	10/21/2019	3741	Accounts Payable	
EFT	10/21/2019	3741	KECK ENERGY	37,828.70
EFT	10/21/2019	3742	Accounts Payable	
EFT	10/21/2019	3742	KEIMIG, JON	196.55
EFT	10/21/2019	3743	Accounts Payable	
EFT	10/21/2019	3743	KELTEK INC	1,386.44
EFT	10/21/2019	3744	Accounts Payable	
EFT	10/21/2019	3744	KINCAID, KRAIG	418.00
EFT	10/21/2019	3745	Accounts Payable	
EFT	10/21/2019	3745	KRONOS SAASHR INC	21,193.75
EFT	10/21/2019	3746	Accounts Payable	
EFT	10/21/2019	3746	LARSEN, TASHA	137.50
EFT	10/21/2019	3747	Accounts Payable	
EFT	10/21/2019	3747	LAUGHRIDGE, LARRY	82.50

**City of West Des Moines**  
**City Council Report**  
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement

Type	Date	Number	Source	Payee Name	Transaction Amount
EFT	10/21/2019	3748	Accounts Payable	MANKLE, BRUCE	205.90
EFT	10/21/2019	3749	Accounts Payable	MAYROSE, ASHLEY	696.00
EFT	10/21/2019	3750	Accounts Payable	MCANINCH CORPORATION	2,055,853.16
EFT	10/21/2019	3751	Accounts Payable	MCCLURE ENGINEERING COMPANY	49,620.00
EFT	10/21/2019	3752	Accounts Payable	MCCUBBIN, COURTNEY	340.00
EFT	10/21/2019	3753	Accounts Payable	MIDWEST WHEEL	590.48
EFT	10/21/2019	3754	Accounts Payable	MILES CAPITAL	6,064.22
EFT	10/21/2019	3755	Accounts Payable	MPH INDUSTRIES	509.95
EFT	10/21/2019	3756	Accounts Payable	MSTS- BEST BUY BUSINESS ADVANTAGE	3,248.71
EFT	10/21/2019	3757	Accounts Payable	ONENECK IT SOLUTIONS LLC	4,177.28
EFT	10/21/2019	3758	Accounts Payable	PALMER, JEFF	157.00
EFT	10/21/2019	3759	Accounts Payable	PARKER, SATONIUS	156.00
EFT	10/21/2019	3760	Accounts Payable	PENNING, RYAN	353.02
EFT	10/21/2019	3761	Accounts Payable	PERFECTMIND TECHNOLOGY INC	26,133.33
EFT	10/21/2019	3762	Accounts Payable	PERRY, MELANIE	59.16
EFT	10/21/2019	3763	Accounts Payable	PINEGAR, KIMBERLY	82.50
EFT	10/21/2019	3764	Accounts Payable	RELIABLE MAINTENANCE	39,710.00
EFT	10/21/2019	3765	Accounts Payable	REMOTE ADMIN INC	6,500.00
EFT	10/21/2019	3766	Accounts Payable	SHERMAN, JEFF	192.50
EFT	10/21/2019	3767	Accounts Payable	SHIELDS, CHARLES	69.00
EFT	10/21/2019	3768	Accounts Payable	SNYDER, BRIAN	82.50
EFT	10/21/2019	3769	Accounts Payable	SWEEDEN, MOLLY	696.00
EFT	10/21/2019	3770	Accounts Payable	SWINTON, ASHLEE	88.12
EFT	10/21/2019	3771	Accounts Payable	UPS STORE	26.42
EFT	10/21/2019	3772	Accounts Payable	WEST DES MOINES WATER WORKS	34.86
EFT	10/21/2019	3773	Accounts Payable	YEAGER, LEMAR	1,939.00
EFT	10/21/2019	3774	Accounts Payable	HODNE, BRET	213.50
EFT	10/21/2019	3775	Accounts Payable	WIESE, RON	82.50
WB VENDOR DISB WB Vendor Disbursement Totals:					Transactions: 260
					<b>\$9,364,854.80</b>

Checks: 186 \$6,631,277.51  
 EFTs: 74 \$2,733,577.29

City of West Des Moines  
**City Council Report**  
 Bank Account: WB CONTROLPAY - WB ControlPay

Type	Date	Number	Source	Payee Name	Transaction Amount
<b>Bank Account: WB CONTROLPAY - WB ControlPay</b>					
EFT	10/21/2019	4500	Accounts Payable	ADVENTURE LIGHTING	62.40
EFT	10/21/2019	4501	Accounts Payable	ALLIED 100 LLC	381.00
EFT	10/21/2019	4502	Accounts Payable	ARAMARK UNIFORM SERVICES	3,641.88
EFT	10/21/2019	4503	Accounts Payable	BLACKBURN MANUFACTURING CO	191.32
EFT	10/21/2019	4504	Accounts Payable	BUSINESS PUBLICATIONS CORP	2,009.95
EFT	10/21/2019	4505	Accounts Payable	CAPITAL SANITARY SUPPLY CO INC	3,286.23
EFT	10/21/2019	4506	Accounts Payable	CLIVE POWER EQUIPMENT	215.50
EFT	10/21/2019	4507	Accounts Payable	DES MOINES REGISTER MEDIA	192.41
EFT	10/21/2019	4508	Accounts Payable	DES MOINES STAMP MFG CO	80.00
EFT	10/21/2019	4509	Accounts Payable	DFI SOLUTIONS IN PRINT	581.26
EFT	10/21/2019	4510	Accounts Payable	ELECTRIC PUMP INC	7,273.20
EFT	10/21/2019	4511	Accounts Payable	FERGUSON ENTERPRISES INC 226	172.77
EFT	10/21/2019	4512	Accounts Payable	FORECAST PUBLIC ART	600.00
EFT	10/21/2019	4513	Accounts Payable	FREEDOM TIRE & AUTO- AMES	408.00
EFT	10/21/2019	4514	Accounts Payable	GALLS LLC	9,469.35
EFT	10/21/2019	4515	Accounts Payable	HILLYARD- DES MOINES	214.20
EFT	10/21/2019	4516	Accounts Payable	INLAND TRUCK PARTS CO	4,365.62
EFT	10/21/2019	4517	Accounts Payable	INTERFLEET INC	2,401.00
EFT	10/21/2019	4518	Accounts Payable	IOWA WATER MANAGEMENT CORP	573.07
EFT	10/21/2019	4519	Accounts Payable	JOHNSTONE SUPPLY	492.28
EFT	10/21/2019	4520	Accounts Payable	KNOX COMPANY	912.00
EFT	10/21/2019	4521	Accounts Payable	LEXISNEXIS RISK SOLUTIONS	150.00
EFT	10/21/2019	4522	Accounts Payable	LOGAN CONTRACTORS SUPPLY INC	439.10
EFT	10/21/2019	4523	Accounts Payable	MENARDS	305.93
EFT	10/21/2019	4524	Accounts Payable	METRO WASTE AUTHORITY	180,487.46
EFT	10/21/2019	4525	Accounts Payable	MIDWEST LOCK INC	300.00
EFT	10/21/2019	4526	Accounts Payable	NORTHLAND PRODUCTS	90.00
EFT	10/21/2019	4527	Accounts Payable	O'KEEFE ELEVATOR COMPANY INC	1,254.65
EFT	10/21/2019	4528	Accounts Payable	O'REILLY AUTOMOTIVE INC	152.55
EFT	10/21/2019	4529	Accounts Payable	PAY-LESS OFFICE PRODUCTS INC	1,576.18
EFT	10/21/2019	4530	Accounts Payable	PRAXAIR	809.18
EFT	10/21/2019	4531	Accounts Payable	PREFERRED PEST CONTROL	1,259.50
EFT	10/21/2019	4532	Accounts Payable	PURCELL PRINTING	257.81
EFT	10/21/2019	4533	Accounts Payable	RAINBOW TREECARE	540.98

City of West Des Moines  
**City Council Report**  
 Bank Account: WB CONTROLPAY - WB ControlPay

Type	Date	Number	Source	Payee Name	Transaction Amount
EFT	10/21/2019	4534	Accounts Payable	RELIABLE PROPERTY SERVICES	11,293.20
EFT	10/21/2019	4535	Accounts Payable	ROCKMOUNT RESEARCH ALLOYS INC	728.11
EFT	10/21/2019	4536	Accounts Payable	SITEONE LANDSCAPE SUPPLY LLC	78.50
EFT	10/21/2019	4537	Accounts Payable	SNYDER & ASSOCIATES	26,508.82
EFT	10/21/2019	4538	Accounts Payable	SPECIALTY GRAPHICS INC	273.00
EFT	10/21/2019	4539	Accounts Payable	SPINDUSTRY SYSTEMS INC	6,465.65
EFT	10/21/2019	4540	Accounts Payable	STIVERS FORD (CONTROL PAY)	8,580.04
EFT	10/21/2019	4541	Accounts Payable	STREICHERS	333.00
EFT	10/21/2019	4542	Accounts Payable	TEAM SERVICES	17,646.88
EFT	10/21/2019	4543	Accounts Payable	THOMAS BUS SALES OF IOWA INC	238.71
EFT	10/21/2019	4544	Accounts Payable	THOMSON REUTERS-WEST PAYMENT	304.74
EFT	10/21/2019	4545	Accounts Payable	THOMSON REUTERS-WEST PAYMENT	464.10
EFT	10/21/2019	4546	Accounts Payable	UPHDM OCCUPATIONAL MEDICINE	4,619.00
EFT	10/21/2019	4547	Accounts Payable	VAISALA INC	2,970.00
EFT	10/21/2019	4548	Accounts Payable	VERMEER SALES AND SERVICE INC	217.00
EFT	10/21/2019	4549	Accounts Payable	WASTE MANAGEMENT OF IOWA	72.38
EFT	10/21/2019	4550	Accounts Payable	ZOLL DATA- CO	1,974.21
EFT	10/21/2019	4551	Accounts Payable	ZOLL MEDICAL- NY	581.25
WB CONTROLPAY WB ControlPay Totals:					\$308,495.37

EFTs: 52      \$308,495.37

Transactions: 52

# Payment Register

From Payment Date: 09/17/2019 - To Payment Date: 11/03/2019

Number	Date	Payee Name	Transaction Amount
102	10/08/2019	WORLDPAY (FORMERLY VANTIV)	\$1,264.30
103	10/10/2019	MERCHANT SERVICES (TRANSFIRST)	\$64.32
3695	10/11/2019	ATO BUILDERS LLC	\$247,825.55
11992	10/21/2019	WH LLC - WASHINGTON HEIGHTS APTS	\$250.00
11993	10/21/2019	PETERSON PROPERTIES INC	\$500.00
11994	10/21/2019	COLONIAL VILLAGE APARTMENTS	\$250.00
11995	10/21/2019	CHAPEL RIDGE WEST LP	\$250.00
11996	10/21/2019	CONLIN PROPERTIES INC	\$500.00
11997	10/21/2019	MIDAMERICAN ENERGY	\$194.00
11998	10/21/2019	MIDAMERICAN ENERGY	\$152.00
11999	10/21/2019	WEST DES MOINES WATER WORKS	\$72.01
12001	10/21/2019	JORDAN CREEK APARTMENTS	\$250.00
12002	10/21/2019	MAPLE GROVE VILLAS	\$262.11
12003	10/21/2019	JORDAN CREEK APARTMENTS	\$250.00
12004	10/21/2019	SILHOUETTE RESIDENTIAL HOUSING COOP	\$145.00
12005	10/21/2019	IOWA ASHWORTH LLC	\$250.00
12006	10/21/2019	SUN PRAIRIE APARTMENTS	\$245.00
			<b>\$252,724.29</b>

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

**ITEM:** Approval of Liquor Licenses

**DATE:** October 21, 2019

**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. Aldi, Inc. d/b/a Aldi, Inc. #40, 6050 Mills Civic Parkway - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
2. Firebirds of West Des Moines, LLC d/b/a Firebirds Wood Fired Grill, 440 South 68th Street, Suite 101 - Class LC Liquor License with Sunday Sales - Renewal
3. Hy-Vee, Inc., d/b/a Hy-Vee Gas, 7280 University Avenue - Class BC Beer Permit with Carryout Wine and Sunday Sales - Renewal
4. Tap This Concessions, LLC d/b/a Iowa Craft Beer Tent, 101 Jordan Creek Parkway, Suite 12350 - Class BC Beer Permit with Sunday Sales - New
5. 52 Gracedieu DBA Memory Lane Antiques, LLC d/b/a Memory Lane Antiques Collectibles & Gifts, 208 5th Street - Class B Native Wine Permit with Sunday Sales - Renewal
6. Pho Shobu, LLC d/b/a Pho Shobu, 8950 University Avenue, Suite 103 - Class LC Liquor License with Sunday Sales - 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 *RTJ*

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	<i>RTJ</i>

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

**ITEM:** Approval of Appointment  
Human Rights Commission

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:**

Mark Hillenbrand has served on the Human Rights Commission since January 2019. The Mayor and Council thank him for his service to the community. Mayor Gaer would like to appoint Mark Rocha to serve the remainder of the three-year term with an expiration of December 31, 2019, as well as the subsequent three-year term with an expiration of December 31, 2022.

Mark Rocha      495 South 51<sup>st</sup> Street, Unit 47                      480-6886 (h)

**RECOMMENDATION:**

Motion – Approve Mayor’s recommendation for appointment to the Human Rights Commission.

**LEAD STAFF MEMBER:** Ryan T. Jacobson, City Clerk *RTJ*

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	<i>RTJ</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

CITY OF WEST DES MOINES, IOWA

APPLICATION FOR APPOINTMENT TO BOARDS AND COMMISSIONS

The City of West Des Moines appreciates your interest in serving the community and welcomes your application. Please complete all sections of this application. If you have any questions, please contact the City Clerk's Office at (515) 222-3600 or TDD (Hearing Impaired) (515) 222-3334. The City of West Des Moines is committed to providing equal opportunity for citizen involvement.

Please indicate those Boards and/or Commissions on which you would be willing to serve by checking below:

- Board of Adjustment
Civil Service Commission
Library Board of Trustees
Plan & Zoning Commission
Sister Cities Commission
Bicycle Advisory Commission

- Water Works Board of Trustees
Human Services Advisory Board
Human Rights Commission
Public Arts Advisory Commission
Valley Junction Events Committee
Other

Name: Rocha Mark J
Last First Middle

Address: 495 S 51st Unit 47 West Des Moines, IA 50265
Street City State Zip

Occupation: CenturyLink - Service Delivery Coordinator

Employer's Name & Address
Century Link 38 years
925 High 2N10 Des Moines, IA

Work Phone: 800-244-1271 When can you be reached at this number? no personal calls

Home Phone: 515-480-6886 When can you be reached at this number?: no personal calls

E-mail address: MarkJRocha@yahoo.com

Length of residence in West Des Moines: 63 years

Please list any previous Board membership positions (City, Church, School, Professional, etc.) and dates of service:

WDM Human Service Advisory 2010-2016, Police Chief Advisory 2014-2016, WDM Historical Society 2010-2016, Due Diligence Committee 2017- present

Communications Workers of America (CWA 7102) current Sec-Treas,0 Past President, Sec-Treasurer, VP, LULAC League of United Latin America Citizens 2012 to present, current Treasurer

Please indicate below the reasons why you would like to be appointed to a Board or Commission and any specific skills or experience that you believe support your application.

At an early age, I realized everyone in my community deserved to be treated equal and fair. My strong communications skills and willingness to stand firm for any WDM resident who may experience discrimination would be an asset to the Board. I would consider it a privilege to be part of the work provided by the Human Rights Commission.

Please list two references other than a family member:

Name: Dino Rodish Relationship: Friend Phone: 515-249-3763

Name: Don Cox Relationship: Friend Phone: 515-229-5001

Do you sell to, or are you in any manner a part to, any contract to furnish supplies, material, or labor to the City of West Des Moines? NO \_\_\_ If so, please list: \_\_\_\_\_

Have you ever been employed by the City? NO \_\_\_ If so, please list dates of employment and positions held.

Do you have relatives working for the City? YES \_\_\_ If so, please give name and relationship.  
John Munoz - Uncle

Are you being sponsored by a community organization(s)? NO \_\_\_ If so, please list the following and attach a confirmation letter from said organization:

Organization: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Iowa Code Section 69.16A requires City boards/commissions to be gender balanced. Please indicate whether you are male or female.

Male

Female

Applicant Signature: Mary Roche Date: 2/22/2018

Please mail completed application to the office of the City Clerk at the following address:

City of West Des Moines  
P.O. Box 65320  
West Des Moines, Iowa 50265-0320  
ATTN: Ryan Jacobson

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

**ITEM:** Approval of Appointment  
Human Services Advisory Board

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:**

Chris Aldinger has served on the Human Services Advisory Board since July 2019, and the Mayor and City Council thank him for his service to the community. Mayor Gaer would like to appoint Joe Happe to serve the remainder of the three-year term on the Human Services Advisory Board with an expiration of June 30, 2021.

Joe Happe                      4656 Timberline Drive                      246-7998 (w)    577-1390 (h)

**RECOMMENDATION:**

Motion – Approve Mayor’s recommendation for appointment to the Human Services Advisory Board.

**LEAD STAFF MEMBER:** Ryan T. Jacobson, City Clerk *RTJ*

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	<i>RTJ</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

CITY OF WEST DES MOINES, IOWA

APPLICATION FOR APPOINTMENT TO BOARDS AND COMMISSIONS

The City of West Des Moines appreciates your interest in serving the community and welcomes your application. Please complete all sections of this application. If you have any questions, please contact the City Clerk's Office at (515) 222-3600 or TDD (Hearing Impaired) (515) 222-3334. The City of West Des Moines is committed to providing equal opportunity for citizen involvement.

Please indicate those Boards and/or Commissions on which you would be willing to serve by checking below:

- |  |   |
|--|---|
| <input type="checkbox"/> Board of Adjustment         | <input checked="" type="checkbox"/> Water Works Board of Trustees |
| <input type="checkbox"/> Civil Service Commission    | <input checked="" type="checkbox"/> Human Services Advisory Board |
| <input type="checkbox"/> Library Board of Trustees   | <input type="checkbox"/> Human Rights Commission                  |
| <input type="checkbox"/> Plan & Zoning Commission    | <input type="checkbox"/> Public Arts Advisory Commission          |
| <input type="checkbox"/> Sister Cities Commission    | <input type="checkbox"/> Valley Junction Events Committee         |
| <input type="checkbox"/> Bicycle Advisory Commission | <input type="checkbox"/> Other _____                              |

Name: Happe Joe  
Last First Middle

Address: 4656 Timberline Drive, W. Des Moines IA 50265  
Street City State Zip

Occupation: Lawyer

Employer's Name & Address  
Davis Brown Law Firm, 4201 Westown Pkwy, Suite 200  
W. Des Moines IA 50266

Work Phone: 515.246.7998 When can you be reached at this number?: 8-5

Home Phone: 515.577.1390 When can you be reached at this number?: 5-8

E-mail address: happejoe@gmail.com

Length of residence in West Des Moines: 3 year/8 years before

Please list any previous Board membership positions (City, Church, School, Professional, etc.) and dates of service:  
St. Francis Parish Council, SFA Bd of Education, Urbandale Action Council  
State Hist Society Bd of Trustees, Catholic Charities Bd, Terrace Hill Soc

Please indicate below the reasons why you would like to be appointed to a Board or Commission and any specific skills or experience that you believe support your application.

**Bd, Iowa Historical Foundation Bd**

---

---

---

Please list two references other than a family member:

Name: Bob Douglas Relationship: Co-worker Phone: 515.288.2500

Name: Mary Bernabe Relationship: Friend Phone: 515.226.0878

Do you sell to, or are you in any manner a part to, any contract to furnish supplies, material, or labor to the City of West Des Moines? No If so, please list: \_\_\_\_\_

Have you ever been employed by the City? No If so, please list dates of employment and positions held.

---

Do you have relatives working for the City? No If so, please give name and relationship.

---

Are you being sponsored by a community organization(s)? No If so, please list the following and attach a confirmation letter from said organization:

Organization: \_\_\_\_\_ Contact: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email: \_\_\_\_\_

Iowa Code Section 69.16A requires City boards/commissions to be gender balanced. Please indicate whether you are male or female.



Male



Female

Applicant Signature: Joe Happe

Date: 10-1-2019

Please mail completed application to the office of the City Clerk at the following address:

City of West Des Moines  
P.O. Box 65320  
West Des Moines, Iowa 50265-0320  
ATTN: Ryan Jacobson

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

**DATE: October 21, 2019**

**ITEM:**

Approval of Purchase for Heavy Duty Vehicle Lifts for new Public Services Facility

**FINANCIAL IMPACT:**

The cost for the purchase and installation of heavy duty lifts for the new Public Services Facility is \$521,442.00. This equipment is competitively bid through a State of Iowa Contract with Midwest Lift Works. The expense budget code for this purchase is 500.000.000.5400.750.

**BACKGROUND:**

Approval for these lifts will enable the fleet department to do repair and service on heavy duty vehicles in the new Public Services facility.

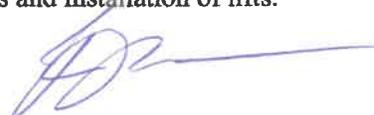
These vehicles include plow trucks, fire trucks and select emergency vehicles. The Steril Koni equipment has been tested and as proven to hold up in our current facility. The State of Iowa has these lifts in many DOT facilities with very few issues and the vendor has provided great customer service.

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

Approval of purchase and payment for the proposed lifts and installation of lifts.

**Lead Staff Member: Rian Rasmussen, Fleet Manager**



**STAFF REVIEWS**

Department Director	Bret Hodne, Public Services Director
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	Split



Midwest Lift Works  
 614 Broadway St. North  
 Jordan, MN 55352 US  
 www.midwestliftworks.com

**ADDRESS**

City of West Des Moines- PW  
 Fleet Services  
 560- So 16th St.  
 PO BOX 65320  
 West Des Moines, IA  
 50265-0320

**SHIP TO**

General Contractor for the  
 City of West Des Moines- PW  
 Fleet Services  
 New Services Facility  
 8850 Grand Ave.  
 West Des Moines IA 50265

**Estimate 2086**

DATE 08/06/2019

EXPIRATION DATE 12/31/2019

**SHIP VIA**  
 BEST WAY

**P.O. NUMBER**  
 Assigned if Accepted

ACTIVITY	QTY	RATE	AMOUNT
----------	-----	------	--------

THE FOLLOWING ARE PURCHASE PRICING FOR STERTIL KONI HEAVY DUTY VEHICLE LIFTS AS FOUND ON THE IOWA STATE CONTRACT- MOST ITEMS HAVE BEEN DEVIATED BELOW PUBLISHED PRICING FOR OWNERS BUDGET CONSIDERATIONS.

<b>Direct Billed</b> Direct Billed by Stertil Koni USA with No Sales Tax collected per Contract Terms. PLEASE MAKE PURCHASE ORDER OUT TO STERTIL KONI USA.	1		0.00
---	---	--	------

<b>Diamond 96-10-10 QT</b> Stertil Koni Diamond 96-17-QT. 3 Piston Arrangement each at 32,000 lbs Capacity. 1 Fixed Piston, 2 Movable Pistons. All 3 installed in Cassettes that are Galvanized sections atop Diamond Guard Coated base. 1 Movable Piston in a 17 and 1 Movable Piston with Quick Turn 39" Travel Cassette for Tandem Options, ETL/ALI Certified 460/3/60 Electrical to Cabinet ONLY. NO POWER NEEDED TO LIFTS.	1	136,290.00	136,290.00
--	---	------------	------------

(612)382-0532    dave@midwestliftworks.com  
 (612)222-6100    cole@midwestliftworks.com  
 Fax: 952-431-7690

ACTIVITY	QTY	RATE	AMOUNT
<b>Install of Lifts</b> COMPLETE INSTALLATION OF DIAMOND 96 LIFT INCLUDING ANCHORS, SHIMS, HOSES, ALIGNMENT, OIL, LIGHTING AND ELECTRICAL FROM CONTROL PANEL ON. Diamond Lift Only- CASSETTE FRAMES PROVIDED BY LIFT MFG. CONCRETE SPREAD FOOTER AND FINAL FINISH FLOOR LEVEL BY GENERAL CONTRACTOR. CHASE WAYS BY OTHERS AS REQUIRED BY LOCAL ORDINANCE.	1	12,250.00	12,250.00
<b>DIA 64-AWBP</b> Automatic wheelbase positioning Diamond 96 WITH 3 POST	1	3,875.00	3,875.00
<b>RBV050-00</b> Steril Koni Optional detachable wired remote control for ECO-60/ ECO-90. Diam 64/ Diam 96. Incl. remote control, 35' cable, military style quick disconnect.	1	3,160.00	3,160.00
<b>D662P-00</b> Pneumatic automatic assembly sump pump installed for cassette fluid evacuation- INSTALLED	2	1,904.00	3,808.00
<b>SKY-250-30' FM</b> SKY-250-30' FM, 78,000 lbs w/ 30' Runways. FLUSH MOUNTED. ALI & ETL Certified. OPVL 16190 Reverse Roll Off SETS for 8 runway ends Included N/Charge (\$3,440 value)	2	77,507.00	155,014.00
<b>Set Automatic Pit Cover</b> Set of Automatic Recess Coverplates fro SKY-FM, 33' (2 PCs)	2	18,307.00	36,614.00
<b>Galvanized Runway Only</b> Galvanized Runway Option- Hot Dipped Galvanized instead of powder coat paint. Model 33GR- for 33' runway.	2	5,460.00	10,920.00
<b>JB-200-2</b> Steril Koni Jacking Beam JB-200-2, 44,000 lbs Capacity, With Mounting Arms, Air over Hydraulic. Incl. Basic Adapters.	1	8,690.00	8,690.00
<b>41309120</b> LED Lighting. UL Approved for SKYLIFT 30' & 33' Runways- 10 LED fixtures and one transformer and cable set-110-220volt.	2	2,777.00	5,554.00

(612)382-0532    dave@midwestliftworks.com  
(612)222-6100    cole@midwestliftworks.com  
Fax: 952-431-7690

ACTIVITY	QTY	RATE	AMOUNT
<b>Install of Lifts</b> COMPLETE INSTALLATION OF LIFTS INTO CAST IN PLACE PITS, INCLUDING ANCHORS, SHIMS, HOSES, RIGGING, ALIGNMENT, OIL, LIGHTING AND ELECTRICAL FROM CONTROL PANEL ON. PIT EDGING FRAMES NOT INCLUDED FOR CAST IN PLACE PITS.	2	6,600.00	13,200.00
<b>OPVL29185</b> Steril Koni 2 Speed Lowering, when ordered with the Lift. NOT connected to synchronized operation of SKYLIFTS	2	1,569.00	3,138.00
<b>41301952</b> Synchronization Set for connected versions F.M. without bridge part. Lifts can have center islands or not, as owner preference.	1	1,459.00	1,459.00
<b>Misc. materials</b> Stainless steel anchoring upgrade package with Hilti Products. Exceeds Mfg. standard installation requirements-	2	620.00	1,240.00
			0.00
<b>SK2.26-33 Freedom 2 Post 26,000 lb. (6,500/per arm)</b> Steril Koni 2 Post, 26,000 lb. Capacity-(6,500 lb./Per Arm) With 4 Double Telescopic Arms. ALI/ETL CERTIFIED	1	32,392.00	32,392.00
<b>Lift Installation</b> Lift Installation by Factory Approved and Insured Service Technicians, Included is Labor, shims, anchors, grouting. ELECTRICAL CONNECTIONS/DISCONNECTS TO THE LIFT BY OTHERS	1	1,200.00	1,200.00
<b>ST-1100-2FWA</b> ST-1100 FWA-Set of four battery operated wireless communication, E Bright Control Panels. 22,000 lbs.capacity per column, (88,000 per set) , ALI/ETL certified. , Enclosed Battery Charger/Maintainer. Group 31 Deep Cycle Batteries included.	2	44,449.00	88,898.00
<b>Rigging and Placement of Lifts</b> Provide Rigging and Placement of Lift Components. Provide Lifting Vehicle, Rigging and Supports from Truck Delivery thru Installation and Initiation of Power to Control Cabinets. (SKYJACK SJ-1256 or similar Model Required) IF GENERAL CONTRACTOR OR OWNER CAN PROVIDE SIMILAR LIFT THIS WILL BE CREDITED BACK TO OWNER-	2	1,870.00	3,740.00

(612)382-0532      dave@midwestliftworks.com  
(612)222-6100      cole@midwestliftworks.com  
Fax: 952-431-7690

ACTIVITY	QTY	RATE	AMOUNT
<b>Freight</b> FULL FREIGHT ALLOWED UNDER THE STATE OF IOWA CONTRACT- # 19283			<b>0.00</b>

IOWA State Contract # 19283  
Sourcewell(NJPA) # 061015-SKI Thru 7/21/20  
(612)382-0532 dave@midwestliftworks.com  
(612)222-6100 cole@midwestliftworks.com  
Fax: 952-431-7690

<b>TOTAL</b>	<b>\$521,442.00</b>
--------------	---------------------

Accepted By

Accepted Date

(612)382-0532 dave@midwestliftworks.com  
(612)222-6100 cole@midwestliftworks.com  
Fax: 952-431-7690

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

**DATE: October 21, 2019**

**ITEM:**

Motion – Approving Change Order #2  
MidAmerican Energy RecPlex – Grading & Site Utilities

**FINANCIAL IMPACT:**

Contract Summary:

Description	Amount	Date Approved	Remarks
Construction Contract	\$4,496,180.00	June 17, 2019	
Change Order #1	(\$12,781.96)	September 9, 2019	Plan Change #1 VE Items
Change Order #2	\$141,750.00	Pending	Subgrade Stabilization
<b>Total</b>	<b>\$4,625,148.04</b>		

Cost for these change order items will be paid from account no. 500.000.000.5250.490 with the ultimate funding intended to come from a combination of funds already declared as excess in the Sewer Fund (\$1.5 million) and an upcoming bond issuance (General Obligation bonds backed by Hotel-Motel tax revenue).

**BACKGROUND:**

The project consists of soil import, grading, storm sewer, sanitary sewer, and watermain to accommodate the future construction of the MidAmerican Energy RecPlex. This phase of the project is anticipated to be completed by October 31, 2019. Fabrication and erection of the pre-engineered metal buildings was awarded at the August 19, 2019 City Council meeting. The foundations bid package was awarded at the September 16, 2019 City Council meeting. Future phases of this project including paving, site improvements, and interior buildings systems are scheduled to bid in the next few months with construction extending through most of 2020.

Change Order #2 includes the addition of cement subgrade treatment for stabilization of subgrade soils in and around the building pads, staging area, and access drive in order to facilitate the construction of building foundations. The cement will only be used as needed and will vary depending on soil drying conditions that unfold over the next few weeks. City Staff recommend approval of Change Order #2.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

City Council Adopt:

- Motion Approving Change Order #2 for MidAmerican Energy RecPlex – Grading & Site Utilities.

**Lead Staff Member:** Brian J. Hemesath, P.E., City Engineer *hjt*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	Richard Scieszinski, City Attorney <i>RS</i>
Agenda Acceptance	<i>RS</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee				
Date Reviewed				
Recommendation	<table style="display: inline-table; border: none;"> <tr> <td style="border: none;">Yes</td> <td style="border: none;">No</td> <td style="border: none;">Split</td> </tr> </table>	Yes	No	Split
Yes	No	Split		



**CITY OF WEST DES MOINES**

Department of Engineering Services  
 4200 Mills Civic Parkway, Ste 2E  
 West Des Moines, IA 50265-0320  
 (515) 222-3475 Fax (515) 273-0603

**CHANGE ORDER**

Distribution:  
 Owner   
 Engineer   
 Contractor   
 Owner's Rep

Contractor: **McAninch Corporation**  
 4001 Dalaware Avenue  
 Des Moines, IA 50313

Project Title	MidAmerican Energy Company RecFlex Grading And Utility Improvements	
WDM Project File Number	0510-055-2018	
Purchase Order Number	2018-00000871	
Orig. Contract Amount & Date	\$4,496,180.00	June 17, 2019
Change Order Number	2	
Date	October 9, 2019	

**THE CONTRACT IS CHANGED AS FOLLOWS: Addition of Subgrade Treatment with cement for stabilization of subgrade soils in and around the building pads, staging area, and access drive. The cement shall be utilized as needed on a per ton basis in coordination with the engineer and owners representation to complete the grading in order to facilitate the construction of building footings and provide a stable foundation for the building contractor. The unit price included with this change order includes the incorporation of the cement into the soils on site and fill material within the above mentioned areas. The rate of cement incorporation into the soils is anticipated to be approximately 1.5%**

Item	Description	Unit	Unit Price	Quantity Adjustment	Value Adjustment
<b>DIVISION 2 - EARTHWORK</b>					
CO2-2.05	Subgrade Treatment - Cement	Ton	\$316.00	450.0	\$141,750.00
<b>TOTAL</b>					<b>\$141,750.00</b>

<b>CHANGE ORDER SUMMARY</b>	
The Original Contract Sum was	\$4,496,180.00
Net Change by previously authorized Change Orders	(\$12,781.86)
The Contract Sum prior to This Change Order was	\$4,483,398.04
The Contract Sum will be increased by this Change Order in the amount of	\$141,750.00
<b>The new Contract Sum including this Change Order will be</b>	<b>\$4,625,148.04</b>
Aggregate Change Order as a percent of Original Contract (if greater than 10% of the original contract, Council Subcommittee recommendation and all signatures through the full Council are required)	2.87%
The Contract Time will be changed by	0 Days
The date of Final Completion as of the date of this Change Order therefore is	

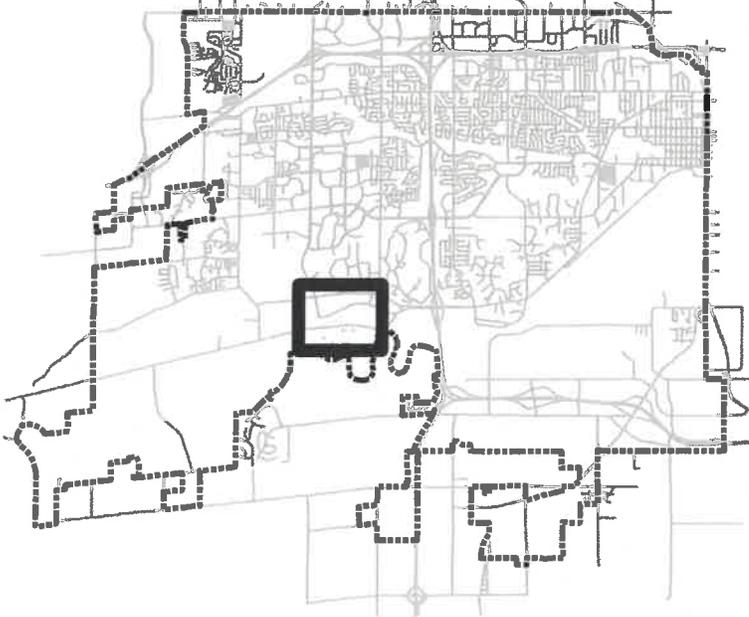
**NOT VALID UNTIL SIGNED BY THE CONTRACTOR, OWNER'S REPRESENTATIVE (if applicable) AND OWNER**

Contractor: McAninch Corporation	Recommended By: Civil Design Advantage (CDA)	Checked By: <i>NTH JMW</i> City of West Des Moines
Signature: <i>Marc Casteel</i>	Signature: <i>Josh Trygstad</i>	Signature: <i>Brian J. Hemesath</i>
Name: Marc Casteel	Name: Josh Trygstad, P.E.	Name: Brian J. Hemesath, P.E.
Title: Project Manager	Title: Project Manager	Title: City Engineer
Date: <i>10-10-19</i>	Date: <i>10/10/19</i>	Date: <i>10-18-19</i>

Owner: City of West Des Moines	
<input type="checkbox"/> <b>A</b> \$24,999.99 City Engineer ( ≤ 10% original contract)	x _____ Date _____
<input type="checkbox"/> <b>B</b> \$25,000 to \$50,000 City Council approved or ratified at Council	_____ Date _____



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION 



PROJECT:

**MidAmerican Energy RecPlex**

LOCATION:

**Exhibit "A"**

DRAWN BY: JDR

DATE: 1/16/2019

PROJECT NUMBER/NAME: 0510-055-2018

SHT. 1 of 1

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

**DATE: October 21, 2019**

**ITEM:**

Motion – Approving Change Order 11  
City Hall Renovations

**FINANCIAL IMPACT:**

Contract Summary:

<b>Description</b>	<b>Amount</b>	<b>Date Approved</b>	<b>Remarks</b>
Construction Contract	\$4,795,000.00	October 15, 2018	No Alternate #1 or #2
Change Order 1	(\$5,250.00)	January 21, 2019	Miscellaneous
Change Order 2	\$5,666.00	January 21, 2019	Steel plate in CC Chambers
Change Order 3	\$20,263.00	February 4, 2019	Miscellaneous
Change Order 4	\$10,971.00	February 4, 2019	Miscellaneous
Change Order 5	\$22,665.00	April 1, 2019	Miscellaneous
Change Order 6	\$0.00	April 1, 2019	Revised Contract Dates
Change Order 7	\$91,838.00	April 1, 2019	Misc. Electrical
Change Order 8	\$39,203.00	June 3, 2019	Miscellaneous
Change Order 9	\$15,256.00	August 9, 2019	Miscellaneous
Change Order 10	\$48,950.00	September 3, 2019	Phase 2 Electrical
Change Order 11	\$34,291.00	Pending	Miscellaneous
<b>Total</b>	<b>\$5,078,853.00</b>		

Cost for these change order items will be paid from account no. 500.000.000.5250.490 with the ultimate funding intended to come from Cash Reserves.

**BACKGROUND:**

The project consists of renovations to City Hall located at 4200 Mills Civic Parkway. Renovations include HVAC improvements throughout City Hall as well as remodeling offices, conference rooms, and support space within several suites to accommodate general building maintenance, better work flow, and space compatibility.

Change Order 11 includes miscellaneous items in Phase 2 (Suites A & B). The additional work comes in part due to unforeseen conditions revealed during construction.

City Staff recommend approval of Change Order 11.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

City Council Adopt:

- Motion Approving Change Order 11 for City Hall Renovations.

Lead Staff Member: Brian J. Hemesath, P.E., City Engineer *prok*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	Richard Scieszinski, City Attorney <i>RS</i>
Agenda Acceptance	<i>K</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split



**CITY OF WEST DES MOINES**

Department of Engineering Services  
 4200 Mills Civic Parkway, Ste 2E  
 West Des Moines, IA 50265-0320  
 (515) 222-3475 Fax (515) 273-0603

**CHANGE ORDER**

**Distribution:**

Owner   X    
 Engineer   X    
 Contractor   X    
 Other       

**Contractor: Lang Construction Group**  
**1915 SE 41st Street**  
**Grimes, IA 50111**

Project Title	City Hall Renovations	
WDM Project File Number	0510-052-2017	
Purchase Order Number	2019-00000334	
Orig. Contract Amount & Date	\$4,795,000.00	October 15, 2018
Change Order Number	11	
Date	October 21, 2019	

**THE CONTRACT IS CHANGED AS FOLLOWS: Include all work described in COR-015, COR-023R, COR-024, COR-025, PR-043, COR-027, COR-028R, COR-029, COR-030, PR-42R2, and COR-031. Revise Phase 2 Completion Date as outlined in the construction documents from November 6, 2019 to November 7, 2019. Revise Phase 3 Completion Date as outlined in the construction documents from April 1, 2020 to April 2, 2020.**

Item	Description	Unit	Unit Price	Quantity Adjustment	Value Adjustment
COR-015	Revise transition strips and add terrazzo floor patching as describes in COR-015.	LS	\$4,075.00	1.000	\$4,075.00
COR-023R	Patch cracks in existing exterior wall.	LS	\$2,051.00	1.000	\$2,051.00
COR-024	Revise sprinkler pipes in 2B to allow for duct routing per COR-024.	LS	\$1,858.00	1.000	\$1,858.00
COR-025	Cut floor to allow for re-routing of electrical conduits per COR-025.	LS	\$5,157.00	1.000	\$5,157.00
PR-043	Provide new finishes under attic access stairs per PR-043	LS	\$2,093.00	1.000	\$2,093.00
COR-027	Provide additional skim coat at existing wall paper locations per COR-027.	LS	\$1,480.00	1.000	\$1,480.00
COR-028R	Revise sprinkler piping and add bulkhead in 2A due to existing condition conflict. This change results in 1 additional days to the Contract Time.	LS	\$11,163.00	1.000	\$11,163.00
COR-029	Add additional HDMI cabling per RFI 107 response.	LS	\$1,879.00	1.000	\$1,879.00
COR-030	Provide door pulls at (4) security doors per COR-027.	LS	\$1,351.00	1.000	\$1,351.00
PR-42R2	Revise data in 2D and 2E in per PR 42R2.	LS	\$2,027.00	1.000	\$2,027.00
COR-031	Relocate junction box for emergency exit sign per RFI 118.	LS	\$1,157.00	1.000	\$1,157.00
<b>TOTAL</b>					<b>\$34,291.00</b>

<b>CHANGE ORDER SUMMARY</b>	
The Original Contract Sum was	<b>\$4,785,000.00</b>
Net Change by previously authorized Change Orders	<b>\$249,562.00</b>
The Contract Sum prior to This Change Order was	<b>\$5,044,562.00</b>
The Contract Sum will be Increased by this Change Order in the amount of	<b>\$34,291.00</b>
The new Contract Sum including this Change Order will be	<b>\$5,078,853.00</b>
Aggregate Change Order as a percent of Original Contract (if greater than 10% of the original contract, Council Subcommittee recommendation and all signatures through the full Council are required)	5.92%
The Contract Time will be changed by	1
The date of Final Completion as of the date of this Change Order therefore is	April 2, 2020

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

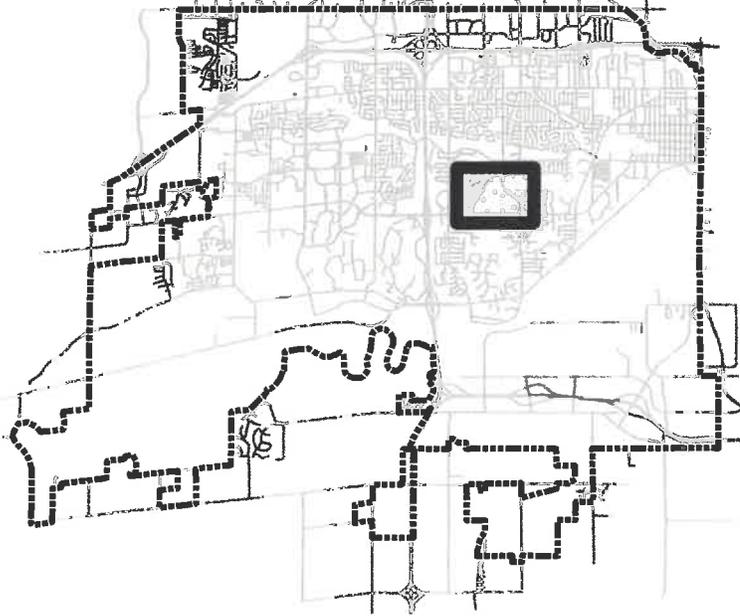
<b>Contractor:</b> Lang Construction Group, Inc.	<b>Recommended By:</b> INVISION	<b>Checked By:</b> [Signature]
<b>Signature:</b> [Signature]	<b>Signature:</b> [Signature]	<b>Signature:</b> [Signature]
<b>Name:</b> Steve Lang	<b>Name:</b> Laura Peterson	<b>Name:</b> Brian J. Hemesath, P.E.
<b>Title:</b> President Lang Construction Group, Inc.	<b>Title:</b> Project Architect	<b>Title:</b> City Engineer
<b>Date:</b> 10/3/19	<b>Date:</b> 10/3/19	<b>Date:</b>

**Owner:** City of West Des Moines

<input type="checkbox"/> <b>S</b>	\$24,999.99 City Engineer (≤ 10% original contract)	x _____	Date _____
<input type="checkbox"/> <b>N</b>	\$25,000 to \$50,000 City Council approved or ratified at Council		Date _____

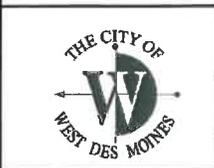


**VICINITY MAP**



**LEGEND**

PROJECT LOCATION 



PROJECT:	<b>City Hall Renovations</b>		
LOCATION:	<b>4200 Mills Civic Parkway</b>		
DRAWN BY: JDR	DATE: 04/25/2018	PROJECT NUMBER : 0510-052-2017 SUBDIVISION NAME:	SHT. 1 of 1

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

**DATE: October 21, 2019**

**ITEM:** Motion – Acknowledgement and Acceptance of Recently Re-Established Administrative Policies

**FINANCIAL IMPACT:** None

**SYNOPSIS:** Pursuant to City Code Section 1-7B-3, the City Manager recently re-established the Administrative Policies as shown on the attached updated Table of Contents labeled **Exhibit I**.

**BACKGROUND:** Since approximately 2005, many Administrative Policies have been added, updated, removed, scattered, and even lost due to changes in employment and technology. In mid-2016, the Innovation for Continual Excellence (ICE) Team, f/k/a the City-Wide Quality Team (CWQT), tasked several Support Services staff with centralizing the policies to one repository. In doing so, it was ascertained that most of the policies previously found under **PERSONNEL** (as shown on the last-known Table of Contents attached as **Exhibit II**) were moved to the **Employee Handbook**, except 2.8 Vehicle Mileage Reimbursement Rate which was moved to 3.15 under **FINANCIAL MANAGEMENT**.

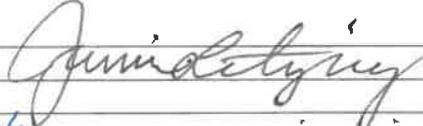
**NOTE:** For consistency purposes and to align with the structure of the Affinity Groups, f/k/a Cluster Groups, staff has updated the Table of Contents as follows:

<u>NO.</u>	<u>PREVIOUS DESIGNATION</u>	<u>CURRENT DESIGNATION</u>
1	GENERAL	GENERAL
2	PERSONNEL	SUPPORT SERVICES
3	FINANCIAL MANAGEMENT	FINANCIAL MANAGEMENT
4	PUBLIC INFORMATION	PUBLIC INFORMATION
5	COMMUNITY SERVICES	INFRASTRUCTURE AND DEVELOPMENT

**RECOMMENDATION:** Approve a Motion Acknowledging and Accepting Recently Re-Established Administrative Policies

**Lead Staff Member:** Jamie Letzring, Deputy City Manager

**STAFF REVIEWS**

Department Director	 JDS CR
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

**ATTACHMENTS:**

- Exhibit I** - Re-Established Table of Contents
- Exhibit II** - 2005 Table of Contents

**City of West Des Moines  
Administrative Policy Manual**

	<b>Table of Contents</b>	<b>Created or Last Revised</b>
<b>*see also Employee Handbook</b>		
<b>1 GENERAL</b>		
1-1	*City-Wide Ethics	<a href="#"><u>04/01/02</u></a>
1-2	*Charitable Organizations Solicitation	<a href="#"><u>04/13/95</u></a>
1-3	*Endorsement of Products and Services	<a href="#"><u>10/11/19</u></a>
1-4	*Municipal Buildings Weapons Free Zone	<a href="#"><u>07/01/16</u></a>
1-5	City Council Sub-Committees	<a href="#"><u>10/19/09</u></a>
1-6	Guidelines for Administrative Policies	<a href="#"><u>10/16/19</u></a>
1-7	Single Occupancy Restroom at All City Facilities	<a href="#"><u>06/05/19</u></a>
1-8	Anti-Bullying Policy for Youth	<a href="#"><u>06/05/19</u></a>
1-9	Gender Balance Policy	<a href="#"><u>10/11/19</u></a>
1-10	Approval of Proclamations	<a href="#"><u>10/18/19</u></a>
<b>2 SUPPORT SERVICES</b>		
2-1	City Record Retention Policy	<a href="#"><u>07/06/04</u></a>
2-2	City Hall Building Use Policies	<a href="#"><u>04/25/05</u></a>
2-3	*Security Information Policy (Emergency Preparedness Confidential Information Policy)	<a href="#"><u>07/05/06</u></a>
2-4	City Council Chambers Usage Policy	<a href="#"><u>10/03/16</u></a>
<b>3 FINANCIAL MANAGEMENT</b>		
3-1	Purchasing Policies Manual	<a href="#"><u>09/17/18</u></a>
3-2	*Expense Reimbursement	<a href="#"><u>09/08/97</u></a>
3-3	Investment Policy	<a href="#"><u>05/28/02</u></a>
3-4	Audit Services	<a href="#"><u>04/15/94</u></a>
3-5	Public Land Acquisition	<a href="#"><u>05/10/04</u></a>
3-6	Special Assessment for Streets	<a href="#"><u>10/10/94</u></a>
3-7	Hotel-Motel Tax Revenue Allocation Policy	<a href="#"><u>05/17/99</u></a>
3-8	Disposition of Surplus or Vacated Real Property	<a href="#"><u>10/05/15</u></a>
3-9	Credit Cards (Procurement Card Policies & Procedures)	<a href="#"><u>10/11/19</u></a>
3-10	Claims Against the City	<a href="#"><u>02/13/95</u></a>
3-11	Administrative Transfers of Minor Alterations to Budgeted Appropriations	<a href="#"><u>06/18/96</u></a>
3-12	*Cellular Telephone Use	<a href="#"><u>10/16/19</u></a>
3-13	Fixed Asset Capitalization	<a href="#"><u>10/29/01</u></a>
3-14	City Wide Fleet Management Program	<a href="#"><u>07/01/00</u></a>
3-15	*Vehicle Mileage Reimbursement Rate	<a href="#"><u>10/11/19</u></a>
3-16	Food, Flowers and Sustenance Purchases	<a href="#"><u>10/11/19</u></a>
3-17	Facility Preventative Maintenance	<a href="#"><u>10/11/19</u></a>
3-18	Facility Repairs and Maintenance	<a href="#"><u>10/11/19</u></a>
3-19	Hotel-Motel Tax Funding for Community and External Organizations	<a href="#"><u>01/12/15</u></a>
3-20	Fraud Reporting Policy	<a href="#"><u>09/17/18</u></a>
<b>4 PUBLIC INFORMATION</b>		
4-1	Public Notifications on Specified Planning Items	<a href="#"><u>10/11/19</u></a>
4-2	Official City Records Duplication Fees	<a href="#"><u>05/30/01</u></a>
4-3	Press Conferences	<a href="#"><u>10/11/19</u></a>
4-4	Channel 7, City of West Des Moines Public Information Channel	<a href="#"><u>01/20/04</u></a>
4-5	Logo Usage Policy	<a href="#"><u>09/20/99</u></a>
4-6	Posting of Public Notice Signs on Proposed Land Use Developments	<a href="#"><u>11/11/02</u></a>
4-7	Local Access Cable Channel Programming Policy	<a href="#"><u>11/12/12</u></a>

## City of West Des Moines Administrative Policy Manual

<b>*see also Employee Handbook</b>	<b>Table of Contents</b>	<b>Created or Last Revised</b>
<b>5</b>	<b>INFRASTRUCTURE AND DEVELOPMENT</b>	
5-1	Removal of Snow from Public Sidewalks	<a href="#"><u>04/15/94</u></a>
5-2	Maintenance and Improvements of Drainage Ways, Streams, and Storm-Water Detention Areas	<a href="#"><u>10/07/96</u></a>
5-3	City Rights-of-Way Management Policy	<a href="#"><u>02/06/12</u></a>
5-4	Storm Damaged Tree Debris Collection Policy	<a href="#"><u>07/23/12</u></a>
5-5	Waiver of Building Permit-Related Fees	<a href="#"><u>12/09/13</u></a>
5-6	Vegetative Debris Management Policy	<a href="#"><u>07/14/14</u></a>
5-7	Sidewalk Inspection and Repair Policy and Deferral of Sidewalk Installation Policy (City Standards for Defects)	<a href="#"><u>02/23/15</u></a>
5-8	Complete Streets Policy	<a href="#"><u>11/02/15</u></a>
5-9	Exactions	<a href="#"><u>05/15/17</u></a>
5-10	Roadway Naming and Addressing	<a href="#"><u>01/21/19</u></a>
5-11	Street Lighting Policy	<a href="#"><u>12/09/13</u></a>
5-12	West Des Moines Water Works Joint Administrative Policy (Construction Cost Reimbursement on City Projects)	<a href="#"><u>02/20/18</u></a>
5-13	Drones	<a href="#"><u>08/22/19</u></a>
5-14	Inspection and Enforcement of Storm Water Pollution Prevention for Construction Sites	<a href="#"><u>08/19/19</u></a>

## Exhibit II

### City of West Des Moines Administrative Policy Manual

#### Table of Contents

CREATED OR LAST REVISED

<b>I. GENERAL</b>		
1.1	City-wide Ethics	June 18, 1996
1.2	City Council Committees	No Date
	Attachment 1 – CC Committee Assignments	No Date
1.2	Charitable Organizations Solicitation	April 13, 1995
1.3	Endorsement of Products and Services	No Date
<b>II. PERSONNEL</b>		
2.1	Personnel Policy Manual (PC Doc dated July 1, 1991)	June 18, 1996
2.2	Employee Recognition Program - LEAD	June 18, 1996
2.3	Employee Relations Committee	July 17, 1996
2.4	Job Evaluation Committee	June 18, 1996
2.5	Motor Vehicle Accident Review Program	June 18, 1996
	Attachment A – Motor Vehicle Accident Review, Pages 1-2	
2.6	Tuition Reimbursement	
	Attachment B – City of WDM Education Plan	September 8, 1998
2.7	Life Insurance for Full-Time Employees (PC Doc dated 4/29/1991)	April 15, 1994
2.8	Vehicle Mileage Reimbursement Rates (PC Doc dated 7/8/1991)	April 15, 1994
2.9	Deferred Compensation Program	November 30, 1998
2.10	Family and Medical Leave	November 19, 1996
	Attachment A: 2 sheets - Similar, but different..REVIEW	
	Attachment B: C of WDM – Employee Serious Health Condition Physician Certification	
	Attachment C: C of WDM – Family Member Serious Health Condition Physician Certification	
2.11	Employee Leave Transfer	June 18, 1996
	Attachment B: C of WDM – Request to Donate Leave	
2.12	Employee Development Program	June 18, 1996
	Attachment A: C of WDM – Employee Develop. Program Qualification Form	
2.13	Safety Committee	June 18, 1996
2.14	Safety Program Manual	March 3, 1997
2.15	Walk in Your Shoes	June 18, 1996
	Attachment A: C of WDM – Request to Walk In Your Shoes	
2.16	Drug and Alcohol Testing	June 18, 1996
	Attachment 1: Drug & Alcohol Testing Alliance Commercial Drivers	
	Regular/Casual Dress	2-17 August 4, 1998
2.18	Driver's License Requirements	April 21, 1998
2.19	Electronic Mail and Internet	April 6, 1998
	Employee Community Participation Program	2-20 May 5, 1998
	Workplace Violence/Weapons Policy	2-21 December 2, 1999

## Exhibit II

<b>III. FINANCIAL MANAGEMENT</b>		
3.1	Purchasing Policy Manual (PC Doc dated 1/22/1990)	June 18, 1996
3.2	Expense Reimbursement	September 8, 1997
3.3	Investment of City Funds	October 6, 1997
3.4	Audit Services (PC Doc dated 8/17/1992)	April 15, 1994
3.5	Public Land Acquisition (PC Doc dated 12/21/1992) (WORK IN PROGRESS)	June 6, 1995
	<b>Attachment A: Schedule for design, land acquisition, Public Hearings and Award of Contract for Construction Projects</b>	<b>NO DATE</b>
3.6	Special Assessments for Streets Attachment A: Blank Attachment B: Blank	October 10, 1994
3.7	Hotel/Motel Tax Revenue: Allocation	April 25, 1994
3.8	Disposition of Surplus City-Owned Property (PC Doc dated 10/24/1994) (WORK IN PROGRESS)	June 18, 1996
3.9	Credit Cards	Sept. 8, 1997
3.10	Claims Against the City Attachment A: Claim for Damages	February 13, 1995
3.11	Administrative Transfers of Minor Alterations to Budgeted Appropriations	June 18, 1996
3.12	Cellular Telephone Use	October 21, 1998
3.13	Fixed Asset Capitalization	October 29, 2001
3.14	City Wide Fleet Management Program Attachment: If you are in an accident.....	July 1, 2000
 (MOVED FROM PREVIOUS PERSONNEL SECTION)		
2.8	Vehicle Mileage Reimbursement Rates (PC Doc dated 7/8/1991) 1994	April 15,
 <b>IV. PUBLIC INFORMATION</b>		
4.1	Public Notifications on Specified Planning Items	Nov. 19, 1997
4.2	Official City Records: Duplication Fees	May 30, 2001
4.3	Press Conferences	No Date, 1996
 <b>V. COMMUNITY SERVICES</b>		
5.1	Removal of Snow from Public Sidewalks (PC Doc Dated 8/31/1992) Maintenance and Improvements of Drainage Attachment A: Blank Attachment B: Blank Attachment C: Blank	April 15, 1994
5.2	Maintenance and Improvements of Drainage Ways, Streams, and Storm Water Detention Areas	Oct. 7, 1997

## Exhibit II

### **ADMINISTRATIVE POLICIES MANUAL – No change in title.**

#### **1. GENERAL**

1.1. City Wide Ethics -- Should be moved to Employee Handbook

#### **2. PERSONNEL**

2.1 – 2.7 Will be moved to Employee Handbook

2.8 Vehicle Mileage Reimbursement Rates -- Move to Financial Management

2.9 – 2.18 Will be moved to Employee Handbook

2.19 Electronic Mail and Internet -- Give to Darrel Greifzu to manage.

2.20 Employee Community Participation Program -- Need group discussion

2.21 Workplace Violence/Weapons -- Move to Employee Handbook

#### **3. FINANCIAL MANAGEMENT**

3.1 Purchasing Policy Manual -- Do we need to keep?

3.6 Does this belong in a Public Works document?

3.14 Need a recommendation???

#### **4. PUBLIC INFORMATION**

4.3 Press Conferences

Topics for discussion:

- Who is authorized to participate in Press Conferences?
- What are the correct procedures to follow for a Press Conference?
- What is the process for relaying these communications to upper management?

New Topic: Documents requested by Citizens.

- What is the definition of a Public Record?
- What is the process for providing information to a citizen's request?

#### **5. COMMUNITY SERVICES**

5.1 Removal of snow from public sidewalks.

5.2 Maintenance and Improvements of Drainage Ways, Streams and storm Water Detention Areas

Topics for discussion:

- Are these Public Works specific?
- How do we determine what services are/are not listed?
- Does a listing of services belong in an Administrative Policies Manual?'

### **EMPLOYEE HANDBOOK**

Currently referred to as the Personnel Policies & Procedures Manual, the Employee Handbook is currently being reviewed and revamped by the Employee Relations Committee.

### **MANAGER'S GUIDE**

This concept is still in its infancy, and will be created with the end user being a Manager or Supervisor. This will be the "Go To" manual detailing very specific instructions and information relating to this position level.

# CITY OF WEST DES MOINES CITY COUNCIL MEETING COMMUNICATION

**ITEM:** Motion – Purchase of Building Materials for MidAmerican Energy RecPlex from American Buildings Company      **DATE:** October 21, 2019

**FINANCIAL IMPACT:** Savings to the City of \$74,466.66, which equates to a 2% discount on the overall material purchase price of \$3,723,333.00.

**BACKGROUND:** On November 12, 2018, the City Council awarded a professional services contract to Larrison and Associates PC (“Larrison”) for the design of the MidAmerican Energy RecPlex. On August 19, 2019, the City Council awarded a construction contract to ATO Builders, LLC (“ATO”) for the engineering, fabrication, and erection of metal buildings towards construction of two ice arenas and a field house at the RecPlex.

Since that time, ATO and Larrison have successfully negotiated the purchase of building materials from American Builders Company and part of the proposed purchase agreement includes a 2% discount for pre-payment. Staff has reviewed these arrangements and believes the savings are worth pursuing.

Typically during a construction project, the City would pay its contractor (ATO) for all project work including materials. However, in this case, all parties believe it would be more beneficial for the City to pay American Builders Company directly, as a one-step process allows for more timely payments. ATO and Larrison will review and approve each payment, helping to ensure that the supplier is adhering to their obligations.

The attached payment schedule is agreeable to all parties and ATO understands that all payments to American Builders Company will reduce the City’s obligation to them. All the underlying invoices and payments identified on the attached schedule have been reviewed by ATO and City staff and appear reasonable.

**RECOMMENDATION:** Approve a change in payee for certain building materials related to the MidAmerican Energy RecPlex project (from ATO Builders LLC to American Building Company) in order to take advantage of a 2% material discount offered by the supplier.

**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			
Date Reviewed			
Recommendation	Yes	No	Split

City of West Des Moines  
MidAmerican Energy Rec Plex Project  
Building Material Purchases

	Material Cost	Discount	Freight	Net Invoice	Notes
<b>Arena 2 and Arena Support</b>					
Phase A					12/20/19 all steel and sheeting
	\$ 573,374.00	\$ (11,467.48)	\$ 15,315.00	\$ 577,221.52	<b>DUE DATE FOR 2% EARLY PAYMENT: 10/21</b> (following CC approval)
<b>Main Arena</b>					
Phase B					1/17/20 all steel and sheeting
	377,461.00	(7,549.22)	12,252.00	382,163.78	<b>DUE DATE FOR 2% EARLY PAYMENT: 11/18</b>
<b>Fieldhouse and Fieldhouse Support</b>					
Phase C	266,042.00	(5,320.84)	12,320.00	273,041.16	1/31/20 FL 1-3 primary and secondary
Phase D	256,715.00	(5,134.30)	12,320.00	263,900.70	2/7/20 FL 4 & 5 primary and secondary
Phase E	341,697.00	(6,833.94)	13,669.00	348,532.06	2/14/20 FL 6-8 primary and secondary
Phase F	256,715.00	(5,134.30)	12,320.00	263,900.70	2/21/20 FL 9-11 primary and secondary
	1,121,169.00	(22,423.38)	50,629.00	1,149,374.62	<b>DUE DATE FOR 2% EARLY PAYMENT: 12/23</b>
Phase G	256,715.00	(5,134.30)	12,320.00	263,900.70	3/6/20 FL 12-14 primary and secondary
Phase H	348,489.00	(6,969.78)	13,669.00	355,188.22	3/13/20 FL 15-17 primary and secondary
Phase I	256,715.00	(5,134.30)	12,320.00	263,900.70	3/20/20 FL 18-20 primary and secondary
Phase J	316,388.00	(6,327.76)	13,669.00	323,729.24	3/27/20 FL 21-23 primary and secondary
	1,178,307.00	(23,566.14)	51,978.00	1,206,718.86	<b>DUE DATE FOR 2% EARLY PAYMENT: 1/27</b>
<b>Buyout Materials</b>					
Phase K	89,278.00	(1,785.56)	-	87,492.44	1/17/20 Truss rafters (billing cycle 4)
Phase L	8,455.00	(169.10)	-	8,285.90	Galvanized girt clips will deliver with each phase (billing cycle 4)
Phase M	70,765.00	(1,415.30)	-	69,349.70	Fabral panel delivers with A, B, E, H, & J (billing cycle 4)
Phase N	89,278.00	(1,785.56)	-	87,492.44	Flexospan panel delivers with A, B, E, H, & J (billing cycle 4)
Phase O	215,246.00	(4,304.92)	-	210,941.08	Shadow panel delivers with A, B, E, H, & J (billing cycle 4)
	473,022.00	(9,460.44)	-	463,561.56	<b>DUE DATE FOR 2% EARLY PAYMENT: 1/31</b>
<b>Total</b>	<b>\$ 3,723,333.00</b>	<b>\$ (74,466.66)</b>	<b>\$ 130,174.00</b>	<b>\$ 3,779,040.34</b>	

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

**ITEM:** Revised Petty Cash Levels

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:** Based on frequency of use, location, and discussions with staff, the Director of Finance periodically recommends that the City's listing of authorized petty cash funds be updated. At this time, the Director recommends increasing the funds held at the Nature Lodge as it should result in less travel time and reconciliation work for staff. This list was last reviewed and approved May 29, 2018.

Department	Current	Proposed
Community & Economic Development	\$ 50	\$ 50
Development Services	100	100
Development Services (change fund)	200	200
EMS	100	100
Engineering Services	50	50
Fire	50	50
Human Services	50	50
Library	150	150
Parks & Recreation Administration	250	250
Valley Junction Activity Center	75	75
Raccoon River Park Nature Lodge	75	<b>150</b>
Raccoon River Park Softball Complex	50	50
Softball Tournaments	1,000	1,000
Police	100	100
Public Works	200	200
Finance	1,000	1,075
Total (GL account 900.000.100.999)	\$ 3,500	\$ 3,575

**OUTSTANDING ISSUES:** None

**RECOMMENDATION:** Adopt resolution updating petty cash fund levels for various departments.

**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			
Date Reviewed			
Recommendation	Yes	No	Split

## Resolution

WHEREAS it is advantageous for the City of West Des Moines to have petty cash funds in various City departments and,

WHEREAS the Director of Finance has recommended the following amounts of petty cash be allocated to departments:

Community & Economic Development	\$ 50
Development Services	\$ 100
Development Services	\$ 200
EMS	\$ 100
Engineering Services	\$ 50
Fire	\$ 50
Human Services	\$ 50
Library	\$ 150
Parks & Recreation	\$ 250
Valley Junction Activity Center	\$ 75
Nature Lodge	\$ 150
Softball Complex	\$ 50
Softball Tournaments	\$1,000
Police	\$ 100
Public Works	\$ 200
Finance	\$1,000
Total	\$3,575

THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA that the recommendations concerning petty cash funds are hereby approved and the Director of Finance is directed to implement the same.

PASSED AND APPROVED this 21<sup>st</sup> day of October, 2019

---

Steven K Gaer, Mayor

ATTEST:

---

Ryan Jacobson, City Clerk

## CITY OF WEST DES MOINES CITY COUNCIL MEETING COMMUNICATION

**ITEM:** Approving Interfund Transfers

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:** Effective April 13, 2019, an update to the Iowa Administrative Rules Code 545-2 now requires greater disclosures for all interfund transfers including the amount, purpose, and originating and receiving fund. The Finance Department continually reviews the status of the City's General, Road Use Tax, Tax Increment Financing, Capital Project, Debt Service and Enterprise Funds.

The City of West Des Moines did adopt transfer amounts in the 2018-2019 Budget and Exhibit A represents transfers to be authorized as of 6/30/19.

**RECOMMENDATION:** Approval of Resolution Authorizing Transfer of Funds.

**Lead Staff Member:** Lesley Montgomery, Accounting Manager 

### STAFF REVIEWS

Department Director	Tim Stiles 
Appropriations/Finance	
Legal	
Agenda Acceptance	

### PUBLICATION(S) (if applicable)

Published In	Not required
Dates(s) Published	

### SUBCOMMITTEE REVIEW (if applicable)

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

## EXHIBIT A

	From	Fund #	To	Fund #	Project #	Amount	Purpose
1	General	100	IA EMS Alliance	130		\$1,316,407.21	Charge General Fund for WDM share of expenses (FY19)
2	Metro Home Improvemt	115	General	100		34,108.50	Charge FY19 Admin Fee
3	DCLHTF	460	General	100		5,585.09	Charge FY19 Admin Fee
4	General	100	HUD	467		78,313.59	Charge General Fund for Administrative costs above HUD allowance
5	General	100	Capital Projects	500	Various	4,874,020.62	Reimburse for project expenses incurred in FY19
6	General	100	Westcom	695	Various	18,235.94	Reimburse for project expenses incurred in FY19
7	Hotel/Motel	160	Capital Projects	500	Various	78,907.46	Reimburse for project expenses incurred in FY19
8	Westtown V TIF	340	Capital Projects	500	Various	4,856.04	Reimburse for project expenses incurred in FY19
9	Jordan Creek TIF	354	Capital Projects	500	Various	1,989,999.50	Reimburse for project expenses incurred in FY19
10	LOST-City Uses	491	Capital Projects	500	Various	98,456.91	Reimburse for project expenses incurred in FY19
11	Capital Projects-2016B	511	Capital Projects	500	Various	1,146,189.13	Reimburse for project expenses incurred in FY19
12	Capital Projects-2016B	511	Stormwater Capital Projects	660	Various	1,674,643.58	Reimburse for project expenses incurred in FY19
13	Capital Projects-2016D	513	Capital Projects	500	Various	1,191,910.44	Reimburse for project expenses incurred in FY19
14	Capital Projects-2017A	514	Capital Projects	500	Various	4,893,507.51	Reimburse for project expenses incurred in FY19
15	Capital Projects-2017B	515	Capital Projects	500	Various	206,609.26	Reimburse for project expenses incurred in FY19

16	Capital Projects-2018B	520	Capital Projects	500	Various	4,338,685.88	Reimburse for project expenses incurred in FY19
17	Capital Projects-2018C	521	Capital Projects	500	Various	2,558,259.38	Reimburse for project expenses incurred in FY19
18	Capital Projects	500	Capital Projects-2018D	522	Various	10,421,615.05	Reimburse for project expenses incurred in FY19
19	Capital Projects-2019B	525	Capital Projects	500	Various	230,442.62	Reimburse for project expenses incurred in FY19
20	Capital Projects-2019C	526	Capital Projects	500	Various	1,722,939.88	Reimburse for project expenses incurred in FY19
21	Sewer Fund	600	Capital Projects	500	Various	155,532.71	Reimburse for project expenses incurred in FY19
22	Sewer Fund	600	Sewer Capital Projects	640	Various	2,629,156.02	Reimburse for project expenses incurred in FY19
23	Stormwater Fund	650	Capital Projects	500	Various	73,611.58	Reimburse for project expenses incurred in FY19
24	Stormwater Fund	650	Sewer Fund	600	Various	281,370.62	Reimburse for project expenses incurred in FY19
25	Stormwater Fund	650	Stormwater Capital Projects	660	Various	9,015,652.22	Reimburse for project expenses incurred in FY19

## **RESOLUTION AUTHORIZING TRANSFER OF FUNDS**

**WHEREAS**, the City of West Des Moines did adopt transfer amounts in the FY 2018-2019 Budget; and

**WHEREAS**, Exhibit A represents the transfers to be authorized at this time.

**THEREFORE, BE IT RESOLVED BY THE CITY OF WEST DES MOINES, IOWA**, that the Accounting Manager be instructed to transfer the appropriate amounts to each fund for the purpose stated in Exhibit A attached.

**PASSED AND APPROVED** this 21<sup>st</sup> day of October, 2019.

---

Steven K. Gaer, Mayor

ATTEST:

---

Ryan T. Jacobson, City Clerk

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

**ITEM: Waiving of Building Permit Fees  
for City Project, MidAmerican Energy RecPlex**

**DATE: 10-21-2019**

**FINANCIAL IMPACT:**

**BACKGROUND:**

Per Administrative Policy 5-5, "Waiver of Development Services Related Fees", Section 3.2; The City of West Des Moines is the applicant for the building permit related to the MidAmerican Energy RecPlex. This building permit fee will exceed \$1,000 and thus, according to Section 3.2 of the Policy 5-5, "a staff recommendation for the potential waiver...may be forwarded to the City Council for approval as a consent agenda item".

Without the waiver, the City would be essentially transferring money from one department to another to "pay ourselves back" with the City's own money. This is an unnecessary step.

**OUTSTANDING ISSUES (if any):**

**RECOMMENDATION:**

Approval of the Waiver of the Building Permit Fee for the City-owned and operated MidAmerican Energy RecPlex.

**Lead Staff Member:** Tom Hadden, City Manager

**STAFF REVIEWS**

Department Director	Tom Hadden	TH
Appropriations/Finance		
Legal		
Agenda Acceptance		TH

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	

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

**RESOLUTION APPROVING WAIVER OF DEVELOPMENT SERVICES RELATED  
FEES FOR THE CONSTRUCTION OF  
THE MIDAMERICAN ENERGY COMPANY RECPLX**

**WHEREAS**, the City of West Des Moines is constructing the MidAmerican Energy Company RecPlex for public use; and

**WHEREAS**, as the applicant, the City of West Des Moines is subject to the provisions of City of West Des Moines Administrative Policy 5-5, *Waiver of Development Services Related Fees*, Section 3.2.1, which provides that the City Council may approve the waiver of all Development Services related fees that exceed \$1,000; and

**WHEREAS**, pursuant to the policy allowing waiver of Development Services Related Fees in which the City is the applicant, including waiver of building permit fees, approval of the waiver by the City Council is appropriate.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. Pursuant to West Des Moines Administrative Policy 5-5, all Development Services related fees for the MidAmerican Energy Company RecPlex in which the City of West Des Moines is the applicant, including building permit fees, are waived.

**PASSED AND ADOPTED** this 21st day of October, 2019.

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

ATTEST:

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

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

**DATE: October 21, 2019**

**ITEM:**

Resolution - Ordering Construction  
2019 Sewer Cleaning & Televising Program

**FINANCIAL IMPACT:**

The Engineering Estimate of Construction Cost for the 2019 Sewer Cleaning & Televising Program is \$124,048.40. Payments will be made from account no. 640.000.000.5250.490 with the ultimate funding intended to come from Sewer Revenue.

**BACKGROUND:**

A Bid Letting should be scheduled for 2:00 p.m. on Wednesday, November 13, 2019 and a Public Hearing on the project should be scheduled for 5:35 p.m. on Monday, November 18, 2019. The contract would be awarded on Monday, November 18, 2019 and work will begin shortly thereafter.

This project consists of the ongoing maintenance program to clean and televise sanitary sewer lines at various locations throughout the City's sanitary sewer collection system. The project is anticipated to be completed by May 22, 2019.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Ordering Construction of the 2019 Sewer Cleaning & Televising Program.
- Fixing 2:00 p.m. on Wednesday, November 13, 2019 as the time and date for project Bid Letting.
- Ordering the City Clerk to publish notice of Letting and Public Hearing.

**Lead Staff Member:** Brian J. Hemesath, P.E., City Engineer *boh*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	Richard Scieszinski, City Attorney <i>JOS</i>
Agenda Acceptance	<i>rh</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
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:

**2019 Sewer Cleaning & Televising Program  
Project No. 0510-045-2019**

is hereby ordered to be constructed according to the Plans and Specifications prepared by AECOM Technical Services, Inc., of Des Moines, Iowa and now on file in the office of the 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 the 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, November 18, 2019, 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 thirteen (13) 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, November 13, 2019.

**BE IT FURTHER RESOLVED**, that the bids received for construction of said improvements will be opened, publicly read and tabulated by the City Clerk, Deputy City Clerk, or City Clerk designee at 2:00 p.m. on Wednesday, November 13, 2019 and the results of said bids shall be considered at a meeting of this Council on Monday, November 18, 2019 at 5:35 p.m. and acted upon at said time, or such time as may then be fixed.

**PASSED AND APPROVED** on this 21st day of **October, 2019**.

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

ATTEST:

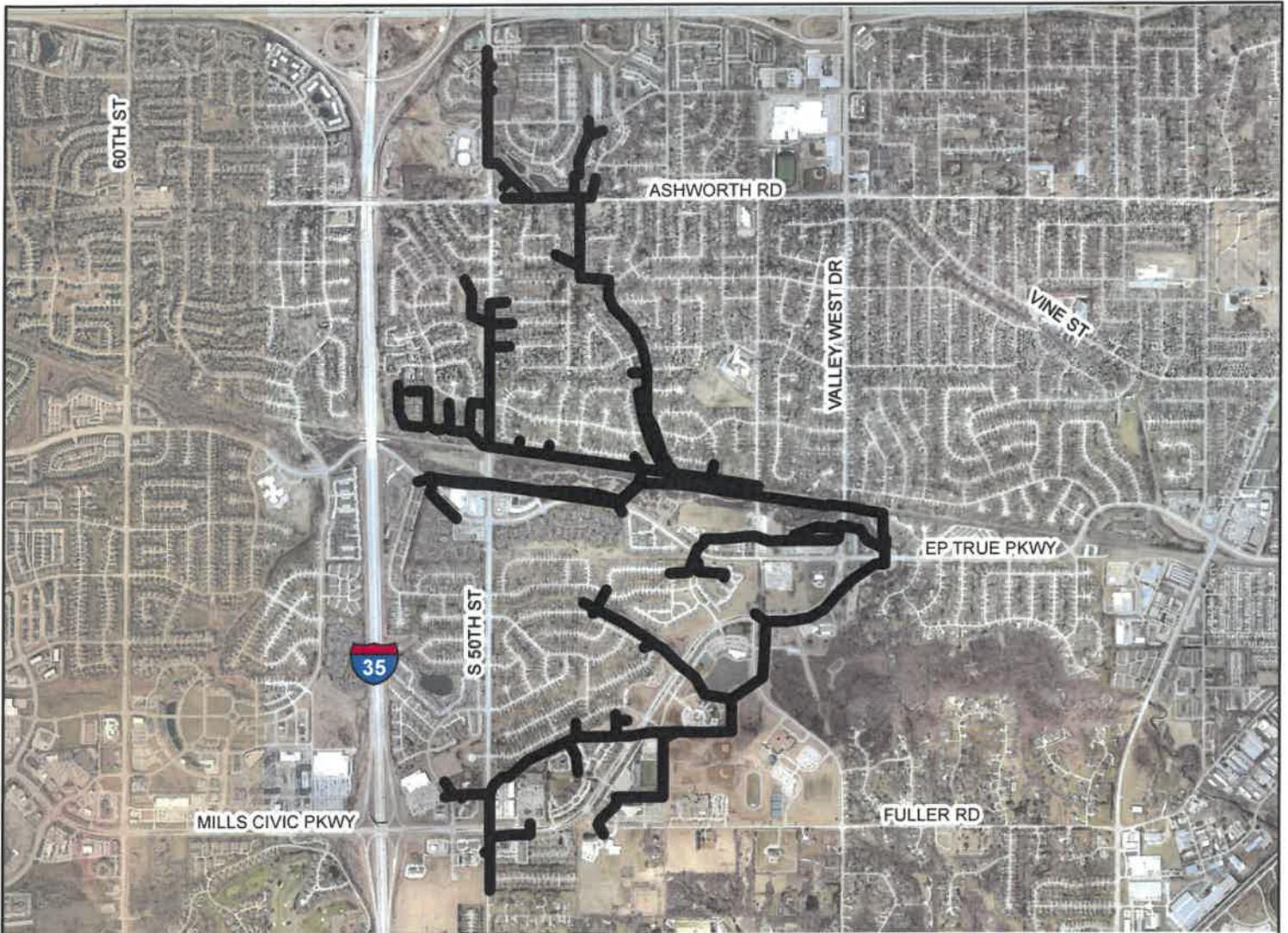
\_\_\_\_\_  
Ryan T. Jacobson, City Clerk

**Engineer's Estimate of Probable Construction Cost  
 2019 Sewer Cleaning and Televising Program  
 Project No. 0510-045-2019  
 City of West Des Moines  
 West Des Moines, Iowa  
 AECOM Project No: 60612711  
 October 14, 2019**

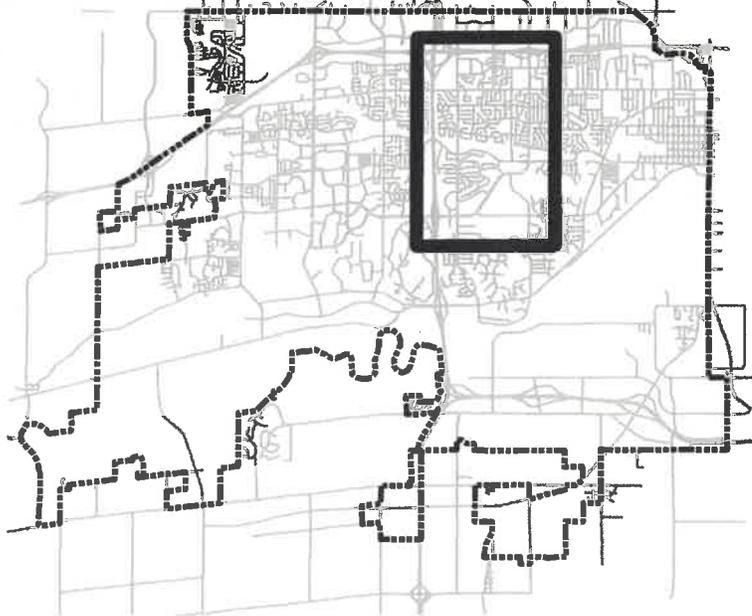


Item	Description	Unit	Estimated Quantity	Unit Price	Extended Price
1.1	TYPE A CLEANING - 6" / 8" SANITARY SEWER	LF	26,469.0	\$ 1.00	\$ 26,469.00
1.2	TYPE A CLEANING - 10" SANITARY SEWER	LF	2,373.0	\$ 1.00	\$ 2,373.00
1.3	TYPE A CLEANING - 12" SANITARY SEWER	LF	6,323.0	\$ 1.00	\$ 6,323.00
1.4	TYPE A CLEANING - 15/16" SANITARY SEWER	LF	7,571.0	\$ 1.00	\$ 7,571.00
1.5	TYPE A CLEANING - 18" SANITARY SEWER	LF	4,512.0	\$ 1.25	\$ 5,640.00
1.6	TYPE A CLEANING - 21" SANITARY SEWER	LF	472.0	\$ 1.25	\$ 590.00
1.7	TYPE A CLEANING - 24" SANITARY SEWER	LF	5,868.0	\$ 1.25	\$ 7,335.00
1.8	TYPE A CLEANING - 36" SANITARY SEWER	LF	7,302.0	\$ 1.50	\$ 10,953.00
1.9	TYPE C ROOT REMOVAL - 6" TO 10" SANITARY SEWER	LF	1,400.0	\$ 1.50	\$ 2,100.00
1.10	TYPE C ROOT REMOVAL - 12" TO 18" SANITARY SEWER	LF	900.0	\$ 1.50	\$ 1,350.00
1.11	TYPE C ROOT REMOVAL - 21" TO 24" SANITARY SEWER	LF	300.0	\$ 1.50	\$ 450.00
1.12	TELEVISING - 6" / 8" SANITARY SEWER	LF	26,327.0	\$ 0.85	\$ 22,377.95
1.13	TELEVISING - 10" SANITARY SEWER	LF	2,320.0	\$ 0.85	\$ 1,972.00
1.14	TELEVISING - 12" SANITARY SEWER	LF	6,181.0	\$ 0.85	\$ 5,253.85
1.15	TELEVISING - 15/16" SANITARY SEWER	LF	7,571.0	\$ 0.85	\$ 6,435.35
1.16	TELEVISING - 18" SANITARY SEWER	LF	4,423.0	\$ 0.85	\$ 3,759.55
1.17	TELEVISING - 21" SANITARY SEWER	LF	472.0	\$ 0.85	\$ 401.20
1.18	TELEVISING - 24" SANITARY SEWER	LF	5,868.0	\$ 0.85	\$ 4,987.80
1.19	TELEVISING - 36" SANITARY SEWER	LF	7,302.0	\$ 0.85	\$ 6,206.70
1.20	CUT PROTRUDING TRAPS	EA	3.0	\$ 500.00	\$ 1,500.00
<b>TOTAL ESTIMATE</b>					<b>\$ 124,048.40</b>

	<p>I hereby certify that this engineering document was 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.</p>
	<p style="text-align: center;"> <span style="float: right; margin-right: 50px;">10/14/19</span> </p>
	<p>TODD L. ALLYN, PE <span style="float: right;">Date</span></p>
	<p>License No. <u>14621</u></p>
	<p>My license renewal date is December 31, 2020.</p>
<p>Pages or sheets covered by this seal:  <u>Engineer's Estimate</u></p>	
<p>Date Issued: _____</p>	



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



PROJECT:

**2019 Sanitary Sewer Cleaning & Televising Program**

LOCATION:

**Exhibit "A"**

DRAWN BY: JDR

DATE: 10/11/2019

PROJECT NUMBER/NAME: 0510-045-2019

SHT. 1 of 1

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

**DATE: October 21, 2019**

**ITEM:**

Resolution - Approving Professional Services Agreement  
Commerce Area Drainage Study

**FINANCIAL IMPACT:**

The cost of the Professional Services Agreement associated with the design of this project is anticipated not to exceed \$24,500.00 for Basic Services. Should the cost for the professional services be projected to exceed the amounts set forth in the contract, staff would not authorize such expenditures without further approval by the City Council. All work will be billed on an hourly basis using the established hourly fee structure as set forth in the contract. All costs for these services can be paid from account no. 660.000.000.5250.495 with the ultimate funding intended to come from Stormwater Utility funds.

**BACKGROUND:**

Approval of this action authorizes Consultant to perform the professional services necessary to complete a drainage analysis of the Commerce area. At the October 7, 2019 City Council meeting several residents voiced concerns over drainage in Commerce. Staff has reviewed these concerns and recommends a comprehensive analysis to evaluate existing conditions and develop alternative solutions. When completed, the findings of the study will be presented to the Public Services Council Subcommittee for final recommendation. Shive-Hattery estimates the analysis will be complete within 30 days of the notice to proceed.

The Engineering Services Department retains professional consultants based on their past work experience, qualifications of their staff, familiarity with the project, manpower availability, and past performance. Once a firm has been selected based on the above criteria, City staff then negotiates a fee with the consultant for performing the desired scope of services. City staff attempts, whenever feasible, to distribute professional services work on an equitable basis to qualified firms maintaining local metropolitan area offices who have expressed interest in working for the City of West Des Moines.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:**

None

**RECOMMENDATION:**

City Council Adopt:

- Resolution Approving Professional Services Agreement for Commerce Area Drainage Study.

**Lead Staff Member:** Brian J. Hemesath, P.E., City Engineer 

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director 
Legal	Richard Scieszinski, City Attorney 
Agenda Acceptance	

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee	Public Services		
	Yes	No	Split
Date Reviewed			
Recommendation			

**RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT**

**WHEREAS**, funding is available for the following described public project:

**Commerce Area Drainage Study  
Project No. 0430-030-2019**

and,

**WHEREAS**, said project Plans, Specifications, Form of Contract, and Estimate of Cost need to be prepared; and,

**WHEREAS**, Engineering Services Department staff have recommended Plans, Specifications, Form of Contract, and Estimate of Cost be prepared by Shive-Hattery, Inc., and,

**WHEREAS**, the Engineering Services Department has obtained a written proposal from Shive-Hattery, Inc. to do the work requested, which estimates the following cost to the City of West Des Moines;

<b>Basic Services of the Consultant</b>	<b>\$24,500.00</b>
<b>Total</b>	<b>\$24,500.00</b>

therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, that Shive-Hattery, Inc., is hereby directed to prepare Plans, Specifications, Form of Contract, and Estimate of Cost for the above named project.

**BE IT FURTHER RESOLVED**, that the City Clerk is authorized and directed to enter into an agreement with Shive-Hattery, Inc., for the cost indicated above as payment by the City of West Des Moines for the services indicated.

**PASSED AND APPROVED** this 21st day of **October, 2019**.

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

ATTEST:

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

## AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Agreement is made and entered into this 19<sup>th</sup> day of October, 2019, by and between the CITY OF WEST DES MOINES, a municipal corporation, hereinafter referred to as "City", and SHIVE-HATTERY, INC., (Fed. I.D. #42-08770172), a professional corporation incorporated and licensed under the laws of the State of Iowa, party of the second part, hereinafter referred to as "Consultant" as follows:

THE CITY HEREBY AGREES TO RETAIN THE CONSULTANT FOR THE PROJECT AS DESCRIBED IN THIS AGREEMENT AND CONSULTANT AGREES TO PERFORM THE PROFESSIONAL SERVICES AND FURNISH THE NECESSARY DOCUMENTATION FOR THE PROJECT AS GENERALLY DESCRIBED IN THIS AGREEMENT.

### 1. SCOPE OF SERVICES

Services provided under this Agreement for the Commerce Area Drainage Study (Project No. 0430-030-2019) shall be as further described in Attachment 1, Scope of Services.

### 2. SCHEDULE

The schedule of the professional services to be performed shall conform to the Schedule set forth in Attachment 2. Any deviations from the Schedule shall be approved by the authorized City representative. The City agrees that the Consultant is not responsible for delays arising from a change in the scope of services, a change in the scale of the Project or delays resulting from causes not directly or indirectly related to the actions of the Consultant.

### 3. COMPENSATION

A. In consideration of the professional services provided herein, the City agrees to pay the Consultant the following sum NOT-TO-EXCEED, including any authorized reimbursable expenses, pursuant to the Schedule of Fees set forth in Attachment 3.

I. Basic Services of the Consultant      \$ 24,500

Total      \$ 24,500

B. The Consultant shall invoice the City monthly for services, any reimbursable expenses and any approved amendments to this Agreement, based upon services actually completed at the time of the invoice. Final payment shall be due and payable within 30 days of the City's acceptance of Consultant's submission of final deliverables in accordance with the Scope of Services.

C. In consideration of the compensation paid to the Consultant, the Consultant agrees to perform all professional services to the satisfaction of the City by performing the professional services in a manner consistent with that degree of care and skill ordinarily exercised by members of Consultant's profession currently practicing under similar circumstances. If the performance of this Agreement involves the services of others or the furnishing of equipment, supplies, or materials, the Consultant agrees to pay for the same in full.

4. INSURANCE

- A. Consultant understands and agrees that Consultant shall have no right of coverage under any and all existing or future City comprehensive, self or personal injury policies. Consultant shall provide insurance coverage for and on behalf of Consultant that will sufficiently protect Consultant or Consultant' representative(s) in connection with the professional services which are to be provided by Consultant pursuant to this Agreement, including protection from claims for bodily injury, death, property damage, and lost income. Consultant shall provide worker's compensation insurance coverage for Consultant and all Consultant's personnel. Consultant shall file applicable insurance certificates with the City, and shall also provide evidence of the following additional coverage.
- B. The Consultant shall provide evidence of comprehensive general liability coverage and contractual liability insurance by an insurance company licensed to do business in the State of Iowa in the limits of at least \$1,000,000 each personal injury accident and/or death; \$1,000,000 general aggregate personal injury and/or death; and \$1,000,000 for each property damage accident. The evidence shall designate the City as an additional insured, and that it cannot be canceled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.
- C. The Consultant shall also provide evidence of automobile liability coverage in the limits of at least \$1,000,000 bodily injury and property damage combined. The evidence shall designate the City as an additional insured, and that it cannot be cancelled or materially altered without giving the City at least thirty (30) days written notice by registered mail, return receipt requested.
- D. The Consultant shall provide evidence of professional liability insurance, by an insurance company licensed to do business in the State of Iowa, in the limit of \$1,000,000 for claims arising out of the professional liability of the Consultant. Consultant shall provide City written notice within five (5) days by registered mail, return receipt requested of the cancellation or material alteration of the professional liability policy.
- E. Failure of Consultant to maintain any of the insurance coverages set forth above shall constitute a material breach of this Agreement.

1. NOTICE

Any notice to the parties required under this agreement shall be in writing, delivered to the person designated below, by United States mail or in hand delivery, at the indicated address unless otherwise designated in writing.

FOR THE CITY:

Name: City of West Des Moines  
Attn: Ryan T. Jacobson, City Clerk  
Address: 4200 Mills Civic Parkway  
City, State: West Des Moines, IA 50265-0320

FOR THE CONSULTANT:

Name: Shive-Hattery, Inc.  
Attn: Nathan T. Hardisty, Project Manager  
Address: 4125 Westown Parkway, Suite 100  
City, State: West Des Moines, IA 50266

6. GENERAL COMPLIANCE

In the conduct of the professional services contemplated hereunder, the Consultant shall comply with applicable state, federal, and local law, rules, and regulations, technical standards, or specifications issued by the City. Consultant must qualify for and obtain any required licenses prior to commencement of work, including any professional licenses necessary to perform work within the State of Iowa.

7. STANDARD OF CARE

Services provided by the Consultant under this Agreement shall be performed in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances.

8. INDEPENDENT CONTRACTOR

Consultant understands and agrees that the Consultant and Consultant's employees and representatives are not City employees. Consultant shall be solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits, or any other form of compensation or benefit to Consultant or Consultant's employees, representatives or other personnel performing the professional services specified herein, whether it be of a direct or indirect nature. Further, it is expressly understood and agreed that for such purposes neither Consultant nor Consultant's employees, representatives or other personnel shall be entitled to any City payroll, insurance, unemployment, worker's compensation, retirement, or any other benefits whatsoever.

9. NON-DISCRIMINATION

Consultant will not discriminate against any employee of applicant for employment because of race, color, sex, gender identity, sexual orientation, national origin, religion, age, handicap, or veteran status. Consultant will, where appropriate or required, take affirmative action to ensure that applicants are employed, and that employees are treated, during employment, without regard to their race, color, sex, gender identity, sexual orientation, or national origin, religion, age, handicap, or veteran status. Consultant will cooperate with the City in using Consultant's best efforts to ensure that Disadvantaged Business Enterprises are afforded the maximum opportunity to compete for subcontracts of work under this Agreement.

10. HOLD HARMLESS

Consultant agrees to indemnify and hold harmless the City, its officers, agents, and employees from any and all claims, settlements and judgments, to include all reasonable investigative fees, attorney's fees, and court costs for any damage or loss which is due to or arises from a breach of this Agreement, or from negligent acts, errors or omissions in the performance of professional services under this Agreement and those of its sub consultants or anyone for whom Consultant is legally liable.

11. ASSIGNMENT

Consultant shall not assign or otherwise transfer this Agreement or any right or obligations therein without first receiving prior written consent of the City.

12. APPROPRIATION OF FUNDS

The funds appropriated for this Agreement are equal to or exceed the compensation to be paid to Consultant. The City's continuing obligations under this Agreement may be subject to appropriation of funding by the City Council. In the event that sufficient funding is not appropriated in whole or in part for continued performance of the City's obligations under this Agreement, or if appropriated funding is not expended due to City spending limitations, the City may terminate this Agreement without further compensation to the Consultant. To the greatest extent allowed by law, the City shall compensate Consultant as provided in Section 18(B) of this Agreement.

### 13. AUTHORIZED AMENDMENTS TO AGREEMENT

- A. The Consultant and the City acknowledge and agree that no amendment to this Agreement or other form, order or directive may be issued by the City which requires additional compensable work to be performed if such work causes the aggregate amount payable under the amendment, order or directive to exceed the amount appropriated for this Agreement as listed in Section 3, above, unless the Consultant has been given a written assurance by the City that lawful appropriation to cover the costs of the additional work has been made.
- B. The Consultant and the City further acknowledge and agree that no amendment to this Agreement or other form, order or directive which requires additional compensable work to be performed under this Agreement shall be issued by the City unless funds are available to pay such additional costs, and the Consultant shall not be entitled to any additional compensation for any additional compensable work performed under this Agreement. The Consultant expressly waives any right to additional compensation, whether in law or equity, unless prior to commencing the additional work the Consultant was given a written amendment, order or directive describing the additional compensable work to be performed and setting forth the amount of compensation to be paid, such amendment, order or directive to be signed by the authorized City representative. It is the Consultant's sole responsibility to know, determine, and ascertain the authority of the City representative signing any amendment, directive or order.

### 14. OWNERSHIP OF CONSULTING DOCUMENTS

All sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall become the property of the City; a reproducible set shall be delivered to the City at no additional cost to the City upon completion of the plans or termination of the services of the Consultant. All drawings and data shall be transmitted in a durable material, with electronic files provided when feasible to do so. The Consultant's liability for use of the sketches, tracings, plans, specifications, reports, and other data prepared under this Agreement shall be limited to the Project.

### 15. INTERPRETATION

No amendment or modification of this Agreement shall be valid unless expressed in writing and executed by the parties hereto in the same manner as the execution of the Agreement. This is a completely integrated Agreement and contains the entire agreement of the parties; any prior written or oral agreements shall be of no force or effect and shall not be binding upon either party. The laws of the State of Iowa shall govern and any judicial action under the terms of this Agreement shall be exclusively within the jurisdiction of the district court for Polk County, Iowa.

### 16. COMPLIANCE WITH FEDERAL LAW

To the extent any federal appropriation has or will be provided for the Project, or any federal requirement is imposed on the Project, Consultant agrees that Consultant will comply with all relevant laws, rules and regulations imposed on City and/or Consultant necessary for receipt of the federal appropriation. Consultant shall provide appropriate certification regarding Consultant's compliance.

### 17. SOLICITATION AND PERFORMANCE

- A. The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working for the Consultant, to solicit or secure this Agreement, and that the Consultant has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift or contingent fee.
- B. The Consultant shall not engage the services of any person or persons in the employ of the City at the time of commencing such services without the written consent of the City.

## 18. SUSPENSION AND TERMINATION OF AGREEMENT

- A. The right is reserved by the City to suspend this Agreement at any time. Such suspension may be effected by the City giving written notice to the Consultant, and shall be effective as of the date established in the suspension notice. Payment for Consultant's services shall be made by the City for services performed to the date established in the suspension notice. Should the City reinstate the work after notice of suspension, such reinstatement may be accomplished by thirty (30) days written notice within a period of six (6) months after such suspension, unless this period is extended by written consent of the Consultant.
- B. Upon ten (10) days written notice to the Consultant, the City may terminate the Agreement at any time if it is found that reasons beyond the control of either the City or Consultant make it impossible or against the City's interest to complete the Agreement. In such case, the Consultant shall have no claims against the City except for the value of the work performed up to the date the Agreement is terminated.
- C. The City may also terminate this Agreement at any time if it is found that the Consultant has violated any material term or condition of this Agreement or that Consultant has failed to maintain workers' compensation insurance or other insurance provided for in this Agreement. In the event of such default by the Consultant, the City may give ten (10) days written notice to the Consultant of the City's intent to terminate the Agreement. Consultant shall have ten (10) days from notification to remedy the conditions constituting the default.
- D. In the event that this Agreement is terminated in accordance with paragraph C of this section, the City may take possession of any work and may complete any work by whatever means the City may select. The cost of completing said work shall be deducted from the balance which would have been due to the Consultant had the Agreement not been terminated and work completed in accordance with contract documents.
- E. The Consultant may terminate this Agreement if it is found that the City has violated any material term or condition of this Agreement. In the event of such default by the City, the Consultant shall give ten (10) days written notice to the City of the Consultant's intent to terminate the Agreement. City shall have ten (10) days from notification to remedy the conditions constituting the default.

## 19. TAXES

The Consultant shall pay all sales and use taxes required to be paid to the State of Iowa on the work covered by this Agreement. The Consultant shall execute and deliver and shall cause any sub-consultant or subcontractor to execute and deliver to the City certificates as required to permit the City to make application for refunds of said sales and use taxes as applicable. The City is a municipal corporation and not subject to state and local tax, use tax, or federal excise taxes.

## 20. SEVERABILITY

If any portion of this Agreement is held invalid or unenforceable by a court of competent jurisdiction, the remaining portions of this Agreement shall continue in full force and effect.

## 21. MISCELLANEOUS HEADINGS

Title to articles, paragraphs, and subparagraphs are for information purposes only and shall not be considered a substantive part of this Agreement.

22. FURTHER ASSURANCES

Each party hereby agrees to execute and deliver such additional instruments and documents and to take all such other action as the other party may reasonably request from time to time in order to effect the provisions and purposes of this Agreement.

23. COUNTERPARTS

This Agreement may be executed in any number of counterparts, each of which shall constitute an original document, no other counterpart needing to be produced, and all of which when taken together shall constitute the same instrument.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized officers or agents on the day and year first above written.

SHIVE-HATTERY, INC.

CITY OF WEST DES MOINES

BY: *Nathan Hardisty* Oct 14 2019 1:38 PM  
Nathan T. Hardisty, Project Manager

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



The scope of services to be performed by the Consultant shall be completed in accordance with generally accepted standards of practice and shall include the services to complete the following tasks:

1. **Project Management**
  - a. The Project Manager will manage the budget and schedule for the project, serve as the point of contact for City staff, be responsible for coordinating all work done by the design team, and shall provide the City with bi-weekly progress reports.
  - b. Meet with City Staff and Residents as required (two meetings with residents are assumed)
2. **Field Reconnaissance and Surveying**
  - a. Perform a site visit to evaluate current drainage conditions, observe existing infrastructure and verify existing drainage paths.
  - b. A limited topographic survey will be completed to survey flowlines of known stormwater infrastructure and critical areas where existing Lidar data may not be sufficient.
  - c. The 34-acre drainage area will be surveyed using a drone and photogrammetric surveying technology. The aerial survey will be utilized to determine existing conditions where new development that has occurred after publicly available elevation data was collected by the State of Iowa. The use of the drone will allow for quick data acquisition over the newly developed area that is less intrusive to residents. In addition, the high-resolution aerial imagery will be used to help develop the hydrologic model.
  - d. A base map will be prepared to be used throughout the project.
3. **Hydrologic and Hydraulic Modeling**
  - a. The aerial survey obtained in Task 1 will be used to determine the extent of the watershed drainage area, ground cover, and watershed slopes that will be input and analyzed in a detailed hydrologic model of the watershed for analysis.
  - b. The City of West Des Moines historical documents and GIS database will be reviewed to supplement any additional data not obtained in Task 1. This data will be incorporated into the hydrologic model, if necessary.
  - c. Prepare and analyze a hydrologic and hydraulic model to evaluate flows and impacts of various storm events on to watershed including the 1, 2, 5, 10, 25, 50, and 100-year storms under existing conditions.
4. **Alternative Analysis**
  - a. Identify alternatives for improvements that could be made to improve the hydraulic conveyance and decrease impacts to residents.
  - b. An opinion of probable cost will be prepared for each alternative. Alternatives may include larger culverts, property acquisition, or implementation of detention practices within the drainage area.
  - c. It is anticipated that up to three alternatives may be analyzed.
5. **Final Report and Presentation of Findings**
  - a. Prepare a letter report discussing the results of the drainage study, alternatives analysis and cost opinions. This report will be presented to the City Council Committee.

**ADDITIONAL SERVICES NOT INCLUDED IN THIS CONTRACT**

Additional Services not included as part of this Scope. If authorized, under a supplemental agreement, the Consultant shall furnish or obtain from others the following services:

1. Preparation of Construction and Bidding Documents
2. Project Bidding Services
3. Real Estate Acquisition Services
4. Preparation of Environmental Documentation CE/EA/EIS
5. Culvert design
6. Stormwater Best Management Practice Design
7. Construction Surveys and Staking
8. Construction Period Testing Services

**ATTACHMENT 2**  
Commerce Area Drainage Study  
Project Number 0510-049-2019

**PROJECT SCHEDULE**

The time of completion of the design and engineering services under this Agreement shall be as follows:

I. Basic Services of the Consultant

- |   |   |
|---|---|
| A. Authorization to Proceed               | Anticipated October 22 <sup>nd</sup> , 2019 |
| B. Field Review                           | Within 5 days of Notice to Proceed          |
| C. Survey and Mapping                     | Within 15 days of Notice to Proceed         |
| D. Final Report                           | Within 30 days of Notice to Proceed         |
| E. Presentation to City Council Committee | To Be Determined                            |

**ATTACHMENT 3**  
 Commerce Area Drainage Study  
 Project Number 0510-049-2019

SCHEDULE OF FEES

**STANDARD HOURLY FEE SCHEDULE**  
**Effective January 1, 2019 to December 31, 2019**

**PROFESSIONAL STAFF:**

Grade 1	\$ 88.00
Grade 2	\$106.00
Grade 3	\$119.00
Grade 4	\$133.00
Grade 5	\$146.00
Grade 6	\$159.00
Grade 7	\$173.00
Grade 8	\$190.00
Grade 9	\$207.00

**ADMIN STAFF:** \$ 60.00

**TECHNICAL STAFF:**

Grade 1	\$ 61.00
Grade 2	\$ 76.00
Grade 3	\$ 85.00
Grade 4	\$ 93.00
Grade 5	\$106.00
Grade 6	\$119.00
Grade 7	\$133.00

**SURVEY STAFF:**

One Person	\$126.00
Two Person	\$193.00
Drone Surveyor (Video or Photogrammetry)	\$155.00
Drone Surveyor (Thermography)	\$310.00
Scanning Surveyor	\$155.00
Surveyor with Two Scanners	\$210.00

**REIMBURSABLE EXPENSES:**

TRAVEL

Mileage- Car/Truck	\$0.58/ Mile
Mileage- Survey Trucks	\$0.68/ Mile

IN-HOUSE SERVICES

**Prints/Plots:**

Bond	\$ .30/Sq. Ft.
Mylar	\$ .75/Sq. Ft.
Photogloss	\$ .90/Sq. Ft.
Color Bond	\$ .60/Sq. Ft.
Foam Core Mounting	\$ 13.00

**OUTSIDE SERVICES**

Computer Services	Cost + 10%
Aerial Photogrammetry	Cost + 10%
Professional Services	Cost + 10%
Prints/Plots/Photos	Cost + 10%
Deliveries	Cost + 10%

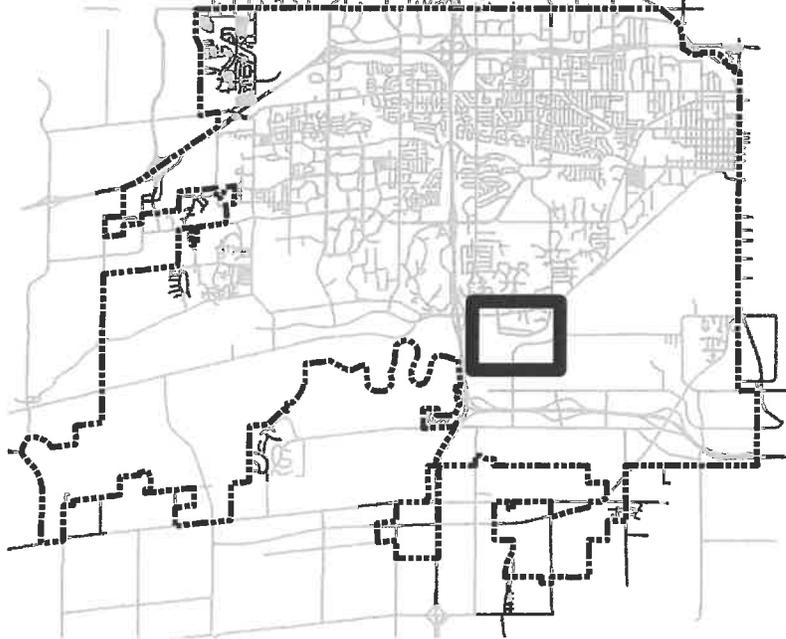
**Color Prints:**

Letter Size	\$ 1.00
Legal Size	\$ 2.00

An annual 4% inflation adjustment is anticipated for work completed beyond 2019.



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



PROJECT:

**Commerce Area Drainage Study**

LOCATION:

**Exhibit "A"**

DRAWN BY: JDR

DATE: 10/15/2019

PROJECT NUMBER/NAME: 0430-030-2019

SHT. 1 of 1

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

**4(n)1**

**DATE: October 21, 2019**

**ITEM:**

Resolution - Accepting Public Improvements  
Elevate at Jordan Creek

**FINANCIAL IMPACT:**

None at this time. The City will assume ownership of the public improvements, along with associated maintenance.

**BACKGROUND:**

Rhiner's Plumbing, Heating & Cooling has substantially completed the installation of sanitary and storm sewer associated with Elevate at Jordan Creek in accordance with the plans prepared by Civil Design Advantage and the specifications of the City. These improvements have been inspected by the City.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Accepting Public Improvements for Elevate at Jordan Creek.

**Lead Staff Member: Brian J. Hemesath, P.E., City Engineer** *BH*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney <i>RS</i>
Agenda Acceptance	<i>RS</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Public Services		
Date Reviewed			
Recommendation	Yes	No	Split

## RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS

**WHEREAS**, a Preliminary Plat and Site Plan for Elevate at Jordan Creek was reviewed and approved by the City Council of West Des Moines, Iowa, at a meeting held on October 16, 2017 subject to any conditions of approval and contingent upon construction and acceptance of all public improvements, and

**WHEREAS**, a Final Plat for Elevate at Jordan Creek was submitted for review by the City Council of West Des Moines, Iowa, on May 29, 2018 and was found to be generally consistent with the Preliminary Plat; and

**WHEREAS**, the West Des Moines City Council adopted a Resolution which approved the Final Plat for Elevate at Jordan Creek at their meeting on May 29, 2018 subject to any conditions of approval and contingent upon construction of storm sewer improvements; sureties were provided for said Public Improvements in lieu of completion with the Final Plat approval; and

**WHEREAS**, on November 20, 2017 the Construction Plans were approved by the West Des Moines City Engineer, said improvements being described as follows:

### **Elevate at Jordan Creek**

therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, the public improvements for Elevate at Jordan Creek are hereby accepted and are hereby dedicated for public purposes.

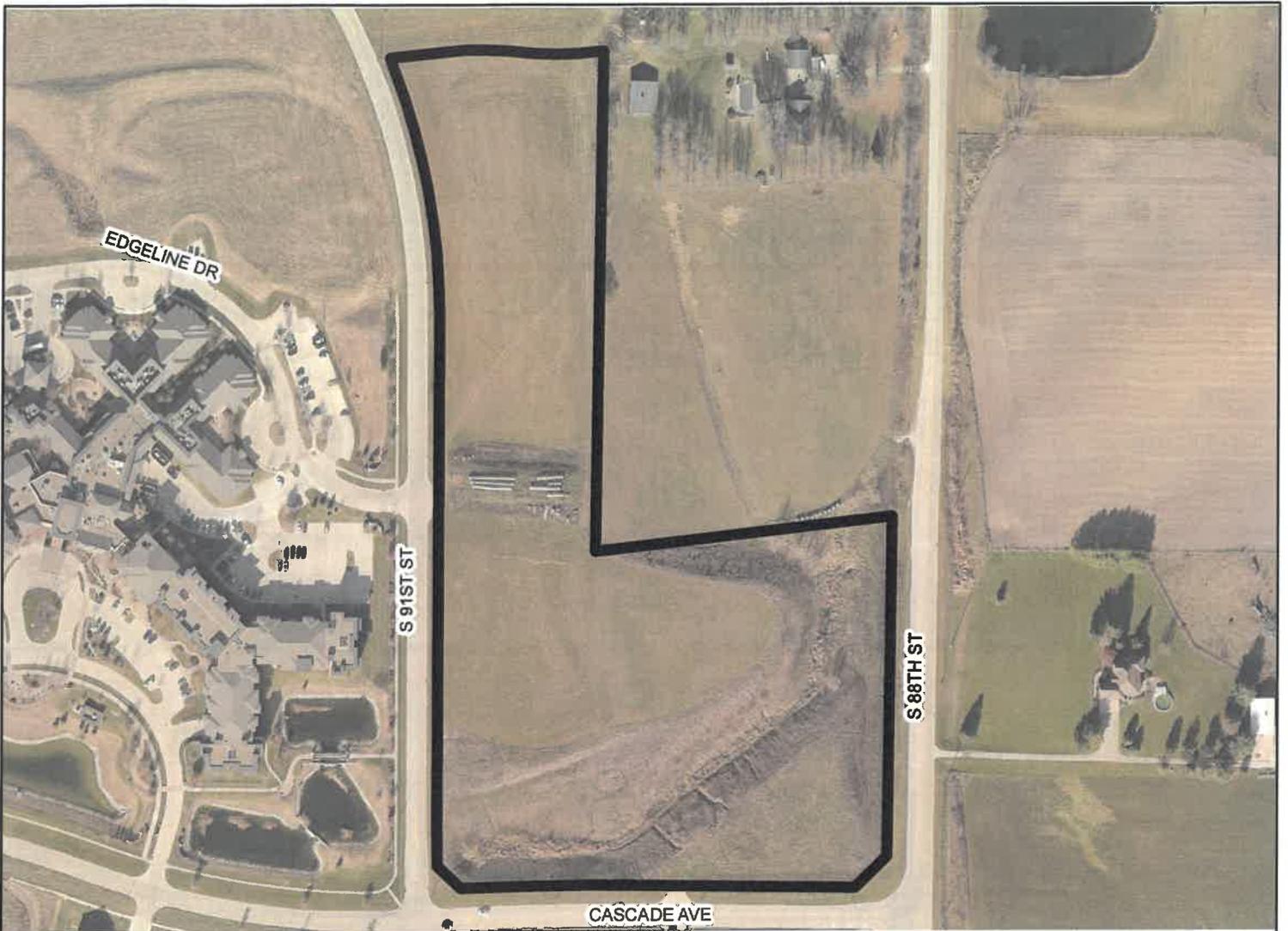
**BE IT FURTHER RESOLVED**, performance sureties for construction of the public improvements for Elevate at Jordan Creek are hereby released.

**PASSED AND APPROVED** this 21st day October, 2019.

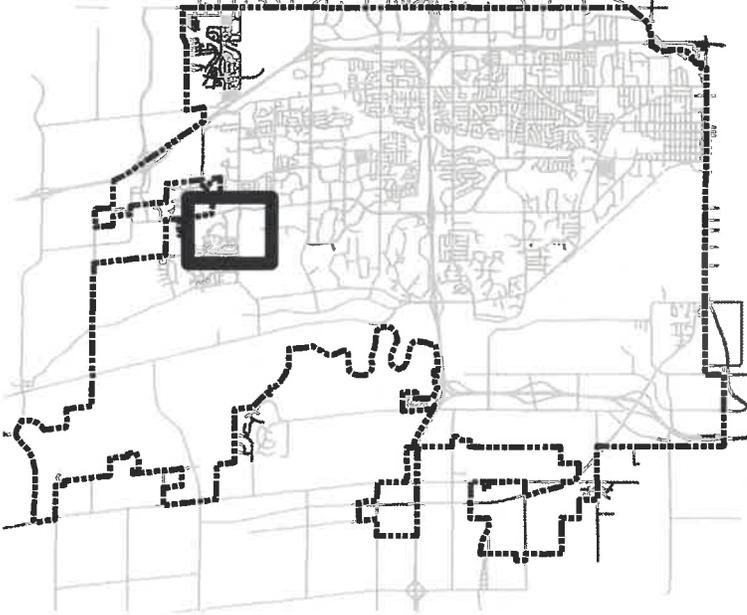
\_\_\_\_\_  
Steven K Gaer, Mayor

ATTEST:

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



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



PROJECT:				<b>Elevate at Jordan Creek</b>	
LOCATION:				<b>Exhibit "A"</b>	
DRAWN BY: JDR	DATE: 10/11/2019	PROJECT NUMBER/NAME: Elevate at Jordan Creek Plat 01 Subdivision		SHT. 1 of 1	

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

**4(n)2**

**DATE: October 21, 2019**

**ITEM:**

Resolution - Accepting Public Improvements  
Campiello Point

**FINANCIAL IMPACT:**

None at this time. The City will assume ownership of the public improvements, along with associated maintenance.

**BACKGROUND:**

Team Excavating, Inc. has substantially completed the installation of sanitary sewer associated with Campiello Point in accordance with the plans prepared by Civil Design Advantage and the specifications of the City. These improvements have been inspected by the City.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Accepting Public Improvements for Campiello Point.

**Lead Staff Member: Brian J. Hemesath, P.E., City Engineer** *POK*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney <i>JS</i>
Agenda Acceptance	<i>KS</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Public Services		
Date Reviewed			
Recommendation	Yes	No	Split

**RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS**

**WHEREAS**, an Overlay District Site Plan for Campiello Point was administratively reviewed and approved on June 18, 2018; and

**WHEREAS**, a Preliminary Plat for Campiello Point was reviewed and approved by the City Council of West Des Moines, Iowa, at a meeting held on September 17, 2018; and

**WHEREAS**, a Final Plat for Campiello Point was submitted for review by the City Council of West Des Moines, Iowa, on November 12, 2018 and was found to be generally consistent with the Preliminary Plat; and

**WHEREAS**, the West Des Moines City Council adopted a Resolution which approved the Final Plat for Campiello Point at their meeting on November 12, 2018 subject to any conditions of approval and contingent upon construction of storm sewer improvements; sureties were provided for said Public Improvements in lieu of completion with the Final Plat approval; and

**WHEREAS**, on July 27, 2018 the Construction Plans were approved by the West Des Moines City Engineer, said improvements being described as follows:

**Campiello Point**

therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, the public improvements for Campiello Point are hereby accepted and are hereby dedicated for public purposes.

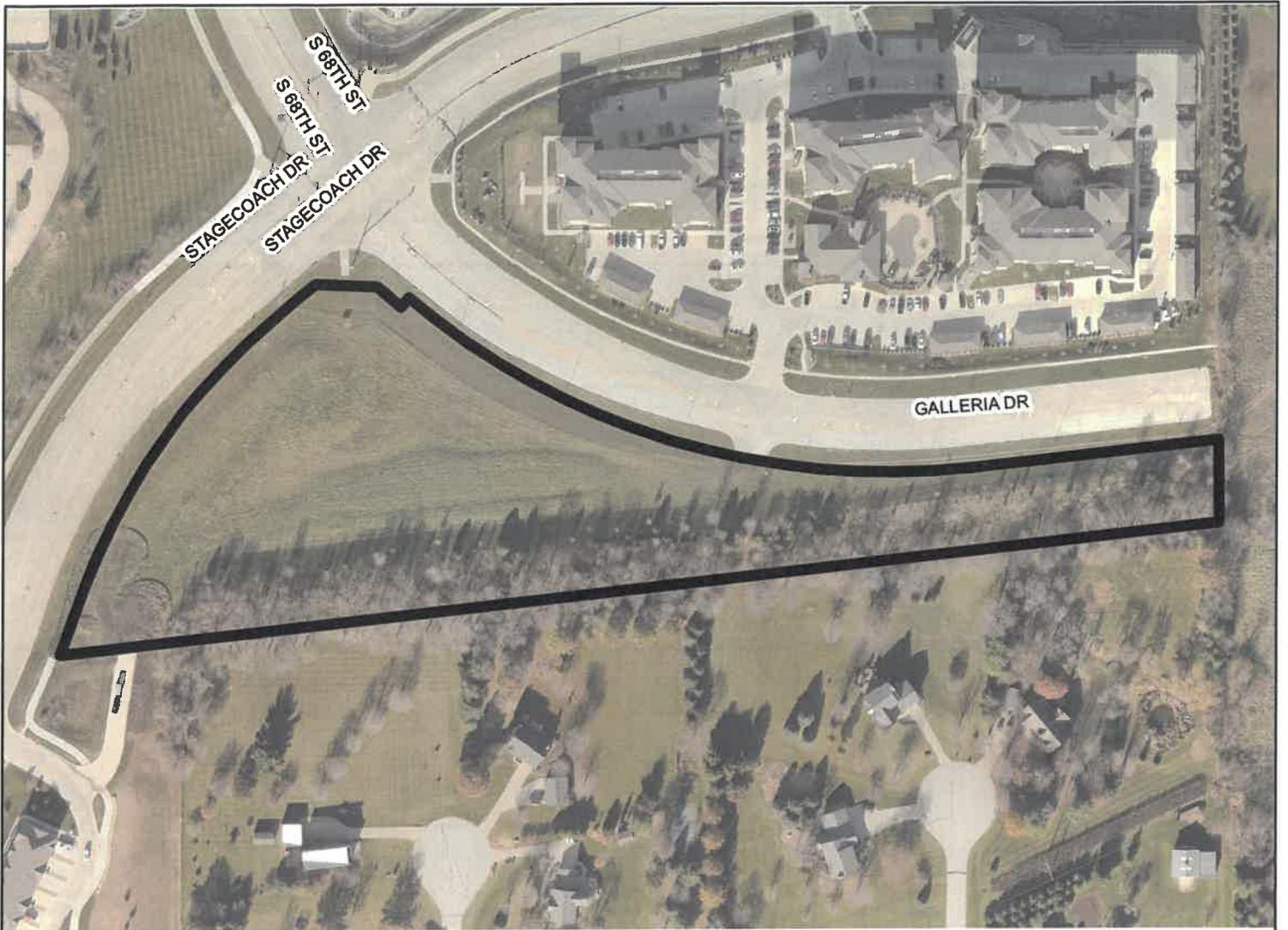
**BE IT FURTHER RESOLVED**, performance sureties for construction of the public improvements for Campiello Point are hereby released.

**PASSED AND APPROVED** this 21st day of **October, 2019**.

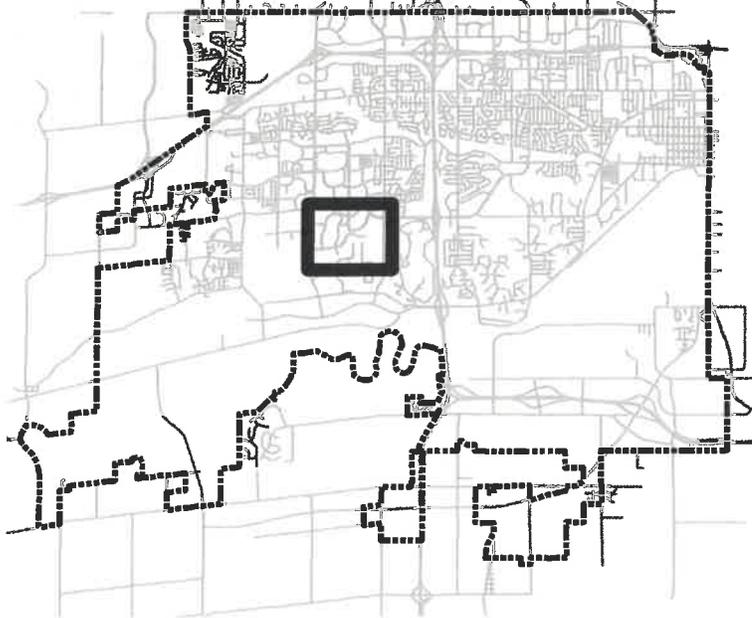
\_\_\_\_\_  
Steven K Gaer, Mayor

ATTEST:

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



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



PROJECT:

**Campiello Point**

LOCATION:

**Exhibit "A"**

DRAWN BY: JDR

DATE: 10/11/2019

PROJECT NUMBER/NAME: Campiello Point Plat 01 Subdivision

SHT. 1 of 1

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

**DATE: October 21, 2019**

**ITEM:**

Resolution - Accepting Public Improvements  
Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer

**FINANCIAL IMPACT:**

None at this time. The City will assume ownership of the public improvements, along with associated maintenance.

**BACKGROUND:**

Elder Corporation has substantially completed the installation of sanitary sewer associated with Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer in accordance with the plans prepared by Bishop Engineering Company and the specifications of the City. These improvements have been inspected by the City.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:**

None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution Accepting Public Improvements for Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer.

**Lead Staff Member: Brian J. Hemesath, P.E., City Engineer** *Post*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	<i>[Signature]</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Public Services		
Date Reviewed			
Recommendation	Yes	No	Split

**RESOLUTION ACCEPTING PUBLIC IMPROVEMENTS**

**WHEREAS**, a Site Plan for Unity Point Clinic, 4055 Westown Parkway was submitted, reviewed, and approved on July 1, 2019 subject to any conditions of approval and contingent upon construction and acceptance of all public improvements, and

**WHEREAS**, on July 9, 2019 the Construction Plans were approved by the West Des Moines City Engineer, said improvements being described as follows:

**Westown Parkway Plaza Lot 2 – Unity Point Sanitary Sewer**

therefore,

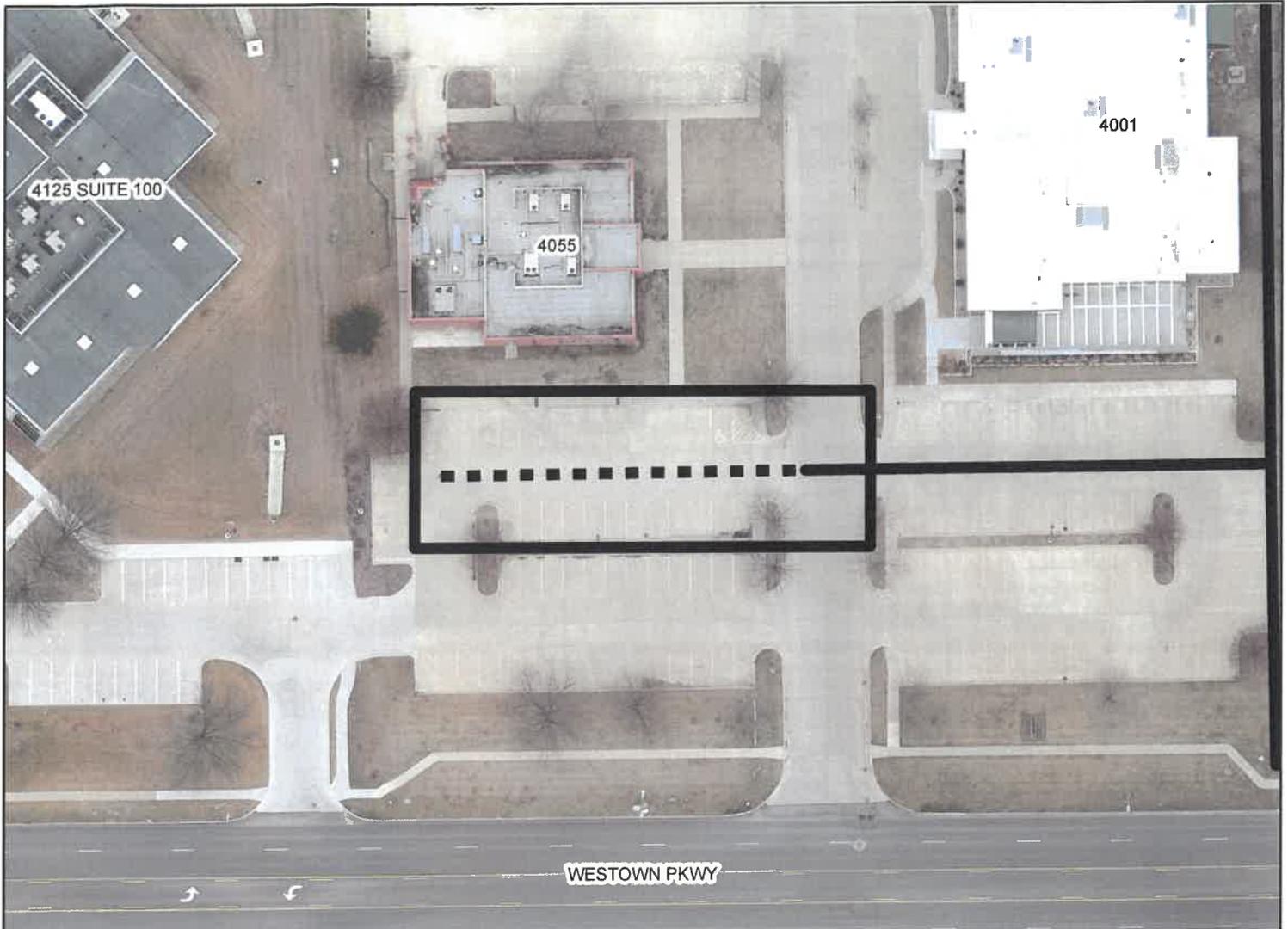
**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, the public improvements for Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer are hereby accepted and are hereby dedicated for public purposes.

**PASSED AND APPROVED** this **21st** day of **October, 2019**.

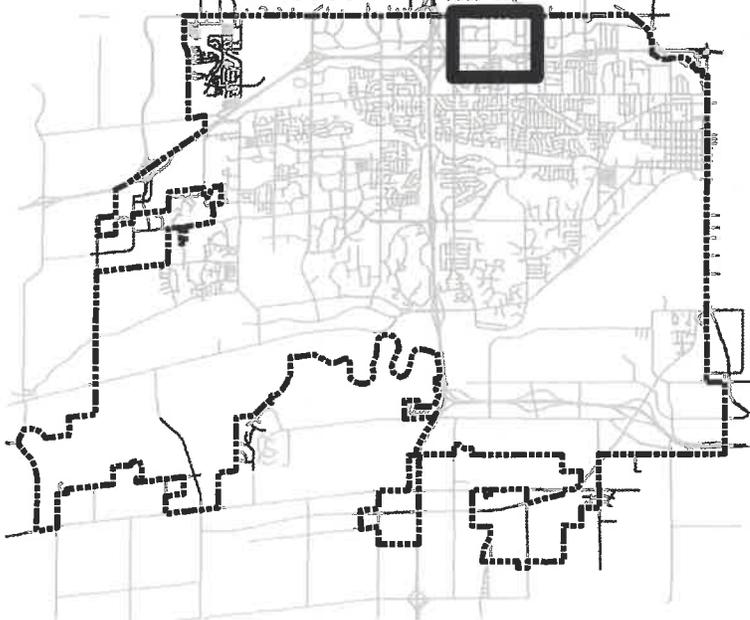
\_\_\_\_\_  
Steven K Gaer, Mayor

ATTEST:

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



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION



REMOVED SEWER



PROJECT:				<b>Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer</b>	
LOCATION:				<b>4055 Westown Parkway</b>	
DRAWN BY: JDR	DATE: 10/11/2019	PROJECT NUMBER/NAME: Westown Parkway Plaza Lot 2 - Unity Point Sanitary Sewer		SHT. 1 of 1	

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

**DATE: October 21, 2019**

**ITEM:** Approval, Acceptance and Conveyance of Easements and Agreements for Grand Living, 540 S.51<sup>st</sup> Street – Ryan Companies, Inc. – SP-004128-2018

**Resolution:**     **Approval and Acceptance of Parkland Dedication Agreement, Sanitary Sewer Easement, Storm Water Facility Management Agreement, Cross Access Agreement, and Record Lot Tie Agreement.**

**Resolution:**     **Conveyance of Temporary Construction and Grading Easement.**

**FINANCIAL IMPACT:** None.

**BACKGROUND:** The applicant received approval for a site plan to construct a senior living facility at 540 S. 51<sup>st</sup> on February 19, 2019. Upon recommendation of the Plan and Zoning Commission, the City Council conditioned the approval on the applicant providing several easements and agreements related to the construction of the facility.

Exhibit II includes copies of the following:

1. Parkland Dedication Agreement
2. Sanitary Sewer Easement
3. Storm Water Facility Management Agreement
4. Cross Access Agreement
5. Record of Lot Tie Agreement
6. Temporary Construction and Grading Easement

City Policy requires these types of documents to be formally accepted and approved by the City Council.

**CITY COUNCIL SUBCOMMITTEE:** These documents were not presented to a City Council Subcommittee.

**OUTSTANDING ISSUES:** The Temporary Construction and Grading Easement must also be approved by West Des Moines Water Works Board of Trustees. This item is set to be approved on October 21, 2019.

**RECOMMENDATION:**

1. Adopt a resolution approving and accepting the Parkland Dedication Agreement, Sanitary Sewer Easement, Storm Water Facility Management Agreement, Cross Access Agreement, and Record Lot Tie Agreement.
2. Adopt a resolution conveying a Temporary Construction and Grading Easement.

Lead Staff Member: Kara V. Tragesser, AICP, 

**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			
Date Reviewed			
Recommendation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

- Exhibit I - Resolution(s)
- Exhibit II - Easements and Agreements

Prepared by: KTragesser 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 PARKLAND DEDICATION AGREEMENT, SANITARY SEWER EASEMENT, STORM WATER FACILITY MANAGEMENT AGREEMENT, CROSS ACCESS AGREEMENT, AND RECORD LOT TIE AGREEMENT RELATED TO THE CONSTRUCTION OF A SENIOR LIVING FACILITY AT 540 S 51 ST**

**WHEREAS**, as part of the review of Site Plan (SP-004128-2018) for property at 540 S. 51<sup>st</sup> Street, the City required certain easements and agreements be executed as part of the approval of the site plan; and

**WHEREAS**, Ryan Companies, Inc. has provided these documents for property legally described as:

PER TITLE COMMITMENT #ORTE744945

PARCEL 2017-168 OF THE PLAT OF SURVEY OF LOT 2 IN WISTFUL VISTA PLAT 5, AN OFFICIAL PLAT RECORDED SEPTEMBER 26, 2017 IN BOOK 16660 AT PAGE 502 IN THE RECORDS OF THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA;

LOT 2 IN WISTFUL VISTA PLAT 6, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, AN OFFICIAL PLAT RECORDED IN BOOK 7506 PAGE 343 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDER EXPECTING THEREFROM PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED;

PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED

TOGETHER WITH THE BENEFIT OF ACCESS DRIVE AS DEPICTED IN DECLARATION OF EASEMENT, COVENANTS AND RESTRICTIONS DATED OCTOBER 20, 2016, FILED OCTOBER 21, 2016 IN BOOK 16234 PAGE 596.

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 the:**

1. Parkland Dedication Agreement;
2. Sanitary Sewer Easement;
3. Storm Water Facility Management Agreement;
4. Cross Access Agreement; and
5. Record Lot Tie Agreement

are hereby approved and accepted and shall be filed with the county recorder as appropriate. The City Clerk is directed to certify the City Council's approval and acceptance.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of October 2019

---

Steven K Gaer, Mayor

ATTEST:

---

Ryan Jacobson  
City Clerk

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

**RESOLUTION APPROVING CONVEYANCE OF A TEMPORARY CONSTRUCTION AND GRADING EASEMENT**

**WHEREAS**, the City of West Des Moines, Iowa is the owner of property located adjacent to 540 S. 51<sup>st</sup> Street and holds title to the property for the benefit of West Des Moines Water Works; and

**WHEREAS**, Ryan Companies, Inc., in conjunction with SRGL West Des Moines Owner, L.P., (hereinafter "Developer") is developing a senior living facility (hereinafter "Project") at 540 S. 51<sup>st</sup> Street; and

**WHEREAS**, the Developer needs to grade, shape, place fill, and access the City's property during the construction of the Project; and

**WHEREAS**, approval and conveyance is subject to approval by West Des Moines Water Works Board of Trustees.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. The Mayor is authorized to sign the Temporary Construction and Grading Easement and the City Clerk is directed to attest to his signature. The document shall be filed with the County Recorder as appropriate.

**PASSED AND APPROVED** this 21st day of October, 2019.

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

ATTEST:

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

Prepared by: Kevin Conn, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320 (515) 222-3449  
Return to: City Clerk, City of West Des Moines, P.O. Box 65320, West Des Moines, IA 50265-0320

---

SPACE ABOVE THIS LINE FOR RECORDER

**PARKLAND DEDICATION AGREEMENT  
DEDICATION OF PARK & GREENWAY LANDS  
AND PROVISION OF PUBLIC IMPROVEMENTS**

**Agreement between the City of West Des Moines and  
SRGL WEST DES MOINES OWNER, L.P. (Owner) for Dedication of Park & Greenway  
Lands and Provision of Public Improvements as a Condition of Approval for the  
Development Application for Grand Living**

**WHEREAS**, West Des Moines Municipal Code Section 10-1-4 (hereinafter "Ordinance") provides that the Owner shall dedicate land for the public use for park purposes and for greenway use; and

**WHEREAS**, the Ordinance provides that the Owner may present a plan as an alternative to park or greenway land dedication; and

**WHEREAS**, said alternative plan must meet the purposes of the park and greenway dedication provisions and directly and proportionately benefit the Development seeking approval; and

**WHEREAS**, this Agreement entered into between the City of West Des Moines (hereinafter "City") and SRGL WEST DES MOINES OWNER, L.P. (hereinafter "Owner") is intended to regulate execution of the approved alternative plan by the Owner and full performance under this Agreement by the Owner as a condition of approval of the Development Application.

**WHEREFORE**, be it agreed by the parties to this Agreement as follows:

1. The parkland dedication requirements are calculated as follows:
  - a. Grand Living as submitted (Bishop Engineering, Site Development Plan dated 01-25-19) with 138 units with kitchens requires dedication of 1.468 acres (consisting of .571 park acres and .898 greenway acres) of lands to satisfy the provisions of the Ordinance. (See Attachment A for cost calculations).
2. The Owner shall provide 'On Site Open Space' within the actual development site to fulfill a portion of the requirement. This area to provide a recreational based open space within this

development to provide such things as sidewalks, public art, fire pit, pergola, benches, raised garden beds, outdoor furniture and other applicable amenities. The 'On Site Open Space' shall allow full access to all residents of this development, and cover 0.382 acres of the requirement. (see Attachment Parkland Dedication Exhibit).

3. The dedication provided by the Owner is then deficient by 1.086 acres for park and greenway dedication.

4. In order to compensate for deficient acreage and as an alternate to land dedication, the Owner shall purchase, install, and construct, at its sole cost sidewalks, public art, fire pit, pergola, benches, raised garden beds, outdoor furniture and other applicable amenities as noted above. (See Attachment A). The improvements so assigned shall be credited to the minimum dedication requirements under the ordinance as follows:

- a. Said improvements shall be installed in compliance with the plans and specifications that have been approved by the City of West Des Moines.
- b. The Owner shall be responsible for all design costs associated with said improvements.
- c. The Owner shall be responsible for all costs and fees associated with said improvements including all permit and licensing fees if applicable, and shall comply with all applicable local, state and federal laws and regulations.
- d. All liability and maintenance for the open space areas including any associated improvements, to be the full responsibility of the Owner and/or assignees.

5. Said construction or installation shall comply with all applicable local, state, and federal laws and regulations.

6. The Owner shall indemnify, hold harmless, and defend the City, its officials, employees, agents, contractors, and assigns, from any and all claims, demands, causes of action, liability, loss, damage, or injury, both to person and property, arising out of, related to, or connected to the Owner's installation or construction of said improvements. This indemnification applies to and includes, but is not limited to, the payment of all penalties, fines, judgments, awards, decrees, attorney's fees, expert witness fees, investigation fees, settlements, related costs or expenses, interest, and any reimbursements incurred by or assessed to the City, its officials, employees, agents, contractors and assigns. This Hold Harmless and Indemnification Agreement is effective upon execution and shall be of indefinite duration.

7. Failure by the Owner or its assigns to fully perform the obligations detailed in this Agreement is a violation of the conditions of approval for the Development Application. If such failure to perform occurs, the City may take any legal action to enforce performance and the City may deem said failure to perform to be a Municipal Infraction, as provided by Section 1-4-1 of the West Des Moines Municipal Code. The City may elect to withhold a Certificate of Occupancy until said improvements have been constructed or installed.

8. The Owner acknowledges and agrees that the City, at the City's sole discretion, may elect to require surety for said improvements, including but not limited to performance and/or maintenance bonds, at a time the City has deemed appropriate. The Owner shall be required to satisfy the surety or bonding requirements requested by the City, unless the City has specifically waived those requirements in writing.

9. The person signing this Agreement on behalf of the Owner warrants that he or she possesses the authority to sign on behalf of the Owner, or has received approval from the officials, executives, or members of the Owner to bind the Owner to the terms of this Agreement.

10. The Owner acknowledges and agrees that the terms of this Agreement shall be binding upon its heirs, assigns, successors in interest, or lessees, if any.

11. This Agreement shall become binding upon the Parties once the City officially approves and accepts it, which approval and acceptance shall be noted on this Agreement by the signature of the Mayor and City Clerk.

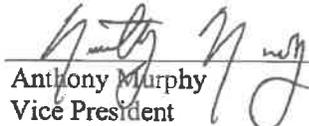
Dated this \_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

SRGL WEST DES MOINES OWNER, L.P.,  
a Delaware limited partnership

By: SRGL WEST DES MOINES OWNER GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

By: SRGL WEST DES MOINES VENTURE, L.P.,  
a Delaware limited liability company,  
its Sole Member

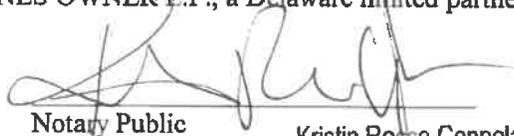
By: SOF-XI WEST DES MOINES HOLDINGS GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

By:   
Name: Anthony Murphy  
Title: Vice President

OWNER (Notary):

STATE OF Connecticut )  
COUNTY OF Fairfield ) ss Greenwich

The record was acknowledged before me on October 16, 2019, by Anthony Murphy as Vice President of SRGL WEST DES MOINES OWNER L.P., a Delaware limited partnership, on behalf of whom the record was executed.



Notary Public

Kristin Rocco Coppola  
Notary Public State of Connecticut  
My Commission Expires:  
March 31, 2021

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Des Moines by Resolution No. \_\_\_\_\_, passed on the \_\_\_\_\_, and this certificate is made pursuant to authority contained in said Resolution.

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

Prepared by: KTragesser 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, PO Box 65320, West Des Moines, IA 50265-0320

### PERMANENT SANITARY SEWER EASEMENT(S)

#### **KNOW TO ALL MEN BY THESE PRESENTS:**

1. Grant of Easement(s).

The undersigned, SRGL WEST DES MOINES OWNER, L.P., a Delaware limited partnership., "Grantor(s)", owner(s) and/or developer(s) of certain property commonly known as Grand Living at West Des Moines in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to the City of West Des Moines, Iowa, a municipal Corporation (hereinafter referred to as "the City"), a permanent and perpetual easement (hereinafter referred to as "Sanitary Sewer Easement" or "Easement(s)") and right-of-way upon, over, under, through and across the real property, legally described as:

A 30.00 foot wide easement over, under, and across Lot 2, Wistful Vista Plat 6, an Official Plat, West Des Moines, Iowa, is described as follows: Beginning at the northwest corner of said Lot 2; thence N62°41'26"E along the north line of said Lot 2, a distance of 461.13 feet to the northeast corner of said Lot 2; thence S47°32'29"E along the east line of said Lot 2, a distance of 106.54 feet to a bend point on the east line of said Lot 2; thence S62°42'33"W along the east line of said Lot 2, a distance of 31.98 feet; thence N47°32'29"W, a distance of 74.56 feet; thence S62°41'26"W, a distance of 451.83 feet to the west line of said Lot 2; thence northwesterly along the west line of said Lot 2 and along a 524.62 foot radius curve concave easterly, a distance of 32.18 feet to the point of beginning, said curve having a chord bearing of N06°08'36"W and a chord length of 32.17 feet.

2. Use and Purpose of Easement(s).

This Easement shall be granted for the purpose of locating sanitary sewer(s) (hereinafter referred to as "Sewer(s)") and to permit and allow the City to enter at any time upon, over, under, through, and across into said Easement(s) herein described to use as much of the surface and sub-surface thereof to construct, replace, locate, rebuild, enlarge, reconstruct, patrol, repair (including the right to place and build additional Sewer(s) therein or to connect and/or join Sewer(s) and appurtenances thereto) and to forever maintain Sewer(s) whenever necessary within the Easement(s) granted herein. The City acknowledges that its rights herein granted are subordinate to certain other easements of record, and the City agrees that it has no rights to interfere with the use, operation, maintenance, repair or replacement of any improvements installed in the Easement area by the holders of the prior rights. Further, the City acknowledges that the holders of these prior rights are not bound by any restrictions imposed herein. The use of the Easement









Prepared by: K Tragesser 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, PO Box 65320, West Des Moines, IA 50265-0320  
Project Name: Grand Living at West Des Moines  
Project File #: SP-004128-2018

**GRAND LIVING AT WEST DES MOINES STORM WATER MANAGEMENT FACILITY  
MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT  
FOR SINGLE OWNERSHIP PARCEL(S)**

**THIS STORM WATER MANAGEMENT FACILITY MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT** is entered into between **SRGL WEST DES MOINES OWNER LP, a Delaware limited partnership** (hereinafter referred to as "Grantor") and the **City of West Des Moines, Iowa** (hereinafter referred to as "City"), in consideration for the approval by the City of West Des Moines, Iowa of the site plan for Grand Living at West Des Moines (whenever the term "Grantor" is used herein, it shall mean Grantor and Grantor's successors and assigns in title unless otherwise specifically denoted).

Grantor is obligated by the Municipal Code of the City of West Des Moines to control storm water runoff for the proposed development as a part of the site plan approval for Grand Living at West Des Moines. In consideration for the City's approval of the Grantor's site plan, the parties enter into this Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement to control and address storm

PER TITLE COMMITMENT #ORTE744945  
PARCEL 2017-168 OF THE PLAT OF SURVEY OF LOT 2 IN WISTFUL VISTA PLAT 5, AN OFFICIAL PLAT RECORDED SEPTEMBER 26, 2017 IN BOOK 16660 AT PAGE 502 IN THE RECORDS OF THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA;  
LOT 2 IN WISTFUL VISTA PLAT 6, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, AN OFFICIAL PLAT RECORDED IN BOOK 7506 PAGE 343 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDER EXPECTING THEREFROM PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED;  
PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED  
TOGETHER WITH THE BENEFIT OF ACCESS DRIVE AS DEPICTED IN DECLARATION OF EASEMENT, COVENANTS AND RESTRICTIONS DATED OCTOBER 20, 2016, FILED OCTOBER 21, 2016 IN BOOK 16234 PAGE 596.

water runoff for the following described property:  
(hereinafter referred to as the "Benefited Property").

**PART I – COVENANTS ON THE BENEFITED PROPERTY**

The following provisions are covenants binding upon the Grantor, including, but not limited to successors, assigns, developers and lessees of Grantor (all of which shall be included in the defined term "Grantor"), and all provisions, including benefits and burdens, run with the land and are binding upon and inure to all successors, assigns, heirs and estates of the Benefited Property and shall only be amended or released with the written permission of the City.

1. Grantor hereby agrees that the storm water runoff for the subdivision shall be controlled through installation, construction and maintenance of a storm water management facility(ies) as detailed in the City approved Storm Water Management Plan and site plan development documents submitted for the Final Plat upon, over, under, through and across the following described property:

**An irregular shaped easement over, under, and across Lot 2, Wistful Vista Plat 5, an Official Plat, West Des Moines, Iowa, is described as follows:**

**The north 20.00 feet of said Lot 2, AND the east 70.00 feet of said Lot 2**

2. Grantor covenants and agrees that the design, construction and maintenance of the Storm Water Management Facility shall be in compliance with the Storm Water Management Plan now on file with the City of West Des Moines and which is available for public inspection. The design, construction and maintenance of the Storm Water Management Facility shall meet the storm water runoff requirements of the Municipal Code of the City of West Des Moines, Iowa in effect on the date hereof.
3. It is hereby agreed and covenanted that the above described Benefited Property receives benefit from the Storm Water Management Facility by controlling runoff from the Benefited Property to meet the requirements of the Post-Construction Storm Water Management Ordinance of the Municipal Code of the City of West Des Moines, Iowa and the Subdivision Design requirements of Section 10-3-1 or succeeding legislation of the Municipal Code of the City of West Des Moines, Iowa.
4. It is hereby agreed that Grantor is solely responsible for constructing, installing and ensuring that the Storm Water Management Facility meets the standard set forth in the Post-Construction Storm Water Ordinance and Section 10-3-1 of the Municipal Code of the City of West Des Moines, Iowa.
5. Grantor hereby covenants and agrees that Grantor is hereby designated and authorized to accept notices and service of process as it relates to the inspection, replacement, reconstruction, repair, grading and maintenance of the Storm Water Management Facility or permanent easement or notice of assessment for replacement, reconstruction, repair, grading and maintenance of the Storm Water Management Facility, for so long as it owns the Property. Subsequent owners shall likewise accept notices and service of process.
6. Grantor shall be responsible for all maintenance, repair and replacement of the Storm Water Management Facility, including obligations set forth in Part II, paragraph 12, during their periods of ownership of the Property. Grantor shall comply with all terms of the Easement set forth in Part II herein.
7. Grantor shall inspect the Storm Water Management Facility on an annual basis, including but not limited to all pipes, inlets and outlets for defects, obstructions or changes in the Storm Water Management Facility from the original design of the Facility. The inspection shall be documented with date stamped photographs of the Storm Water Management Facility. Grantor shall document such inspection by completing the Inspection Report Form available from the City of West Des Moines Engineering Services Department. Any deficiencies or defects noted by the inspection shall be corrected by Grantor. The Inspection photographs and Inspection Report Form shall be made available to the City for review upon request and shall be kept and maintained for a period of 5 years from the date of inspection.

8. Grantor hereby agrees and consents on behalf of itself and all successors and assigns of the Benefited Property to the assessment of the costs of maintaining, reconstructing, repairing, grading or dredging the Easement Area and Storm Water Management Facility on all Benefited Property established by the Grantor pursuant to the obligations set forth in paragraph 10, below. Grantor, on behalf of itself and all successors and assigns of the Benefited Property, shall execute a Petition and Waiver in favor of the City to allow the City to recover any costs expended for action taken as set forth in paragraph 10, below, to address the maintenance, reconstruction, repair, grading or dredging of the Storm Water Management Facility or Easement Area.
9. Should Grantor fail to maintain, reconstruct, repair, grade or dredge the Storm Water Management Facility or the Easement Area upon notice from the City, and such failure continues for thirty (30) days after notice and demand for cure, the City may cause such action to be done and assessed to the Benefited Property. The assessments on the Benefited Property shall be due and payable from Grantor to the City pursuant to the terms of the Agreement and Waiver (see **Exhibit A**, attached hereto and made a part hereof).

## **PART II – Easement for Storm Water Management Facility and Surface Water Flowage**

The following provisions in Part II herein are for a permanent easement over the Easement Area running with the land to the City of West Des Moines and Grantor.

10. Subject to matters of record, Grantor hereby grants to the City a Permanent Surface Water Flowage Easement and Storm Water Management Facility under, over, through and across the Easement Area described above for the purpose of constructing, reconstructing, repairing, grading and maintaining the Storm Water Management Facility and the surface of the Easement Area in a manner that will permit the free and unobstructed flow of surface water over the Easement Area described above.
11. It is the obligation of the Grantor and all subsequent owners of the above described easement area to maintain the Easement Area and the Storm Water Management Facility as set forth below. The maintenance obligations for the Storm Water Management Facility are as follows:

### Storm water detention and retention ponds or basins:

- a. Mow on a regular basis to maintain the vegetation at the height designated on the original design to prevent erosion.
- b. Remove all trash, litter, debris or obstructions in the basin in the Easement Area and any inlets or outlets located within the Easement Area.
- c. Plant, maintain and replant as necessary permitted vegetation.
- d. Inspect for any defects, obstructions, or any changes in the original design.
- e. Inspect and determine the depth of the pond or basin on an annual basis.
- f. Remove any accumulated sediment from the outlet structures and remove any sediment which may accumulate greater than 12 inches in ponds or basins and greater than 6 inches in an underground detention basin.
- g. Till the soil at the bottom of the riparian buffer if it does not drain out within the time established in the design plan and replant vegetation as designated on the original design.
- h. All repairs shall conform to the original design.
- i. Maintaining the storm water and retention pond or basin to assure the effectiveness for storm water runoff for the subdivision/site.

### Grass and Bioretention Swales:

- a. Mow on a regular basis to maintain the vegetation at the height designated on the original design to prevent erosion.
- b. Remove all trash, litter, debris or obstructions in the grass or bioretention swale and Easement Area.
- c. No chemicals or substances shall be applied to the Easement Area that shall harm or impair the effectiveness of the swale as a storm water runoff control measure.
- d. Replant vegetation as soon as practical when any vegetation dies.







**EXHIBIT A**

**AGREEMENT AND WAIVER POST CONSTRUCTION STORM WATER MANAGEMENT**

**THIS AGREEMENT** made and entered into by and between the City of West Des Moines, Iowa, hereinafter referenced the CITY, and SRGL WEST DS MOINES OWNER, LP, a Delaware limited partnership, hereinafter referenced the PROPERTY OWNERS.

**WITNESSETH:**

**WHEREAS**, the City desires to encourage orderly community development and provide for the regulation and control of the extension of public improvements, public services, and utilities, consistent with its Comprehensive Plan, adopted in December 1993, as amended, and in accordance with Iowa Code Chapter 354, Platting, Division and Subdivision of Land; and

**WHEREAS**, pursuant to U.S. EPA's National Pollutant Discharge Elimination System ("NPDES") permit program ("Program") administered by the Iowa Department of Natural Resources ("IDNR"), the City is required to obtain from the IDNR an NPDES permit for the discharge of storm water from a Municipal Separate Storm Sewer System (MS4); and

**WHEREAS**, as a condition of the City's MS4 Permit, the City is obliged to develop, implement, and enforce a program to address storm water runoff from new construction and reconstruction projects for which State NPDES General Permit #2 storm water permit coverage is required; and

**WHEREAS**, the Property Owner, as the developer and/or owner of a construction or reconstruction project in the City of West Des Moines, is subject to the program implemented by the City to address storm water runoff from the project; and

**WHEREAS**, in order to comply with the program implemented by the City, the Property Owner has executed a Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement (hereinafter "Agreement") with the City to address the rights and obligations of the parties regarding control of post-construction storm water runoff from the project; and

**WHEREAS**, a provision of the Agreement requires the Property Owner to execute this Agreement and Waiver in favor of the City to allow the City to recover any costs expended for action taken by the City, its consultants, contractors and assigns to address the maintenance, reconstruction, repair, grading or dredging of the Storm Water Management Facility or Easement Area if the Property Owner or the Property Owner's successors and assigns fail to do so within applicable notice and cure periods; and

**WHEREAS**, this Agreement and Waiver is made in conjunction with the Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement located on:



4. It is further agreed that:
  - a. When said actions have been constructed or completed in accordance with the plans and specifications, the City may make assessments against the properties of the undersigned Property Owners, or their successors or assigns, for their pro-rata share of the entire cost of the construction and/or completion of said actions.
  - b. Said assessments shall be due immediately and will be paid to the City of West Des Moines and shall constitute a lien upon the properties hereinafter described. Further, each of the undersigned Property Owners hereby agree to accept responsibility for the assessment which is thus assessed against the Owner's property.
  - c. Said assessments shall have the same legal force and effect as if all the legal formalities provided by law in such cases had been fully and faithfully performed and observed.
5. The actual, out-of-pocket amount and proportion of the cost of the actions completed by the City to be paid shall be ascertained and determined by the Engineers in good faith and reported to the City Council, which shall make such changes or alterations as they may reasonably require, but in no event shall the total assessment exceed the actual cost of the actions performed by the City. When said costs are determined and approved by the City Council, they shall constitute the assessments against the properties.
6. The Property Owners retain the right to request of the City a review of the mathematical calculations made to ensure their accuracy.
7. Property Owners hereby authorize the City Council to pass any Resolution requisite or necessary to order and secure said actions, to provide for the construction of the same and to make the assessments herein provided for, without further notice to said Property Owners or any of them. Any such Resolution may contain recitals that said actions are ordered or made by the Council without petition of Property Owners, without in any way qualifying this Agreement or releasing the Property Owners from their obligation to pay the assessments levied against their property for the cost of said action.
8. Each Property Owner warrants that the real estate described above is free and clear of all liens and encumbrances other than for ordinary taxes, except for such liens as are held by lienholders hereinafter listed and designated as signers of this Agreement and Waiver. Each lienholder designated below, by execution of this Agreement and Waiver, consent to the subordination of its lien to the lien of the assessment levied pursuant hereto.
9. Each Property Owner further agrees that the terms of this Agreement and Waiver shall become a covenant which runs with the land of the below-referenced property, and shall be binding upon and inure to all successors and assigns.
10. The signatories and the City agree this document will be recorded in the office of the appropriate county recorder to ensure that any and all future purchasers of property are put on notice of the above conditions.

Dated this 16 day of October 20 19.



Prepared By: KTragesser, Development Services PO Box 65320 West Des Moines IA 50265-0320 515-222-3620  
Return To: City Clerk City of West Des Moines PO Box 65320 West Des Moines IA 50265-0320 (515)222-3610

### **INGRESS/EGRESS AND CROSS ACCESS EASEMENT**

#### **KNOW TO ALL MEN BY THESE PRESENTS:**

1. Grant of Easement(s).

The undersigned, SRGL WEST DES MOINES OWNER LP, a Delaware limited partnership, (hereinafter referred to as the "Grantor(s)"), owner(s) and/or developer(s) of property legally described below and locally known as 540 S. 51<sup>st</sup> Street, hereby grants, establishes and conveys a permanent and perpetual easement to and for the benefit of said property. Said easement shall allow the mutual use of current and future access drives and roadways located on the above-listed lots over, under, through and across the real property legally described as:

#### **LEGAL DESCRIPTION:**

PARCEL 2017-168 OF THE PLAT OF SURVEY OF LOT 2 IN WISTFUL VISTA PLAT 5, AN OFFICIAL PLAT RECORDED SEPTEMBER 26, 2017 IN BOOK 16660 AT PAGE 502 IN THE RECORDS OF THE OFFICE OF THE RECORDER OF POLK COUNTY, IOWA;  
LOT 2 IN WISTFUL VISTA PLAT 6, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA, AN OFFICIAL PLAT RECORDED IN BOOK 7506 PAGE 343 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDER EXCEPTING THEREFROM PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED;  
PARCEL "A" OF LOT 2, WISTFUL VISTA PLAT 6, AS SHOWN ON PLAT OF SURVEY RECORDED IN BOOK 11009, PAGE 934, INSTRUMENT NO. 2005-00089404 OF THE RECORDS OF THE POLK COUNTY, IOWA RECORDED  
TOGETHER WITH THE BENEFIT OF ACCESS DRIVE AS DEPICTED IN DECLARATION OF EASEMENT, COVENANTS AND RESTRICTIONS DATED OCTOBER 20, 2016, FILED OCTOBER 21, 2016 IN BOOK 16234 PAGE 596.

2. Use and Purpose of Easement(s).

This Easement shall be for the purpose of permitting and allowing ingress and egress for parties having any interest whatsoever in the real property described herein, including but not limited to lessee(s), business invitee and employees in any portion of the real property.

The roadway shall be hard surface roadway, as required and approved by the City and shall be constructed by the respective lot owner, or its successors in interest or assigns. No structure, obstruction,

or building of any kind whatsoever shall be placed upon property that is the subject of this Easement without the express written consent of the City.

3. Maintenance.

The lot owner(s) shall replace, maintain, repair and keep free of obstruction the roadway constructed upon the Easement area. The Grantor(s) hereby covenant and agrees not to permit any vehicle parking upon said Easement and to keep the roadway free and clear of snow and other obstructions

4. Hold Harmless.

The Grantor(s) agrees to indemnify and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Grantor(s) arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

5. Running of Benefits and Burdens

The terms and conditions of this Easement are binding upon the Grantor including, but not limited to, future owners, developers, lessees or occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, tenants and personal representatives of the parties hereto.

6. Jurisdiction and Venue.

The City and the Grantor(s) agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties shall consent to the jurisdiction of Polk County, Iowa.

7. Words and Phrases

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.

8. Attorney's Fees.

Either party may enforce this instrument by appropriate action and should they prevail in such litigation they shall recover as part of their costs the reasonable attorney's fees incurred in such litigation.

9. Parties.

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantor(s)" shall refer to SRGL WEST DES MOINES OWNERS LP, their heirs, assigns, successors-in-interest, or lessees, if any.

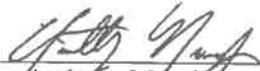
Dated this 16 day of October 2019.

SRGL WEST DES MOINES OWNER, L.P.,  
a Delaware limited partnership

By: SRGL WEST DES MOINES OWNER GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

By: SRGL WEST DES MOINES VENTURE, L.P.,  
a Delaware limited liability company,  
its Sole Member

By: SOF-XI WEST DES MOINES HOLDINGS GP,  
L.L.C., a Delaware limited liability company,  
its General Partner

By:   
Name: Anthony Murphy  
Title: Vice President

STATE OF Connecticut )  
COUNTY OF Fairfield ) SS Greenwich

The record was acknowledged before me on October 16, 2019, by Anthony Murphy as Vice President of SRGL WEST DES MOINES OWNER L.P., a Delaware limited partnership, on behalf of whom the record was executed.

  
Notary Public  
Kristin Rocco Coppola  
Notary Public State of Connecticut  
My Commission Expires:  
March 31, 2021

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Des Moines by Resolution No. \_\_\_\_\_, passed on the \_\_\_\_\_, and this certificate is made pursuant to authority contained in said Resolution.

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

Prepared by: K. Tragesser, Development Service, 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 50265-0320

### **RECORD OF LOT TIE**

**WHEREAS**, SRGL WEST DES MOINES OWNER LP, a Delaware limited partnership, is the current owner of certain property legally described as:

Parcel 2017-168 of the Plat of Survey of lot 2 in Wistful Vista Plat 5, and official plat recorded September 256, 2017 in Book 16660 at Page 502 in the records of the office of the Recorder of Polk County, Iowa;

Lot 2 in Wistful Vista Plat 6, an official plat, now in and included in the City of West Des Moines, Polk County, Iowa, and official plat recorded in Book 7506 Page 343 of the records of the Polk County, Iowa, Recorder, excepting therefrom Parcel A of Lot 2, Wistful Vista Plat 6, as shown on Plat of Survey recorded in Book 11009 Page 934 instrument No 2005-00089404 of the records of the Polk County Iowa Recorder.

**WHEREAS**, as a condition of approval of the site plan Grand Living of West Des Moines by the City of West Des Moines, the above two lots need to be legally tied together to construct a building across the property line;

**NOW, THEREFORE**, SRGL WEST DES MOINES OWNER LP, as current owner of the parcels described above imposes the following restrictions:

1. Parcel 2017-168 of the Plat of Survey of lot 2 in Wistful Vista Plat 5, and official plat recorded September 256, 2017 in Book 16660 at Page 502 in the records of the office of the Recorder of Polk County, Iowa;

will be legally tied to

Lot 2 in Wistful Vista Plat 6, an official plat, now in and included in the City of West Des Moines, Polk County, Iowa, and official plat recorded in Book 7506 Page 343 of the records of the Polk County, Iowa, Recorder, excepting therefrom Parcel A of Lot 2, Wistful Vista Plat 6, as shown on Plat of Survey recorded in Book 11009 Page 934 instrument No 2005-00089404 of the records of the Polk County Iowa Recorder.

2. Once joined, no portion of any Property shall be transferred, sold or conveyed independent of the remainder of the Property without re-platting the Property or receiving specific written approval from the City of West Des Moines.

CERTIFICATION BY CITY OF WEST DES MOINES, IOWA

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that the within and foregoing Easement was duly approved and accepted by the City Council of said City of West Des Moines by Resolution No. \_\_\_\_\_, passed on the \_\_\_\_\_, and this certificate is made pursuant to authority contained in said Resolution.

---

Ryan Jacobson, City Clerk

The terms and conditions of this Record of Lot Tie Agreement shall be binding upon the owner including, but not limited to, developers, lessees and occupants. Further, all provisions of this instrument, including benefits and burdens, run with the land and shall be binding upon any and all successive parties, including but not limited to heirs, assigns, successors in interest, tenants and personal representatives of the parties.

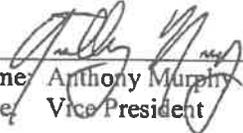
Dated this 16 day of October 2019.

SRGL WEST DES MOINES OWNER, L.P.,  
a Delaware limited partnership

By: SRGL WEST DES MOINES OWNER GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

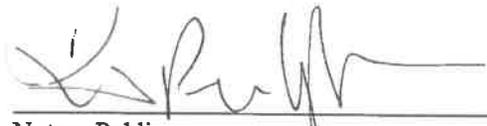
By: SRGL WEST DES MOINES VENTURE, L.P.,  
a Delaware limited liability company,  
its Sole Member

By: SOF-XI WEST DES MOINES HOLDINGS GP,  
L.L.C., a Delaware limited liability company,  
its General Partner

By:   
Name: Anthony Murphy  
Title: Vice President

STATE OF Connecticut )  
COUNTY OF Fairfield ) ss Greenwich

The record was acknowledged before me on October 16, 2019, by Anthony Murphy as Vice President of SRGL WEST DES MOINES OWNER L.P., a Delaware limited partnership, on behalf of whom the record was executed.

  
Notary Public

Kristin Rocco Coppola  
Notary Public State of Connecticut  
My Commission Expires:  
March 31, 2021

Prepared by KTragesser City of West Des Moines 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 515-222-3603

### TEMPORARY CONSTRUCTION AND GRADING EASEMENT

City of West Des Moines, Iowa, a municipal corporation, hereinafter referred to as the "City", owner of property upon which this easement is located, in consideration of the sum of one dollar and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to **SRGL WEST DES MOINES OWNER LP**, a Delaware limited partnership, hereinafter referred to as "SRGL", a Temporary Construction Easement upon the real property legally described in **Exhibit "1"** and as shown on **Exhibit "2"** (hereinafter all parcels are collectively referred to as the "Easement Area"), subject to the conditions in **Exhibit "3"**.

1. Use and Purpose of the Easement

The Temporary Construction and Grading Easement (hereinafter "Easement") shall be for the purpose of permitting SRGL, its agents, contractors, employees and assigns a right of entry in, upon and onto the property described on the attached **Exhibit "1"** and as shown on **Exhibit "2"** for the purpose of grading, shaping, placing fill, and access during construction of Grand Living Care Facility ("Project").

- (a) The Easement shall be effective for eighteen (18) months from initiation of construction of the Project on the Easement Area or until the Project is completed and accepted by the City of West Des Moines as demonstrated by the issuance of a permanent certificate of occupancy, whichever occurs first.
- (b) SRGL shall repair any construction/grading related damage within the Easement Area to its original, or better, condition and shall remove all materials and equipment from the Easement Area before the termination of this Easement. SRGL shall replace any trees located within the immediate vicinity of the Easement Area if they die within two (2) years of the construction and grading related work.
- (c) SRGL will ensure there are no site modifications that are triggered by the construction or grading on the City's property.
- (d) SRGL shall not erect any fence or other structure under, over, on, through, across, or within the Easement Area, without obtaining the prior written consent of the City, nor shall SRGL cause or permit any obstruction, planting or material to be placed under, over, on, through, across, or within the Easement Area, without obtaining the prior written consent of the City during the term of this Easement.

The City shall have the right to remove any unauthorized fences, structures, obstructions, plantings or material placed or erected under, over, on, through, across or within the Easement Area at SRGL's sole expense. SRGL will not be reimbursed for any unauthorized items removed by the City.

2. Hold Harmless

Each party shall indemnify and hold harmless the other party from and against any loss, expense or claim asserted by third parties for damage to third party tangible property, or for bodily injury, or other injury or damages related to this agreement, to the extent such damage or injury is attributable to the negligence or willful misconduct of the indemnitor, provided, indemnitee gives the indemnitor prompt notice of any such claim and all necessary information and assistance so that indemnitor, at its option, may defend or settle such claim, and indemnitee does not take any adverse position in connection with such claim. In the event that any such damage or injury is caused by the joint or concurrent negligence of both parties, the loss, expense or claim shall be borne by each party in proportion to its negligence.

3. Benefits, Burdens and Assignment

All provisions of this Easement, including benefits and burdens, run with the land and are binding upon the City and SRGL, including but not limited to future owners, developers, lessees, occupants or assignees.

4. Lawful Authority

The City covenants with SRGL that the City holds the property by good and perfect title and that the City has a right and lawful authority to make and execute this Easement.

5. Jurisdiction and Venue

The City and SRGL agree that the district court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this easement and said parties further consent to the district court in and for Polk County, Iowa a proper venue.

6. Words and Phrases

Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or gender neutral, according to the context. The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers and contractors. The term "SRGL" shall refer to SRGL WEST DES MOINES OWNER, LP., its assigns, successors in interest, or lessees, if any.

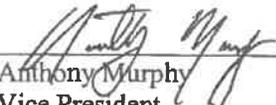
Dated this 16 day of October, 2019.

SRGL WEST DES MOINES OWNER, L.P.,  
a Delaware limited partnership

By: SRGL WEST DES MOINES OWNER GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

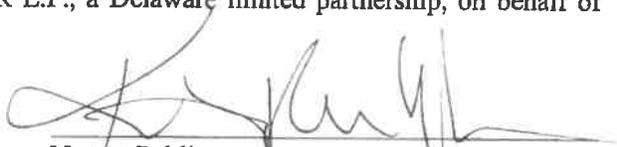
By: SRGL WEST DES MOINES VENTURE, L.P.,  
a Delaware limited liability company,  
its Sole Member

By: SOF-XI WEST DES MOINES HOLDINGS GP, L.L.C.,  
a Delaware limited liability company,  
its General Partner

By:   
Name: Anthony Murphy  
Title: Vice President

STATE OF Connecticut )  
COUNTY OF Fairfield ) SS Greenwich

The record was acknowledged before me on October 16, 2019, by Anthony Murphy as Vice President of SRGL WEST DES MOINES OWNER L.P., a Delaware limited partnership, on behalf of whom the record was executed.

  
Notary Public

Kristin Rocco Coppola  
Notary Public State of Connecticut  
My Commission Expires:  
March 31, 2021



**Exhibit 1**  
**Legal Description**

“A 10.00 foot wide easement over and across Lot 3 of the Partition Plat of the Southwest Quarter of the Northwest Quarter and of the North Half of the Southwest Quarter and the North Half of the Southeast Quarter of Section 18, Township 78 North, Range 25 West of the 5<sup>th</sup> P.M., West Des Moines, Polk County, Iowa, is described as follows: Beginning at the southeast corner of Lot 2, Wistful Vista Plat 6, an Official Plat, West Des Moines, Polk County, Iowa; thence N27°20'26"W along the easterly line of said Lot 2, a distance of 124.80 feet; thence N62°39'34"E, a distance of 10.00 feet; thence S27°20'26"E, a distance of 130.00 feet to the north line of Lot 2, Wistful Vista Plat 5, an Official Plat, West Des Moines, Polk County, Iowa; thence N89°52'16"W along the north line of said Lot 2, a distance of 11.27 feet to the point of beginning.”

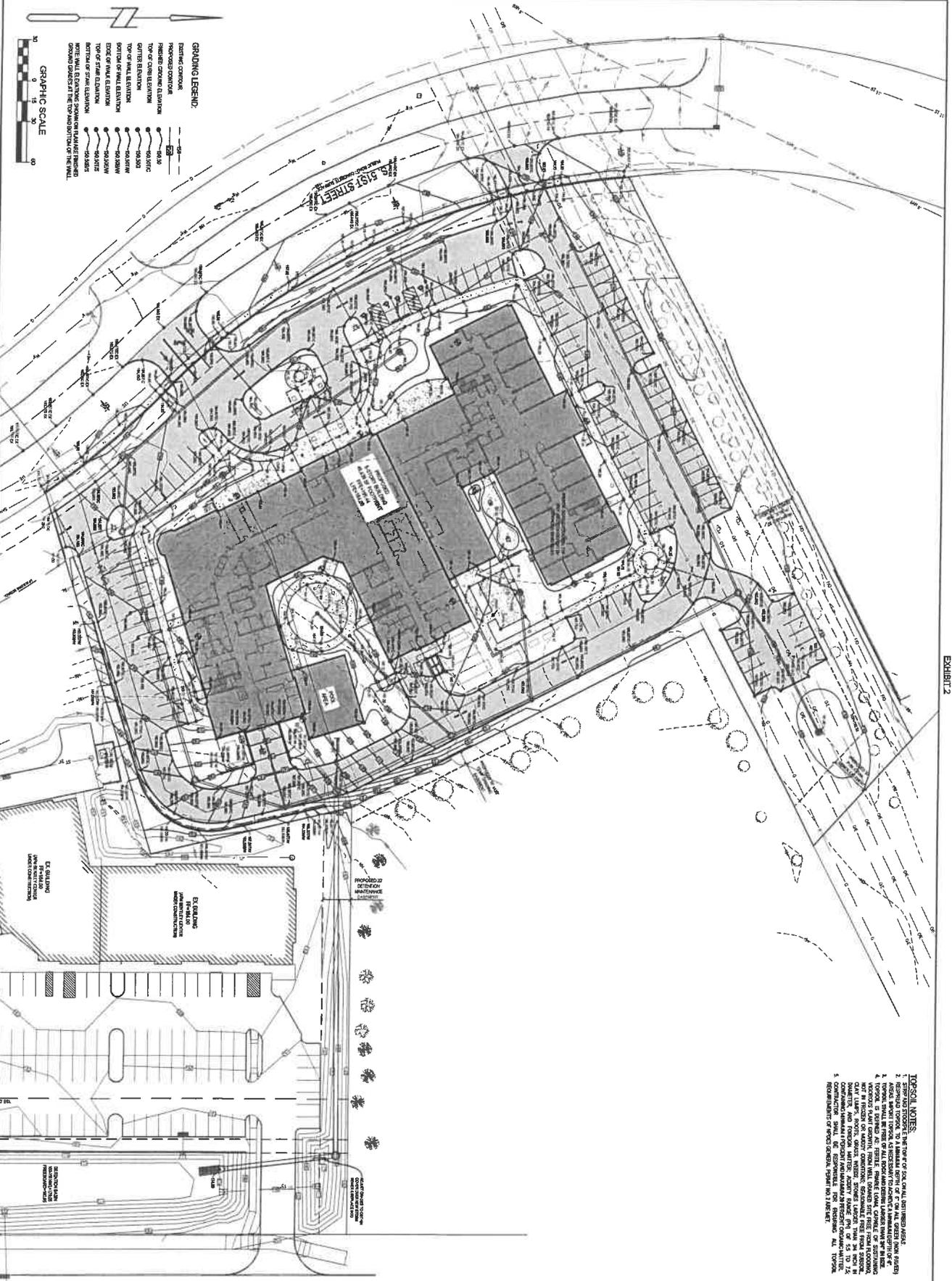


EXHIBIT 2

**TYPICAL NOTES:**

1. REFER TO ALL NOTES ON THE GRADING PLAN.
2. REFER TO ALL NOTES ON THE SITE PLAN.
3. REFER TO ALL NOTES ON THE SITE PLAN.
4. REFER TO ALL NOTES ON THE SITE PLAN.
5. REFER TO ALL NOTES ON THE SITE PLAN.
6. REFER TO ALL NOTES ON THE SITE PLAN.
7. REFER TO ALL NOTES ON THE SITE PLAN.
8. REFER TO ALL NOTES ON THE SITE PLAN.
9. REFER TO ALL NOTES ON THE SITE PLAN.
10. REFER TO ALL NOTES ON THE SITE PLAN.

PROJECT NAME:	180375
DATE:	11/08/18
DRAWN BY:	SWM
CHECKED BY:	
DESIGNED BY:	
SCALE:	
PROJECT NUMBER:	180375
DATE:	11/08/18
DRAWN BY:	SWM
CHECKED BY:	
DESIGNED BY:	
SCALE:	
PROJECT NUMBER:	180375
DATE:	11/08/18
DRAWN BY:	SWM
CHECKED BY:	
DESIGNED BY:	
SCALE:	

**GRAND LIVING - WEST DES MOINES**  
**SITE IMPROVEMENT PLAN**  
**GRADING PLAN**

**Bishop Engineering**  
 "Planning Your Successful Development"  
 3501 104th Street  
 Des Moines, Iowa 50322-5328  
 Phone (515)276-0467 Fax: (515)276-0217  
 Civil Engineering & Land Surveying Established 1959

**Exhibit 3**  
**Conditions of Approval**

1. SRGL shall cause to be planted six (6) overstory, deciduous trees on the City's property on the west property line of the city property no less than 15 feet from the joint property line. The trees shall be planted into the tree line already established with the exact location determined by the West Des Moines Water Works. The trees shall measure at least 1.5 inch in diameter at the generally accepted location for measuring caliper. Prior to planting, SRGL or its assigned agent, will contact West Des Moines Water Works to identify the location for the trees. SRGL will hold a two-year warranty on the new trees against disease, damage, and reasonable health of the trees.

**CITY COUNCIL MEETING COMMUNICATION**

**DATE: October 21, 2019**

**ITEM:** Resolution – Claim for reimbursement – South 60<sup>th</sup> Street Improvements Phase II –Pheasant Ridge Drive to Mills Civic Parkway Project

**FINANCIAL IMPACT:** \$21,750.00

**SYNOPSIS:** Lingxiang Zhou and Xia Chen (“Owners”) own the property locally known as 1105 S. 60<sup>th</sup> Street, West Des Moines (Property) and Gregory M. Schmitz and Lindsey A. Schmitz (“Easement Holders”) own an access easement (“Easement”) across the Property. As part of the South 60<sup>th</sup> Street Improvements Project, the City reconstructed a gravel driveway within the Easement on the Property. Since that time, the driveway has experienced significant rutting and frost/mud boils, and areas adjacent to the driveway are not draining properly making it difficult to mow.

The Owners and Easement Holders have submitted a quote in the amount of \$21,750.00 to cover the costs associated with replacement of the driveway and the installation of a drainage system. The Owners and Easement Holders are willing to settle for \$21,750.00 and waive any further claims related to the manner in which their property was affected by the Project. The Public Services subcommittee has recommended payment of \$21,750.00 to the Owners and Easement Holders in exchange for the release.

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

**RECOMMENDATION:** Approve the Release and Settlement Agreement between the City of West Des Moines, Lingxiang Zhou, Xia Chen, Gregory M. Schmitz and Lindsey A. Schmitz.

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

**STAFF REVIEWS**

Department Director	Richard J. Scieszinski, City Attorney
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee	Public Services
Date Reviewed	September 9, 2019
Recommendation	Yes

**RESOLUTION APPROVING SETTLEMENT AND RELEASE BY AND BETWEEN  
LINGXIANG ZHOU, XIA CHEN, GREGORY M. SCHMITZ, LINDSEY A. SCHMITZ  
AND THE CITY OF WEST DES MOINES, IOWA**

**WHEREAS**, in conjunction with the South 60<sup>th</sup> Street Improvements Project Phase I – Grand Avenue to Pheasant Ridge Drive, Project No. 0510-021-2014, Lingxiang Zhou and Xia Chen (“Owners”) and Gregory M. Schmitz and Lindsey A. Schmitz (“Easement Holders”) have made a claim for damages related to the gravel driveway at 1105 S. 60<sup>th</sup> Street; and

**WHEREAS**, the City of West Des Moines, Owners and Easement Holders have reached an agreement that provides payment of the claim and release of any and all future claims; and

**WHEREAS**, approval of the Settlement and Release is in the best interest of the City of West Des Moines.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. The Agreement by and between Lingxiang Zhou, Xia Chen, Gregory M. Schmitz, Lindsey A. Schmitz and the City of West Des Moines is hereby approved.
2. The Mayor is authorized to sign the Agreement and the City Clerk is directed to attest to the Mayor’s signature.
3. The West Des Moines Finance Department is authorized to make appropriate payment as provided by the terms of the Agreement.

**PASSED AND ADOPTED** this 21<sup>st</sup> day of October, 2019.

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

ATTEST:

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

SETTLEMENT AND RELEASE AGREEMENT BY AND BETWEEN LINGXIANG ZHOU, XIA CHEN, GREGORY M. SCHMITZ, LINDSEY A. SCHMITZ AND THE CITY OF WEST DES MOINES, IOWA

This Settlement and Release is made by and between Lingxiang Zhou and Xia Chen, Gregory M. Schmitz and Lindsey A. Schmitz, and the City of West Des Moines, an Iowa municipal corporation and is effective upon execution by all parties.

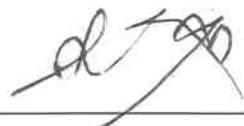
Lingxiang Zhou and Xia Chen ("Owners"), own property in the City of West Des Moines legally described as:

Parcel "B" of the Survey of the NE ¼ of Section 24, Township 78 North, Range 26 West of the 5<sup>th</sup> P.M., West Des Moines, as Shown in Book 2006, Page 17614, in the Office of the Recorder of Dallas County, Iowa ("Property").

Gregory M. Schmitz and Lindsey A. Schmitz ("Easement Holders"), own an easement on the aforementioned Property as recorded in Book 2006 Page 17614 in the Office of the Recorder of Dallas County, Iowa ("Plat of Survey"). In consideration of receipt of twenty-one thousand seven hundred fifty dollars (\$21,750.00), the Owners and Easement Holders hereby release and forever discharge the City of West Des Moines, its officials, employees, contractors and assigns from any and all claims, demands, causes of action of any kind, known and unknown, which the Owners may have now or in the future related to or arising from the design, construction, reconstruction, grading, regrading, seeding, reseeding or any other matter done in conjunction with the restoration of the Property related to the South 60<sup>th</sup> Street Improvement Project, Project No. 0510-021-2014.

Dated this 5<sup>th</sup> day of October, 2019.

OWNERS

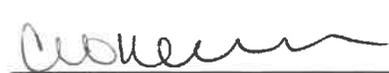
  
\_\_\_\_\_  
Lingxiang Zhou

  
\_\_\_\_\_  
Xia Chen

STATE OF IOWA            )  
                                  ) ss  
COUNTY OF POIK        )



This record was acknowledged before me on the 5<sup>th</sup> day of October, 2019, by Lingxiang Zhou and Xia Chen.

  
\_\_\_\_\_  
Notary Public in and for the State of Iowa

Dated this 17 day of September, 2019.

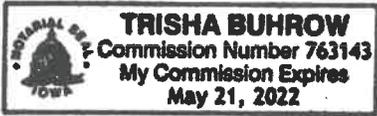
**EASEMENT HOLDERS**

GM Schmitz  
Gregory M. Schmitz

Lindsey A Schmitz  
Lindsey A. Schmitz

STATE OF IOWA            )  
  ) ss  
COUNTY OF POLK        )

This record was acknowledged before me on the 17<sup>th</sup> day of September, 2019, by Gregory M. Schmitz and Lindsey A. Schmitz.



Trisha Buhrow  
Notary Public in and for the State of Iowa

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**CITY OF WEST DES MOINES**

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

ATTEST:

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

STATE OF IOWA        )  
  ) SS:  
COUNTY OF POLK     )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me a Notary Public in and for said County, 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 Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing record is the seal of said Municipal Corporation, and that said record was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council as contained in the Resolution adopted under Roll Call No. 19-\_\_\_\_\_, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said Municipal Corporation by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

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

**DATE: October 21, 2019**

**ITEM:** Resolution - Approval of Agreement between the City of West Des Moines and MidWestOne, f/k/a American Trust and Savings Bank, regarding the construction of public roadway improvements at South 88<sup>th</sup> Street and Mills Civic Parkway

**FINANCIAL IMPACT:** Total project cost of approximately \$8,000,000;  
\$76,000 paid by MidWestOne to City

**BACKGROUND:** On July 9, 2018 the City Council approved Amendment No. 2 to the Coachlight Drive Urban Renewal Area. This amendment identified the realignment and reconstruction of the intersection of South 88<sup>th</sup> Street and Mills Civic Parkway as an urban renewal project eligible for tax increment financing. The inclusion of the intersection as a TIF-eligible project was done due to the unique characteristics of the project, which include the additional cost incurred to realign the roadway to avoid the Huston Cemetery, the necessity to reconstruct Mills Civic Parkway as a major collector that will provide a connection to the Grand Prairie Parkway interchange, and the increasing need to provide adequate transportation infrastructure to a significant portion of the City.

In conjunction with the amendment to the urban renewal plan that provides financing for construction of the intersection, the City and MidWestOne Bank, as the successor to American Trust and Savings Bank, have negotiated an agreement to address construction of the required infrastructure for the northeast corner of the intersection.

The Agreement provides that the City will construct three lanes of Mills Civic Parkway from approximately 81<sup>st</sup> Street to 93<sup>rd</sup> Street and construct 88<sup>th</sup> Street from Mills Civic Parkway north to Coachlight Drive. MidWestOne will pay the City \$250,000 as its contribution toward construction costs and will be given a credit of \$174,000 due to the dedication of property by its predecessor as part of the platting of Silverwood Plat 1 in 2008.

The Agreement between the City and MidWestOne is similar to the agreement between the City and Chayse Holdings, the owner of property comprising the northwest quadrant of the intersection, approved by the City Council in August, 2018. The City is currently negotiating a similar agreement with Hurd Black, LLC and Hurd West Glen, LLC, the owners of property comprising the southeast quadrant of the intersection.

Action by the City Council also includes the approval of a Temporary Construction Easement for the Project.

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

**RECOMMENDATION:** Approve the Agreement and Temporary Construction Easement between City of West Des Moines and MidWestOne Bank.

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

**STAFF REVIEWS**

Department Director	Tom Hadden, City Manager 
Appropriations/Finance	Tim Stiles, Finance Director 
Legal	Richard J. Scieszinski, City Attorney 
Agenda Acceptance	

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee	Development & Planning	
Date Reviewed	August 6, 2018	
Recommendation	Yes	

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

**RESOLUTION APPROVING THE AGREEMENT AND CONSTRUCTION EASEMENT  
BETWEEN THE CITY OF WEST DES MOINES AND MIDWESTONE, F/K/A  
AMERICAN TRUST AND SAVINGS BANK REGARDING THE CONSTRUCTION OF  
PUBLIC ROADWAY IMPROVEMENTS AT SOUTH 88<sup>TH</sup> STREET AND MILLS CIVIC  
PARKWAY**

**WHEREAS**, MidWestOne, formerly known as American Trust and Savings Bank, a banking corporation organized under the laws of the state of Iowa, (“MidWestOne”), has negotiated an agreement with the City of West Des Moines in which the City will construct certain improvements that will benefit both the citizens of West Des Moines and MidWestOne; and

**WHEREAS**, in conformance with West Des Moines Code of Ordinances Title 10, *Subdivisions*, and in consideration for construction of the improvements by the City, MidWestOne has agreed to dedicate property and provide payment for construction of a portion of the improvements; and

**WHEREAS**, the attached *Agreement Between the City of West Des Moines and MidWestOne, f/k/a American Trust and Savings Bank Regarding the Construction of Public Roadway Improvements at South 88<sup>th</sup> Street and Mills Civic Parkway* has been presented to the City Council for approval; and

**WHEREAS**, approval of the Temporary Construction Easement for construction of the improvements is also appropriate.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA THAT:**

1. The *Agreement Between the City of West Des Moines and MidWestOne, f/k/a American Trust and Savings Bank Regarding the Construction of Public Roadway Improvements at South 88<sup>th</sup> Street and Mills Civic Parkway* and the Temporary Construction Easement are approved.
2. The Mayor is authorized to sign the Agreement and Easement and the City Clerk is directed to attest to the Mayor’s signature.

**PASSED AND ADOPTED** this 21st day of October, 2019.

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

ATTEST:

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

**AGREEMENT BETWEEN THE CITY OF WEST DES MOINES, IOWA AND  
MIDWESTONE F/K/A AMERICAN TRUST AND SAVINGS BANK REGARDING THE  
CONSTRUCTION OF PUBLIC ROADWAY IMPROVEMENTS AT  
SOUTH 88TH STREET AND MILLS CIVIC PARKWAY**

This Development Agreement ("Agreement") is made as of thisday of October, 2019 by and between the CITY OF WEST DES MOINES, IOWA, an Iowa municipal corporation ("City") 4200 Mills Civic Parkway, West Des Moines, Iowa 50265 and MidWestOne f/k/a AMERICAN TRUST AND SAVINGS BANK (hereafter "MidWestOne"), a banking corporation organized under the laws of the state of Iowa ("MidWestOne") 9350 University Avenue, Suite 138, West Des Moines, Iowa 50265.

**RECITALS:**

- A. MidWestOne is the owner of certain real property ("Property") in an area of the City which has been designated for construction of future major roadway improvements, but for which the timing of construction has not be determined.
- B. MidWestOne has proposed a plan for development and construction of improvements on the Property that will require the Property to comply with the subdivision ordinance of the City.
- C. Requirements of the subdivision ordinance require MidWestOne or its successors in interest to construct public roadway improvements to adequately serve the Property.
- D. The City desires to construct infrastructure in accordance with its comprehensive street circulation plan and the exaction requirements regarding public infrastructure of the West Des Moines Subdivision Ordinance.
- E. MidWestOne has agreed to provide funding to the City to expedite the construction of public infrastructure required by and in accordance with the comprehensive street circulation plan and the exaction requirements of the City.
- F. MidWestOne has requested that the roadway infrastructure requirements imposed by the subdivision ordinance for development of the Property be specified and the financial obligation of MidWestOne be memorialized by agreement.
- G. The City and MidWestOne desire to enter into this Agreement for the purpose of detailing the responsibilities of each party related to the payment for and construction of roadway improvements, including water main and storm sewer, adjacent to and necessary for development of the Property (the "Roadway Project").

NOW, THEREFORE, in consideration of the above stated recitals, undertakings and

I. Project and Development. The parties acknowledge that MidWestOne is the owner of all or a portion of Silverwood Plat 1, an Official Plat in the City of West Des Moines, Dallas County,

conditions it is agreed as follows: Iowa ("Property"). Pursuant to the requirements of the West Des Moines Subdivision ordinance, and in conjunction with the approval of Silverwood Plat 1 in 2008, the City acquired from MidWestOne's predecessor 9.39 acres of property dedicated as right-of-way necessary for the construction of a portion of Mills Civic Parkway and South 88<sup>th</sup> Street. Acquisition of the dedicated property was necessary due to the realignment of Mills Civic Parkway and South 88<sup>th</sup> Street. The parties further acknowledge that the amount of property dedicated exceeded the amount of property required by the West Des Moines Subdivision ordinance by 3.48 acres. The parties therefore agree that MidWestOne be given a credit of \$50,000/acre, or \$174,000 total, should be given to Midwestone by the City, based upon the value of the dedicated property at the time of approval of the subdivision.

II. Project, Obligations and Undertakings of the City. The City agrees to undertake the following:

A. The Project:

1. Construction of Mills Civic Parkway and South 88<sup>th</sup> Street Roadway Project. The Roadway Project will consist of the construction by the City of three lanes of pavement of an ultimate six lane facility for Mills Civic Parkway, including all final grading for the ultimate six lane facility including all appurtenances (water main and storm sewer), to be constructed from approximately one-half mile east (South 81st Street) and approximately one-quarter mile west (existing South 91st Street) from the intersection of Mills Civic Parkway and South 88<sup>th</sup> Street. The Roadway Project for South 88<sup>th</sup> Street will consist of the construction by the City of three lanes of pavement of an ultimate five lane facility, including all final grading for the ultimate five lane facility including all appurtenances (water main and storm sewer), to be constructed from Coachlight Drive to Mills Civic Parkway. Substantial completion of the Mills Civic Parkway and South 88<sup>th</sup> Street Roadway Project is anticipated to occur by December 31, 2019. Construction shall be done in accordance with all City design standards and specifications.

Construction of the Roadway Project will be done in full compliance with Iowa Code Chapter 6A and 6B regarding the acquisition of property and Chapter 26 regarding public improvement bidding.

B. Obligations of the City:

1. Uneconomic Remnants. The parties acknowledge that due to the realignment of Mills Civic Parkway and South 88<sup>th</sup> Street, three uneconomic remnant parcels were created at the time of platting and which are legally described as Outlots T, U and V, Silverwood Plat 1. MidWestOne acknowledges that City has made full payment to MidWestOne or MidWestOne's predecessor, and MidWestOne, its successors and assigns hereby release any and all right, title or interest in the uneconomic remnants, including the right of first refusal to repurchase any or all of the remnant parcels.

### III. Contributions, Obligations and Undertakings of MidWestOne:

#### A. Contribution by MidWestOne:

1. Construction of Mills Civic Parkway and South 88<sup>th</sup> Street. The parties acknowledge that a portion of the property necessary for construction of the Roadway Project adjacent to the Property and identified as Lot "D" and Lot "E", Silverwood Plat 1 was dedicated on November 17, 2008 to the City by MidWestOne or MidWestOne's predecessor, all in fulfillment of the subdivision requirements for the final platting of Silverwood Plat 1.

#### B. Obligations of MidWestOne:

1. MidWestOne shall pay to the City \$250,000.00 as a proportionate share of MidWestOne's obligations for the construction by the City of Mills Civic Parkway and South 88<sup>th</sup> Street. As provided in Section I., above, a credit of \$174,000 shall be provided to MidWestOne by City as payment for the dedication of 3.48 acres of property made in conjunction with the platting of Silverwood Plat 1 in 2008.
2. MidWestOne shall be obligated to pay its proportionate share of all water, sanitary sewer and storm sewer connection fees imposed by City ordinance for service to MidWestOne's property.
3. Unless otherwise provided by this Agreement, MidWestOne shall comply with all development and subdivision requirements of the City of West Des Moines, including parkland dedication, streetlights, sidewalks and trails.

### IV. Other Provisions.

Project Scope. The parties acknowledge that the Mills Civic Parkway Project will comprise the construction of three lanes of an ultimate six lane facility and that the South 88<sup>th</sup> Street Project will comprise three lanes of an ultimate five lane facility and related improvements as set forth in this Agreement, and that the obligation of the Parties, if any, regarding future development and construction of the roadway and appurtenant structures is not subject to or addressed by this Agreement.

Time: City agrees that it will endeavor to complete construction of Mills Civic Parkway and South 88<sup>th</sup> Street by December 31, 2019, assuming full and timely compliance by MidWestOne of the subdivision requirements of City, when applicable, and the terms and conditions of this Agreement. The City makes no representation or warranty, however, regarding a specific completion date for construction of the Roadway Improvements.

V. Representations and Warranties:

- (1) Representation and Warranties of the City. The City makes the following representation and warranties:
  - a. The City is a municipal corporation and municipality organized under the provisions of the constitution and the laws of the state of Iowa and has power to enter into this Agreement and carry out its obligations and undertakings hereunder.
  - b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby and the fulfillment of or compliance with the terms and conditions of the Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City of now a party or by which it is bound, nor do they constitute a default under any of the foregoing.
  - c. All covenants, stipulations, promises and agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity hereof.
  
- (2) Representations and Warranties of MidWestOne. MidWestOne makes the following representations and warranties:
  - a. MidWestOne is duly organized and validly existing under the laws of the state of Iowa and has all requisite power and authority to own and operate its properties, to carry on its businesses now conducted and as presently proposed to be conducted, and to enter into to perform its obligations under this Agreement.
  - b. This Agreement has been duly and validly authorized, executed, and delivered by MidWestOne and, assuming due authorization execution and delivery by the City, is in full force and effect and is a validly legally binding instrument of MidWestOne enforceable in accordance with its terms, except as may be limited by bankruptcy, insolvency, reorganization or other laws relating to or effecting creditors' rights generally.
  - c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with or result in a violation or breach of the terms, conditions or provisions of the governing documents of MidWestOne or of any contractual restriction, evidence of indebtedness, agreement of instrument of whatever nature to which MidWestOne is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. MidWestOne has good and marketable title to any and all property referenced as being under its ownership and which is necessary for the Project.

VI. Statutory Compliance. Fulfillment of this Agreement is contingent upon the ability of the City to acquire the necessary property and construct the public improvement projects in compliance with all federal, state and local laws. If the City is unable to fulfill the obligations set forth in this Agreement due to a successful legal challenge of any adverse party or because of any findings made by a court of competent jurisdiction inhibiting the ability of the City to acquire the necessary property and/or construct the public improvements, this Agreement may be terminated by either MidWestOne, the City, or both.

VII. Default. In the event MidWestOne fails to comply with any term of this Agreement, the City may take whatever action it deems necessary and appropriate, including but not limited to an action for condemnation to obtain the easements required for the Project. Any amounts owed to the City shall be a lien on MidWestOne's Property without any further action by either party. The City shall be entitled to reimbursement for all costs, fees and award amounts, if any, incurred by the City resulting from MidWestOne's failure to comply with this Agreement.

VIII. No Third-Party Beneficiaries. Subject to the provisions of Section IX(5), below, no rights or privileges of either party hereto shall inure to the benefit of any developer, landowner, contractor, subcontractor, material supplier, or any other person or entity and no such developer, landowner, contractor, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

IX. Miscellaneous.

(1) Notices and Demands. • A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by a registered or certified mail, postage prepaid, return receipt requested or delivered personally to:

- a. in the case of MidWestOne, addressed or delivered personally to MidWestOne, 9350 University Avenue, Suite 138, West Des Moines, Iowa 50265; and
- b. in the case of the City it is addressed to or delivered personally to the City of West Des Moines, 4200 Mills Civic Parkway, West Des Moines, IA 50265 Attn: City Manager.

(2) Counterparts. This agreement may be executed in any number of counterparts each of which will constitute one in the same instrument.

(3) Governing Office. This agreement shall be governed and construed in accordance with the laws of the state of Iowa.

(4) Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof and supersedes all prior agreements, negotiations or discussions weather oral or written. This agreement may not be amended except by subsequent writing signed by all parties hereto.

(5) Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted accessors and assigns.

X. Termination. Unless otherwise terminated as provided in Section VII, above, this Agreement shall terminate upon fulfillment by each party of the obligations set forth herein.

XI. Effective Date. This Agreement shall have no force or effect whatsoever until approved by the City Council of the City of West Des Moines, Iowa.

[Signatures on Following Pages]

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in name and its behalf by its Mayor and its sealed to be duly affixed and attested by its City Clerk, and Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives all on as of the day first above written.

**CITY OF WEST DES MOINES, IOWA**

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

ATTEST

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

STATE OF IOWA            )  
                                      )  
COUNTY OF POLK        )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, 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, or the City of West Des Moines, Iowa a municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said municipality, and that said instrument was signed and sealed on behalf of said municipality by authority and resolution of its City Council, 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

MIDWESTONE, an Iowa banking corporation

By: *Kevin Ridout* *MP*  
Kevin Ridout – Market President

By: *Jeff Tracy*  
Jeff Tracy – Vice President

STATE OF IOWA

)ss:

COUNTY OF POLK

This record was acknowledged before me on the 10 day of Oct., 2019 by Kevin Ridout, Market President and Jeff Tracy, Vice President of MidWestOne, an Iowa banking corporation, on behalf of whom the record was executed.

*Tanya Swygman*  
Notary Public  
(Stamp or Seal)



## TEMPORARY CONSTRUCTION EASEMENT

**THE UNDERSIGNED, MidWestOne f/k/a AMERICAN TRUST & SAVINGS BANK**, an Iowa banking corporation and owner of property upon which this Easement is located ("Grantor"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant to the **City of West Des Moines, Iowa**, a municipal corporation ("City"), a Temporary Construction Easement ("Easement") upon, over, under, through and across the real property as shown and legally described on the attached Temporary Construction Easement Plat as **Exhibit "15-T"** ("Easement Area").

### **1. Use and Purpose of the Easement**

This Easement shall be for the purpose of permitting the City, its agents, contractors, employees and assigns a right of entry in, upon and onto the Easement Area for the purpose of transporting and storing materials and equipment, grading, shaping, and access during construction of **South 88th Street & Mills Civic Parkway Reconstruction Project** ("Project"), West Des Moines Project Number **0510-048-2018**. This Easement terminates the earlier of (a) formal acceptance of the Project by the City Council of the City of West Des Moines; or (b) **eighteen (18) months** from the initiation of construction on the Temporary Easement Area. The use of the Easement Area is subject to the following terms and conditions:

- (a) The City shall take reasonable steps to ensure that all work performed by the City in the Temporary Easement Area will be initiated and completed within the timeframe referenced in paragraph 1 of this Temporary Construction Easement. Following completion of the work performed by the City, the Temporary Easement Area shall be restored to a condition similar to that which existed prior to the performance of work by the City to include restoring the property to its pre-existing grade and the surface of the easement area will be seeded or sodded after completion of the project and the City shall be responsible for damage, if any, to Grantor's property lying outside of the temporary easement area by the City, its agents, construction employees and assigns. The City shall also be responsible for removal of all debris, spoils, equipment, etc. used by the City in connection with the work performed in the Temporary Easement Area.
- (b) Unless done by or at the direction of the City, nothing in this grant of Temporary Easement shall obligate the City to perform any work or engage in any repair or restoration of the Temporary Easement Area resulting from actions taken by other individuals or entities other than the City, its employees, contractors, or assignees.

- (c) Grantor shall not erect any fence or other structure under, over, on, through, across, or within the Easement Area, without obtaining the prior written consent of the City, nor shall Grantor cause or permit any obstruction, planting or material to be placed under, over, on, through, across, or within the Easement Area, without obtaining the prior written consent of the City during the term of this Temporary Easement.

The City shall have the right to remove any unauthorized fences, structures, obstructions, plantings or material placed or erected under, over, on, through, across or within the Easement Area. Grantor will not be reimbursed for any unauthorized items removed by the City.

- (d) It is understood and agreed that the consideration for this Easement includes full compensation for damages to Grantor as agreed upon by the City and the Grantor.
- (e) Upon restoration of the Temporary Easement Area and termination of the Temporary Easement, City will have no further obligation for the Temporary Easement Area whatsoever.

2. **Hold Harmless**

Each party shall indemnify and hold harmless the other party from and against any loss, expense or claim asserted by third parties for damage to third party tangible property, or for bodily injury, or other injury or damages related to this agreement, to the extent such damage or injury is attributable to the negligence or willful misconduct of the indemnitors, future owners, developers, lessees, occupants or assignees, provided, indemnitee gives the indemnitor prompt notice of any such claim.

3. **Benefits, Burdens and Assignment**

All provisions of this Easement, including benefits and burdens, run with the land and are binding upon the City and the Grantor, including but not limited to future owners, developers, lessees, occupants or assignees and is assignable by the City only with written notice to and the consent of the Grantor to a third-party private entity.

4. **Jurisdiction and Venue**

The Grantor agrees that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this easement and further consents to the jurisdiction of District Court of Iowa in and for **Dallas** County, Iowa.

5. **Lawful Authority**

The Grantor covenants with the City that the Grantor holds the property by good and perfect title and that the Grantor has a right and lawful authority to make and execute this Easement.

6. **Approval of City**

This Easement shall not be binding until it has received the final approval and acceptance by the City of West Des Moines, Iowa, which approval and acceptance shall be noted on this Easement Agreement by the City Clerk.

7. **Words and Phrases**

Words and phrases herein shall be construed as in the singular or plural number, and as masculine, feminine, or gender neutral, according to the context.

8. **Parties**

The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, contractors, successors and assigns. The term "Grantor" shall refer to the undersigned, undersigned's heirs, assigns, successors in interest, or lessees, if any.

9. **Integration**

This Agreement shall constitute the entire Agreement between the parties and no amendments or additions to this Agreement shall be binding unless in writing and signed by both parties.

10. **Paragraph Headings**

The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with the interpretation of this Agreement.

Dated this 10<sup>th</sup> day of October, 2019.

MIDWESTONE, an Iowa banking corporation

By: Kevin Ridout, M.P.  
Kevin Ridout – Market President

By: Jeff Tracy  
Jeff Tracy – Vice President

STATE OF IOWA

COUNTY OF Dallas ) SS

This record was acknowledged before me on the 10 day of Oct, 2019, by Kevin Market President and Jeff Tracy, Vice President of MidWestOne, an Iowa banking corporation, on behalf of whom the record was executed.



Tanya Swygman  
Notary Public

**CERTIFICATION BY CITY OF WEST DES MOINES, IOWA**

I, Ryan T. Jacobson, City Clerk of the City of West Des Moines, Iowa, do hereby certify that acquisition of the within and foregoing Temporary Construction Easement was duly authorized and approved by the City Council of the City of West Des Moines by Roll Call No. \_\_\_\_\_, passed on the \_\_\_ day of \_\_\_\_\_, 2019, and that this certificate is made pursuant to the authority of said City Council.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

CITY OF WEST DES MOINES, IOWA

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

# TEMPORARY CONSTRUCTION EASEMENT

BEING CONVEYED TO THE CITY OF WEST DES MOINES  
 S. 88th ST. & MILLS CIVIC PARKWAY - PARCEL NO. 15 - T  
 CITY OF WEST DES MOINES PROJECT NO. 0510-048-2018

**OWNER:**

AMERICAN TRUST & SAVINGS BANK  
 9350 UNIVERSITY AVE. STE. 138  
 WEST DES MOINES, IOWA  
 BOOK 2011, PAGE 12462

**LEGAL DESCRIPTION:**

A TEMPORARY CONSTRUCTION EASEMENT IS GRANTED TO LAND DESCRIBED AS FOLLOWS:

A PARCEL OF LAND LOCATED IN THE WEST HALF OF THE NORTHWEST QUARTER OF SECTION 14, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE FIFTH PRINCIPAL MERIDIAN, NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, BEING DESCRIBED AS FOLLOWS; COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION 14; THENCE SOUTH 89°33'16" EAST, 60.00 FEET TO THE POINT OF BEGINNING; THENCE SOUTH 89°33'16" EAST, 20.00 FEET; THENCE SOUTH 00°16'01" EAST, 209.27 FEET; THENCE SOUTH 07°15'51" EAST, 713.09 FEET; THENCE SOUTH 50°05'11" EAST, 78.88 FEET; THENCE SOUTH 89°42'47" EAST, 173.93 FEET; THENCE SOUTH 82°57'07" EAST, 806.25 FEET; THENCE NORTH 86°34'43" EAST, 79.86 FEET TO THE WEST LINE OF LOT 1 IN EILERS SUBDIVISION, AN OFFICIAL PLAT, NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, SAID WEST LINE ALSO BEING THE WEST LINE OF PARCEL "F" IN THE WEST HALF OF THE NORTHWEST QUARTER OF SAID SECTION 14 AS RECORDED IN BOOK 2006, PAGE 11211 IN THE DALLAS COUNTY RECORDER'S OFFICE; THENCE SOUTH 00°25'14" WEST, 22.51 FEET ALONG SAID WEST LINE; THENCE WESTERLY, 282.18 FEET ALONG THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE NORTH WITH A CENTRAL ANGLE OF 08°25'54", A RADIUS OF 1,917.50 FEET AND A CHORD THAT BEARS NORTH 86°48'11" WEST, 281.92 FEET; THENCE NORTH 82°35'14" WEST, 467.34 FEET, SAID LINE BEING TANGENT TO THE AFORESAID CURVE; THENCE WESTERLY, 303.89 FEET ALONG THE ARC OF A TANGENT CURVE CONCAVE TO THE SOUTH WITH A CENTRAL ANGLE OF 08°21'39", A RADIUS OF 2,082.50 FEET AND A CHORD THAT BEARS NORTH 86°46'04" WEST, 303.62 FEET; THENCE NORTH 49°41'23" WEST, 111.27 FEET, SAID LINE BEING NON-TANGENT TO THE AFORESAID CURVE; THENCE NORTH 07°18'38" WEST, 535.34 FEET; THENCE NORTH 05°47'00" WEST, 233.97 FEET; THENCE NORTHERLY, 96.05 FEET ALONG THE ARC OF A NON-TANGENT CURVE CONCAVE TO THE EAST WITH A CENTRAL ANGLE OF 02°15'20", A RADIUS OF 2,440.00 FEET AND A CHORD THAT BEARS NORTH 00°40'56" WEST, 96.05 FEET; THENCE NORTH 00°26'44" EAST, 60.03 FEET ALONG A LINE TANGENT TO THE AFORESAID CURVE TO THE POINT OF BEGINNING, CONTAINING 44,800 SQUARE FEET (1.03 ACRES) MORE OR LESS.

Curve	Delta	Length	Radius	Chord Bearing	Chord
CURVE 1	08° 25' 54"	282.18'	1,917.50'	N 86° 48' 11" W	281.92'
CURVE 2	08° 21' 39"	303.89'	2,082.50'	N 86° 46' 04" W	303.62'
CURVE 3	02° 15' 20"	96.05'	2,440.00'	N 00° 40' 56" W	96.05'

	BEARING	DISTANCE
L-1	S 89° 33' 16" E	60.00'
L-2	S 89° 33' 16" E	20.00'
L-3	S 00° 16' 01" E	209.27'
L-4	S 07° 15' 51" E	713.09'
L-5	S 50° 05' 11" E	78.88'
L-6	S 89° 42' 47" E	173.93'
L-7	S 82° 57' 07" E	806.25'
L-8	N 86° 34' 43" E	79.86'
L-9	S 00° 25' 14" W	22.51'
L-10	N 82° 35' 14" W	467.34'
L-11	N 49° 41' 23" W	111.27'
L-12	N 07° 18' 38" W	535.34'
L-13	N 05° 47' 00" W	233.97'
L-14	N 00° 26' 44" E	60.03'

AREAS	
FEE	
SF	AC.
TOTAL	44,800 1.03



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 PROFESSIONAL LAND SURVEYOR UNDER THE LAWS OF THE STATE OF IOWA.

SIGNATURE DATE  
 MICHAEL G. SEMKE, P.L.S. NO. 10318  
 MY LICENSE RENEWAL DATE IS DECEMBER 31, 2019. THIS CERTIFICATION COVERS SHEETS 1 & 2.

NO.	DATE	BY	REVISION DESCRIPTION
1.	8/30/18	MSS	NEW CERTIFICATION

CITY OF WEST DES MOINES  
 4200 MILLS CIVIC PARKWAY  
 WEST DES MOINES, IA. 50265  
 (515) 222-3475

SHEET  
 1 OF 2

# TEMPORARY CONSTRUCTION EASEMENT

BEING CONVEYED TO THE CITY OF WEST DES MOINES  
S. 88th ST. & MILLS CIVIC PARKWAY - PARCEL NO. 15 - T  
CITY OF WEST DES MOINES PROJECT NO. 0510-048-2018

OWNER:  
AMERICAN TRUST & SAVINGS  
BANK 9350 UNIVERSITY AVE. STE.  
138 WEST DES MOINES, IOWA  
BOOK 2011, PAGE 12462

NE COR.  
NW1/4 NW1/4  
SEC. 14 7-78-  
N R-26-W 1/2'  
REBAR

NW COR. SEC.  
14 T-78-N R-26-  
W 1/2' REBAR

N 63° 51' 56" E 1,311.1' TO

60.001M)

W1/2 NW1/4  
SEC. 14-78-26

NW COR.  
SW1/4 NW1/4  
SEC. 14  
T-78-N R-26-W  
1/2' REBAR  
P.O.C.

L-1  
O.B.  
L-2

L-14

CURVE-3

L-3

S 00° 35' 19" W 2

J. LOT 1  
EILERS  
SUBDIVISION

0 FEET 400

1"=400'

L&

WEST LINE LOT 1 EILERS SUBDIVISION AND WEST LINE PARCEL "F"



E COR. \*MCEP:ER:

**LEGEND**

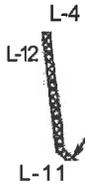
- E SECTION CORNER FOUND
- SW1/4 NW1/4 A SECTION CORNER SET
- SEC 14
- T-78-N-R-26-W
- CUT "X"
  - MONUMENT FOUND
  - 1/2" ROD W/ YELLOW CAP #2592
  - 0 5/9" RE-ROD WITH YELLOW CAP #10313 TO BE SET AFTER CONSTRUCTION
  - (P) PLATTED OR RECORD DIMENSION (M) MEASURED DIMENSION
- PLATTED OR PROPERTY LINE SECTION LINE

CITY OF WEST DES MOINES  
4200 MILLS CIVIC PARKWAY  
WEST DES MOINES, IA.  
50265 (515) 222-3475

HRGreen

WN BY: APPRO WAAA NAO L. Huggen

N 00° 26' 44" E 1,320.421(M) 1,320.46(P)



CURVE-1

S 83° 40' 11" W 1,304.91(M) 1,304.82(P)

W1/4 COR SEC.  
14 T-78-N R-26-  
W CUT "X"



NO	DATE BY	REVISION DESCRIPTION

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

**DATE: October 21, 2019**

**ITEM:** Resolution - Approval and Acceptance of Conveyance of Property Interests for the City Entrance Enhancements Project.

**FINANCIAL IMPACT:** \$345.00 (previously budgeted)

**SYNOPSIS:** Property interests necessary for Construction of the City Entrance Enhancements Project have been acquired through a negotiated purchase agreement at the fair market value established by a compensation estimate prepared by JCG Land Services, Inc. from the owner shown on **Exhibit "A"**, with additional comments and/or additional costs not reflected in the compensation estimate shown in bold, if any. The attached resolution approves the purchase agreement and, for policy and title purposes, formally accepts the property interests and authorizes the filing of all relevant documents. Costs associated with acquisition of the property interests will be paid from Account No. 500.000.000.5550.730, Project No. 0510-051-2018.

**OUTSTANDING ISSUES (if any):** City Staff is working to obtain a CONSENT, HOLD-HARMLESS and INDEMNIFICATION AGREEMENT FOR IMPROVEMENTS LOCATED WITHIN A PUBLIC EASEMENT from Des Moines Water Works which is anticipated to be approved during their October 29th board meeting.

**RECOMMENDATION:**

Adopt a Resolution approving and accepting Purchase Agreement and Conveyance of Property Interests to the City of West Des Moines for Construction of the City Entrance Enhancements Project.

**Lead Staff Member:** Brian J. Hemesath, P.E., City Engineer *BJA*

**STAFF REVIEWS**

Department Director	Richard J. Scieszinski, City Attorney	<i>RS</i>
Appropriations/Finance		
Legal		
Agenda Acceptance		<i>RS</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

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

**AUTHORIZING APPROVAL AND ACCEPTANCE OF PURCHASE AGREEMENT AND  
CONVEYANCE OF PROPERTY INTERESTS FOR CONSTRUCTION OF  
THE CITY ENTRANCE ENHANCEMENTS PROJECT, PROJECT NO. 0510-051-2018**

**WHEREAS**, on January 7, 2019, the City Council of the City of West Des Moines, Iowa established the fair market value and authorized the acquisition of property and easements, including any leasehold interests, necessary for the City Entrance Enhancements, Project No. 0510-051-2018; 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 interests necessary for the Project; and

**WHEREAS**, the name of the property owner and the fair market value, established by compensation estimate prepared by JCG Land Services, Inc., of the property to be acquired through a purchase agreement is attached hereto as **Exhibit "A"** and made a part of this resolution; and

**WHEREAS**, documents conveying property interests necessary to complete the project have been presented to the City for approval; 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 interests.
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.

**PASSED AND ADOPTED** this 21st day of **October, 2019**.

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

ATTEST:

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

**Exhibit "A"**

**CITY ENTRANCE ENHANCEMENTS, PROJECT NO. 0510-051-2018**

<b>PARCEL</b>	<b>PROPERTY OWNER</b>	<b>ACQUIRED PRICE-FMV</b>
1	Hawthorne Place, LLC, d/b/a Signature Real Estate 9500 University Avenue, West Des Moines	\$345.00
	<b>TOTAL</b>	<b>\$345.00</b>

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

**ITEM:** Approval of Proclamation  
Extra Mile Day

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:**

In support of the nationwide Extra Mile Day, the City of West Des Moines recognizes the special vibrancy that exists within the entire community when its individual citizens collectively "go the extra mile" in personal effort, volunteerism, and service.

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

**RECOMMENDATION:**

Approval of Proclamation declaring November 1, 2019 as Extra Mile Day in the City of West Des Moines.

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

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	<i>RTJ</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

*Proclamation*  
*Extra Mile Day*  
*November 1, 2019*

*Whereas*, West Des Moines is a community which acknowledges that a special vibrancy exists within the entire community when its individual citizens collectively “go the extra mile” in personal effort, volunteerism, and service; and

*Whereas*, West Des Moines is a community which encourages its citizens to maximize their personal contribution to the community by giving of themselves wholeheartedly and with total effort, commitment, and conviction to their individual ambitions, family, friends, and community; and

*Whereas*, West Des Moines is a community which chooses to shine a light on and celebrate individuals and organizations within its community who “go the extra mile” in order to make a difference and lift up fellow members of their community; and

*Whereas*, West Des Moines acknowledges the mission of Extra Mile America to create 550 Extra Mile cities in America and is proud to support “Extra Mile Day” on November 1, 2019.

***NOW, THEREFORE***, I, Steven K. Gaer, Mayor of the City of West Des Moines, Iowa, do hereby proclaim November 1, 2019, to be Extra Mile Day. I urge each individual in the community to take time on this day to not only “go the extra mile” in his or her own life, but to also acknowledge all those who are inspirational in their efforts and commitment to make their organizations, families, community, country, or world a better place.

Signed this 21st day of October, 2019.

ATTEST:

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

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

**NO CHANGE FROM PREVIOUS READING**  
**CITY OF WEST DES MOINES**  
**CITY COUNCIL MEETING COMMUNICATION**

Date: October 21, 2019

**ITEM:** The Preserve, Generally south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway – Establish The Preserve Planned Unit Development and Agricultural/Open Space (OS) zoning – Raccoon River Land Company, LLC – CPA-004077-2018/ZC-004078-2018

**ORDINANCE (Zoning Map Amendment): Approval of Second Reading, Waive Third and Adopt in Final Form**

**ORDINANCE (Establish PUD): Approval of Second Reading, Waive Third and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, Raccoon River Land Company, LLC, is requesting approval of a Rezoning and the establishment of a Planned Unit Development (PUD), for property located north and south of Raccoon River adjacent to the future extension of SW Grand Prairie Parkway. The applicant is proposing single family residential development, medium density development, and neighborhood commercial development on the property. Also, to be included within the PUD area in the future will be public facilities consisting of one or two parks, a fire station and a water tower. Access to the site will be via SW Grand Prairie Parkway, which is crossing through the ground encompassed in the PUD. The SW Grand Prairie Parkway extension is a city project and is currently under construction. A preliminary plat has not yet been developed for the site, so it is undetermined at this time how many single-family and medium-density units there will be with this development; however, given the acreage at maximum allowable density for each type of residential, there could be up to 1,740 single-family dwellings (290 ac x max 6 DU/ac) and up to 828 dwellings within the medium-density ground (69 ac x 12 DU/ac).

In addition, on behalf of the Iowa Natural Heritage Foundation, the City is proposing to designate Agricultural/Open Space zoning on ground that is owned by the applicant and is to be preserved from development.

Specifically, the following changes are proposed with this request:

- Designate Agricultural/Open Space (OS) zoning on 192 acres (Section 33 Township 78 Range 26 SW and Section 34 Township 78 Range 26 NE and NW) immediately south of the Raccoon River; and
- Designate Agricultural/Open Space (OS) zoning on approximately 112 acres (Section 32 Township 78 Range 26 NE, Section 28 Township 78 Range 26 NE and Section 33 Township 78 Range 26 NW) to the northwest of the 192 acres described above; and
- Establish The Preserve Planned Unit Development which includes:
  - Underlying zoning of Single Family Residential (R-1) zoning on approximately 290 acres (Section 3 Township 77 Range 26 NW, Section 33 Township 78 Range 26 SE and Section 34 Township 78 Range 26 SW) west of SW Grand Prairie Parkway; and
  - Underlying zoning of Residential Medium Density (RM-12) zoning on approximately 50 acres (Section 34 Township 78 Range 26 SW) situated east of SW Grand Prairie Parkway; and
  - Underlying zoning of Residential Medium Density (RM-12) zoning on approximately 19 acres (Section 3 Township 77 Range 26 NW) situated west of SW Grand Prairie Parkway; and
  - Underlying zoning of Neighborhood Commercial (NC) zoning on approximately 19 acres (Section 3 Township 77 Range 26 NW and NE) situated east of SW Grand Prairie Parkway; and
  - Underlying zoning of Agricultural/Open Space (OS) zoning on approximately 10.5 acres (Section 3 Township 77 Range 26 NE) situated east of SW Grand Prairie Parkway; and
  - Underlying zoning of Residential Medium Density (RM-12) zoning on approximately 57 acres (Section 3 Township 77 Range 26 NE) situated east of SW Grand Prairie Parkway.

**Previous Council Action:**

Vote: 4-0 approval, with Council Member Mickelson absent.

Date: October 7, 2019

Motion: Approval of the First Reading of the Ordinance to amend official zoning map

Motion: Approval of the First Reading of the Ordinance to create The Preserve Planned Unit Development.

At the October 7, 2019, City Council meeting, the City Council also voted to approve a Comprehensive Plan Land Use Map Amendment to designate Single Family Residential (SF), Medium Density Residential (MD), Neighborhood Commercial (NC), and Open Space (OS) land use on the subject property.

**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 and adopt the ordinances in final form to designate Agricultural/Open Space (OS) zoning on 304 acres located north and south of the Raccoon River and establish The Preserve Planned Unit Development with underlying zoning of Single Family Residential (R-1), Residential Medium Density (RM-12), Neighborhood Commercial (NC) and Agricultural/Open Space (OS), subject to the applicant meeting all City Code requirements.

Lead Staff Member: Brian Portz, AICP *BP*

**Staff Reviews:**

Department Director	<i>JA</i>
Appropriations/Finance	
Legal	<i>JDS</i>
Agenda Acceptance	<i>AK</i>

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

Published In	Des Moines Register
Date(s) Published	September 18, 2019
Letter sent to surrounding property owners	September 19, 2019

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Development & Planning		
Date Reviewed	October 15, 2018		
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

- Exhibit I - Proposed Zoning Map Change
- Exhibit A - Proposed Rezoning
- Exhibit II - Proposed PUD Ordinance
- Exhibit A - PUD Sketch Map

Prepared by: B. Portz, Development Services Dept, 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, 2019, 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 as illustrated in Exhibit A, by designating, in compliance with the adopted City of West Des Moines Comprehensive Land Use Plan, approximately 304 acres as Agricultural/Open Space (OS) District;

**Legal Description**

PORTIONS OF SECTIONS 27, 28, 32, 33, AND 34, ALL IN TOWNSHIP 78 NORTH,  
RANGE 26 WEST OF THE 5th P.M., DALLAS COUNTY, IOWA.

**SECTION 2. REPEALER:** All ordinances or parts of ordinances in conflict with the provision 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. 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 5. 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 6. 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 \_\_\_\_\_, 2019.

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

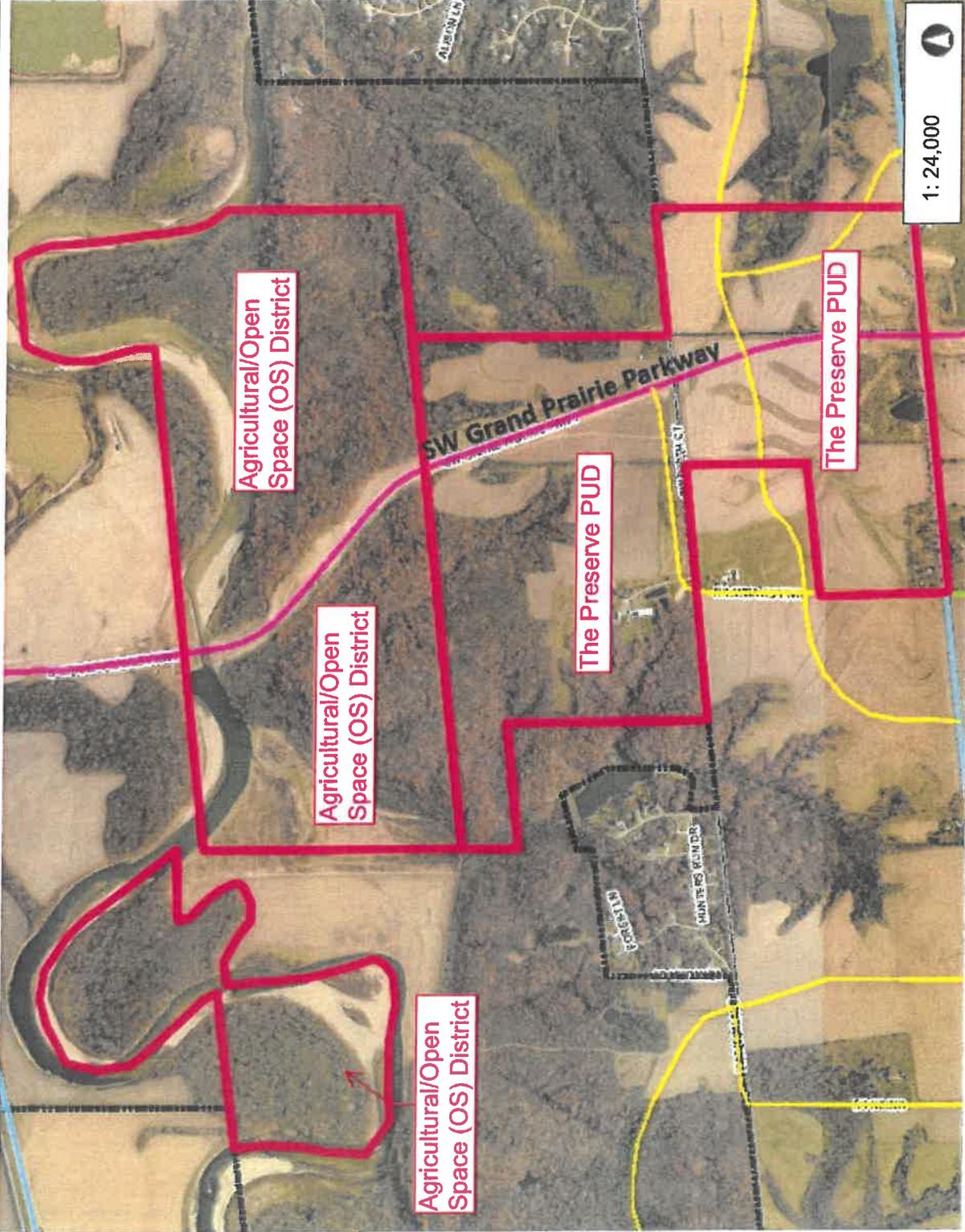
**ATTEST:**

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

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_  
2019.

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

# The Preserve - Rezoning Map

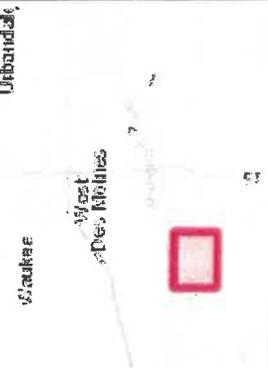


**Legend**

Ultimate Streets Draft

- Freeway / Expressway
- Major Arterial
- Minor Arterial
- Major Collector
- Minor Collector

Corporate Limits



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

4,000.0 2,000.00 4,000.0 Feet

WGS\_1984\_Web\_Mercator\_Auxiliary\_Sphere  
© City of West Des Moines, Iowa

Prepared by: B. Portz, Development Services, 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 OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019 BY AMENDING TITLE 9, ZONING, CHAPTER 9, PLANNED UNIT DEVELOPMENT DISTRICT, 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:** Amend the Zoning Map of the City of West Des Moines, Iowa, to change the zoning of the following legally described property from "Unzoned" to **The Preserve** Planned Unit Development (PUD):

**Legal Description**

THE SOUTHWEST 1/4 SECTION 34, AND EAST 1/2 OF THE SOUTHEAST 1/4 OF SECTION 33, AND THE NORTH 18 ACRES OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 33, ALL IN TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5th P.M., DALLAS COUNTY, IOWA, CONTAINING 253.8 ACRES MORE OR LESS.

AND

THE SOUTH 1/2 OF THE NORTHWEST 1/4 OF SECTION 3 AND THE NORTHEAST FRACTIONAL 1/4 OF THE NORTHWEST 1/4 OF SECTION 3, AND THE WEST 1/2 OF THE NORTHEAST 1/4 OF SECTION 3, ALL IN TOWNSHIP 77 NORTH, RANGE 26 WEST OF THE 5th P.M., MADISON COUNTY, IOWA, CONTAINING 194.0 ACRES MORE OR LESS.

TOTAL ACREAGE = 447.8 ACRES

**SECTION 2. SKETCH PLAN:** Attached hereto and made a part of this rezoning approval, for concept description and delineation is the Sketch Plan document for The Preserve PUD marked Exhibit "A". The Sketch Plan is a graphic representation of the property included in the PUD delineating the approximate location and configuration of the PUD Parcels for the purpose of easier reference for the applicable regulations of this Ordinance. Wherever conflict occurs between the written text in this document and the notations on the Sketch Plan, the written text shall prevail.

**SECTION 3. REQUIRED PLANS:** Prior to or in conjunction with development or transfer of ownership of any portion of the property covered by this PUD, the following plans shall be required:

- A. Preliminary Plat and Final Plat: The PUD area shall be platted in accordance with the City's Subdivision Ordinance. Outlots intended for private development must be re-platted through the preliminary and final plat process in accordance with the associated zoning classifications prior to physical development unless its purpose is to provide for public utilities or publicly owned or

accessible park ground, greenways, or other recreational amenities. Outlots within a plat shall have the proposed use clearly designated on the plat document.

- B. **Development Applications (Site Plans):** Site plans shall be submitted to the City of West Des Moines for review and approval prior to the development of the Residential Medium Density (RM), Neighborhood Commercial (NC) and for parks, fire station and water utility structures within Agricultural/Open Space (OS) zoned properties within the PUD area. Site Plans for all phases of development within The Preserve PUD must meet the intent of the approved PUD sketch. At the discretion of the Director of Development Services, an amendment to The Preserve PUD Ordinance may be required to bring consistency between the ordinance and site plan development proposed.

Unless otherwise specifically restricted by the City Council, ground work and construction of private roads and utilities may be started, at the developer's risk, upon approval of the preliminary plat by the City Council; however, no construction of structures, including footing and foundations shall be allowed prior to site plan approval. Public street and utility construction may begin, at the sole risk of the developer, after approval of the preliminary plat by the City Council and Public Improvement Plans by the City of West Des Moines.

**SECTION 4. CONDITIONS:** 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. In addition, the following conditions, restrictions, and regulations are adopted as part of this approval:

- A. **General Conditions:** In addition to the PUD Sketch Plan Map, the following general development criteria shall be integrated into and made a part of this planned unit development.
1. **Flood Hazard:** In all areas within a Base Flood (100 Year), or adjoining drainage ways, and detention ponding areas involving potential flood hazards, all buildings proposed to be located in a flood hazard area must be elevated and designed in accordance with the American Society of Civil Engineers publication ASCE 24 and no building shall be erected which has a minimum opening elevation (including top of window well) less than one foot (1') above the determined level of the Base Flood. In areas where historical high water levels are above the Flood Insurance Rate Map (FIRM) Base Flood Elevation or special conditions exist, the City may require a Design Flood Elevation be calculated and used as the Base Flood Elevation for determination of elevation requirements. Buildings shall only be permitted within twenty five feet (25') of any easement or property boundary of a major drainageway, storm water detention basin or pond if said location is approved as part of the development entitlement by the city council and said building is structurally designed accordingly.
  2. **Developer Responsibility:** Unless otherwise specifically approved by the City Council, the developer, its successors and/or assigns, if any, shall pay all planning, engineering, and construction costs for the development of the planned unit development as required by this Ordinance, and shall pay all costs related to approved site plans, which may include but is not limited to the cost of all streets, storm sewers, sanitary sewers, water mains and service lines, drainage-way improvements, detention basins, and other improvements as required. Unless otherwise provided for in a separate development agreement, at the time of subdivision platting within the PUD, the subdivider shall be responsible for construction and/or installation of all required public infrastructure improvements in accordance with the City's Subdivision Ordinance, as indicated herein, and/or as indicated on the approved The Preserve PUD sketch plan. With any subdivision plat within the PUD, the subdivider shall be responsible for constructing and/or installing the public infrastructure necessary to support development within the subdivision in a manner that will assure that the public infrastructure functions at an acceptable level of service (per the City's Comprehensive Plan) and that complies with all City Ordinances. No occupancy permits, either temporary or permanent, shall be issued until all necessary improvements applicable to the area/lot or structure requesting occupancy are installed and public improvements accepted by the City of West Des Moines. Nothing in this Ordinance shall be construed to prevent the developer, its successors and/or assigns, if any,

from entering into private agreement(s) as it/they may desire to share the cost of improvements.

3. Sanitary Sewer: Any proposed change in approved land use densities for the PUD will require an analysis of the downstream sanitary sewer capacity to assure that adequate capacity is available for the proposed change in approved land use densities.
4. Street Lighting: Unless otherwise provided for in a separate development agreement, the Developer shall be responsible for all costs associated with the installation of public street lights within or adjacent to any area proposed to be platted or included within a development.
5. Mailboxes: The Developer shall be responsible for installation of any required Cluster Box Units (CBUs) as per the local U.S. Postal Service Post Office.

**SECTION 5. LAND USE DESIGN CRITERIA:** In addition to the general criteria as stated above, the following land use regulations, development standards, and design criteria shall apply to the development of all areas designated on the Sketch Plan:

A. Parcels A and B: All general use and bulk regulations and provisions set forth in Title 9, Zoning of the West Des Moines City Code for the Single Family Residential (R-1) district shall apply to any development proposal for these parcels, unless noted otherwise in this ordinance.

1. Buffers: A minimum sixty-foot (60') buffer park shall be required along SW Grand Prairie Parkway. Plans detailing the landscape vegetation and earthen berming within the buffer park shall be provided in accordance with the West Des Moines buffer ordinance at the time of preliminary platting. The equivalent of one overstory tree shall be required per thirty five (35) linear feet of the sixty foot (60') buffer. Evergreen trees or shrubs shall not be required within the buffer. Installation of the buffer amenities shall occur prior to issuance of a building permit for any dwelling on the last 25% of lots within the platted area or when the first building permit for a lot immediately adjacent to the buffer is issued, with completion of installation of amenities within the entire buffer associated with the plat occurring prior to issuance of any occupancy permit for a dwelling that is part of the last 25% or adjacent to the buffer. If the time of the year prevents installation of the vegetation, to receive an occupancy permit for a dwelling, surety shall be provided to the City at 1.5 times the cost of the vegetation and labor to install. In this instance, installation shall occur in the first planting season after the issuance of the occupancy permit and prior to June 15th. The City reserves the right to refuse issuance of additional building permits until the buffer amenities are installed to the City's satisfaction.
2. Architecture: It is desired that building architecture through Parcels A and B should be varied and provide strong visual interest through the use of design, materials, and detailing. Side and rear building facades shall incorporate a minimum of two material types. One primary and one accent material comprised of a different material type, color, or texture than the primary material. Facades that face a public or private street shall incorporate a third material of brick or stone in a percentage that provides a strong visual presence. Masonry materials shall start and stop at an interior corner created by a change in wall plane or wrap corners a minimum of two (2) feet to give authenticity to the material. Materials, trim and details used on the front façade shall be continued around all sides of the building, however, the level of detail can be reduced on the facades not visible from a street (public or private) or adjacent properties surrounding the development.

B. Parcels C, D, and F: All general use and bulk regulations and provisions set forth in Title 9, Zoning of the West Des Moines City Code for the Residential Medium Density (RM-12) district shall apply to any development proposal for these parcels, unless noted otherwise in this ordinance.

1. Parcel F, as shown on the sketch plan, shall include approximately 5 acres to be reserved for development of a fire station. The property will be required to be platted at the time that any portion of the adjacent parcels are platted. The fire station land shall be conveyed to the City by warranty deed free and clear of any and all liens and encumbrances including, but not limited to, all judgments, attachments, mortgage liens, mechanics liens, and other liens.

any street or adjacent property shall incorporate same level of detail as the primary buildings. Detached garages shall contain no more than eight (8) garage doors per façade.

- e. Attached Multi-Family Building (Up To 4 Units): It is desired that building architecture through Parcels C, D and F should be varied and provide strong visual interest through the use of design, materials, and detailing. Side and rear building facades shall incorporate a minimum of two material types. One primary and one accent material comprised of a different material type, color, or texture than the primary material. Facades that face a public or private street shall incorporate a third material of brick or stone in a percentage that provides a strong visual presence. Masonry materials shall start and stop at an interior corner created by a change in wall plane or wrap corners a minimum of two (2) feet to give authenticity to the material. Materials, trim and details used on the front façade shall be continued around all sides of the building, however, the level of detail can be reduced on the facades not visible from a street (public or private) or adjacent properties surrounding the development.
  - f. Attached Multi-Family Building (Greater than 4 Units): All facades of the building shall be treated with the same level of architectural style and detail (360 degree architecture). Variations in building form and design such as facade modulation and articulation (stepping back or extending forward a portion of the building) and changing the roof height and form by alternating dormers, stepped roofs, gables, or other roof elements - organized with the changes in plan shall be incorporated to lessen the plainness of appearance, mitigate the building mass and repetitive characteristic of large residential buildings. All building elevations shall incorporate a minimum of three material types. One primary material, one accent material, comprised of a different material type, color, or texture from the primary material and a third material comprised of brick or stone. Masonry materials shall be located principally on the base (lowest) story of the building and as the majority cladding of that story, and shall start and stop at an interior corner created by a change in wall plane or wrap corners a minimum of two (2) feet to give authenticity to the material. Variation in materials, material modules, and material heights along with expressed joints, textures, colors and details should be used to break up the mass of the buildings. The use of trim and detailing such as window and door trim, band boards, louvers, etc. shall be carried around all sides of the building and shall be appropriately sized to be noticeable and provide visual interest and detailing. Entrances into buildings should face the street and be easily identified through the use of building design and detailing. Door or window openings shall be incorporated on all sides of the building.
  - g. Outdoor Living Area: For horizontally attached multi-family buildings, all dwelling units within the building shall provide a defined outdoor living space (porch, deck or patio) with a minimum usable area of 100 square feet. For multi-family buildings with vertically attached units, all dwelling units within the building shall provide a defined outdoor living space (deck or patio) with a minimum usable area of 40 square feet and a minimum usable dimension of five (5) feet deep in either direction. Buildings greater than 4 units may provide area(s) of common defined outdoor living space (of an area equivalent or greater than the total required area of all units within the building) in lieu of outdoor living area for individual units. The common defined outdoor living space(s) must be adjacent or in close proximity to the building.
- C. Parcel E: All general use and bulk regulations and provisions set forth in Title 9, Zoning of the West Des Moines City Code for the Neighborhood Commercial (NC) district shall apply to any development proposal for the parcel, unless noted otherwise in this ordinance.
- 1. Land Use: Uses permitted and permitted conditionally shall be allowed within Parcel E in accordance with the zoning ordinance for the Neighborhood Commercial (NC) district pursuant to title 9 of the City Code and with the approval of the appropriate review body.

2. **Parking:** Parking for a planned commercial center constructed in parcel E shall be calculated according to subsection 9-15-7B, "Planned Commercial Center", of the city code or, if applicable, for single use commercial developments as required.
3. **Buffers:** A minimum sixty-foot (60') buffer park shall be required along SW Grand Prairie Parkway. Plans detailing the landscape vegetation and earthen berming within the buffer park shall be provided in accordance with the West Des Moines buffer ordinance at the time of site planning. The equivalent of one overstory tree shall be required per thirty five (35) linear feet of the sixty foot (60') buffer. Evergreen trees or shrubs shall not be required within the buffer. Installation of the buffer amenities shall occur prior to issuance of an occupancy permit, either temporary or final for any building/tenant space within the site planned area. If the time of the year prevents installation of the vegetation, to receive an occupancy permit for a building/tenant space, surety shall be provided to the City at 1.5 times the cost of the vegetation and labor to install. In this instance, installation shall occur in the first planting season after the issuance of the occupancy permit and prior to June 15th. The City reserves the right to refuse issuance of additional building permits until the buffer amenities are installed to the City's satisfaction.

The buffering of any negative element, such as parking and drop off drives, trash enclosure, heating, ventilation, and air conditioning equipment shall be screened from the public view and from adjacent residential properties using earthen berming and landscaping. Utility meters shall be screened from view through architectural means.

4. **Architecture:** The intent is to create building facades throughout this development that are varied and articulated to provide visual interest and to establish a unique identity for the development. Although it is understood and preferred that not all buildings within this development are identical, each building will include design elements such as similar building proportion and roof forms as well as common materials, colors and detailing to provide continuity amongst buildings and to unite all structures within the development into one project concept. All sides to each building shall receive high quality materials, finishes, and details (360 degree architectural treatment). There are no "backs" to a building. Materials should be durable, economically maintained and of a quality that will maintain their appearance over a prolonged time. The architectural design of any building within this development shall be acceptable to the City.

All buildings within this development shall accommodate or incorporate the following in building design and materials:

- a. **Form and Scale:** Buildings shall be designed to relate specifically to the pedestrian in scale and respond to the residential context of its surroundings. The following techniques shall be used to meet this objective.
  - i. Buildings shall be organized to create a logical balance and relationship within the site, open spaces and circulation. The design of buildings shall meet context and site objectives such as providing gateways, creating linkages and framing or terminating views.
  - ii. Variation in building height, mass and roof forms shall be provided while still maintaining an overall building continuity. Shifts in building planes/facades and variation in exterior materials shall be incorporated to minimize long expanses of wall.
  - iii. Entrances into buildings shall be easily identified through the use of building design and detailing. Projected or recessed entryways, change in rooflines, addition of awnings or changes in building material are examples that can create this effect.
  - iv. Ground floor areas shall provide the maximum possible glazing toward pedestrian areas to provide visual interest and to promote the linkage of the interior and exterior of buildings.
  - v. Fenestration (door and window openings) and trim and structural elements (such as posts or columns) shall be sized to the scale of the building and be compatible with the chosen architectural style.

- vi. A building's roof form and related details/materials are an integral part of the architectural design aesthetic. Roofs shall not be designed as attention-getting devices related to the reinforcement of signage or as an identifiable corporate image.
  - vii. Views of roof and building mounted mechanical equipment shall mitigate by screening incorporated into the design of the building through location and the use of parapets, screening walls, or other acceptable solutions as identified during the review of the site plan.
- b. Material Quality and Detail:
- i. Natural materials such as brick and stone shall be used as the major cladding elements of the facade. Architectural precast concrete, composite or metal panel acceptable to the City may be incorporated in the design up to 40% of the cladding area.
    - 1. Concrete products shall have integrated color rather than surface applied paint/staining and should generally have texture for interest; smooth finish concrete products may be used in conjunction with texture for accent purposes.
    - 2. All composite or metal panel systems must have finished edges and concealed fasteners. Trim or channels must be the same color as the panels.
    - 3. The use of EIFS or synthetic stucco shall be used in moderation and primarily used as a minor cladding or trim material. Use of EIFS is limited to areas of the building seven feet (8') above grade and higher.
    - 4. The use of non-architectural metal and vinyl cladding materials is prohibited.
  - ii. Variation in materials, material modules, expressed joints, textures, colors and details shall be used to break up the mass of the buildings. Changes in materials shall be aligned with changes in plan or roof form to emphasize these changes in building mass and shall have the appearance of 3-dimensional elements.
- c. Corporate architecture shall be prohibited. Limited use of architectural elements characteristic of prototypical architecture may be allowed at the discretion of the Director of Development Services or the appropriate reviewing and approval body. Implementation of these architectural elements shall be minimized and whenever possible modified to give a unique image to the establishment. No standard corporate building design without modifications shall be implemented.

- D. Parcel G: All general use and bulk regulations and provisions set forth in Title 9, Zoning of the West Des Moines City Code for the Agricultural/Open Space (OS) district shall apply to any development proposal for the property, unless noted otherwise in this ordinance.

Parcel G, as shown on the sketch plan, shall include approximately 5.3 acres to be reserved for development of a water tower and 5.2 acres reserved for development of a neighborhood park. The water tower and park shall be the only allowed uses within Parcel G. Each area shall be required to be platted at the time that any portion of the adjacent parcels are platted. The water tower/park land shall be conveyed to the City by warranty deed, free and clear of any and all liens and encumbrances including, but not limited to, all judgments, attachments, mortgage liens, mechanics liens, and other liens.

**SECTION 6. SIGNAGE:** The following signage regulations and design criteria shall apply to the development of all properties designated on the Sketch Plan:

A. Development Entrance Signs:

1. Primary Entrance Signs (labeled as 'P' on the PUD sketch map): Primary Entrance signs shall include the "Preserve" logo, shall not exceed seven feet (7') in height and the maximum size of the sign copy shall not exceed twelve (12) square feet. The signs shall be allowed at all corners of intersecting streets with SW Grand Prairie Parkway and shall be setback a minimum of fifteen feet (15') from the ultimate street right-of-way line. Primary Entrance signs shall be externally illuminated and/or halo lighted and may be located within the 60' buffer along SW Grand Prairie Parkway. At the time of platting, an easement shall be recorded for the sign(s) and acceptable documentation, as determined by the City, that outlines the responsibility and

strategy for the long term maintenance of the sign and removal, or repair at such time that the sign is no longer desired or being maintained appropriately.

2. Secondary Entrance Signs (labeled as 'S' on the PUD sketch map): Secondary Entrance signs shall include the "Preserve" logo, shall not exceed six feet (6') in height and the maximum size of the sign copy area shall not exceed nine (9) square feet. The signs shall be allowed at all corners of intersecting streets with SW Grand Prairie Parkway and shall be setback a minimum of ten feet (10') from the ultimate street right-of-way line. Secondary Entrance signs shall be externally illuminated and/or halo lighted and may be located within the 60' buffer along SW Grand Prairie Parkway. At the time of platting, an easement shall be recorded for the sign(s) and acceptable documentation, as determined by the City, that outlines the responsibility and strategy for the long term maintenance of the sign and removal, or repair at such time that the sign is no longer desired or being maintained appropriately.
  3. Gateway Signs (labeled as 'G' on the PUD sketch map): Gateway signs shall include the "Preserve" logo, shall not exceed eight feet (8') in height and the maximum sign copy shall not exceed three (3) square feet. A sign shall be allowed on each side of SW Grand Prairie Parkway at both the north and south ends of the development and shall be setback a minimum of ten feet (10') from the ultimate street right-of-way line. Gateway signs shall be externally illuminated and/or halo lighted and may be located within the 60' buffer along SW Grand Prairie Parkway. At the time of platting, an easement shall be recorded for the sign(s) and acceptable documentation, as determined by the City, that outlines the responsibility and strategy for the long term maintenance of the sign and removal, or repair at such time that the sign is no longer desired or being maintained appropriately.
  4. Boundary Markers: Labeled as 'M' on the PUD sketch map, boundary Markers shall include the "Preserve" logo, shall not exceed eight feet (8') in height and the maximum size of the sign (from ground to top of sign) shall not exceed fourteen (14) square feet. Boundary markers shall be setback a minimum of ten feet (10') from the ultimate street right-of-way line. Boundary Markers shall be internally illuminated and/or halo lighted and may be located within the 60' buffer along SW Grand Prairie Parkway. At the time of platting, an easement shall be recorded for the sign(s) and acceptable documentation, as determined by the City, that outlines the responsibility and strategy for the long term maintenance of the sign and removal, or repair at such time that the sign is no longer desired or being maintained appropriately.
- B. Non-Development Monument Signs: Monument signs for individual properties within the development that are not part of the Preserve development sign package (i.e. multifamily residential and non-residential properties within The Preserve PUD) shall comply with current City sign code, however, the signs are required to incorporate The Preserve logo, including the identified development colors and materials. A non-development monument sign may exceed the maximum height allowed by the City sign code by 1 foot (1') if The Preserve name or logo is added onto the top of the sign. Signs associated with medium density development shall not be in addition to Primary or Secondary Entrance signs: one or the other may be implemented at entrances off of SW Grand Prairie Parkway. Signs associated with medium density development which take primary access off of a roadway other than SW Grand Prairie Parkway shall be allowed signage in accordance with city code. It is strongly encouraged, but not required that tenant identification on multi-tenant commercial signs be of the same font style, size and color. Non-development monument signs shall be located no closer than one hundred feet (100') from Primary Entrance Signs or Secondary Entrance Signs.
- C. Wall Signs: Building wall signage for medium density and commercial properties shall comply with current City sign code.

**SECTION 7. PARKLAND DEDICATION:** An area of land calculated by a set formula based upon the density (total number of dwelling units) of the proposed development is required to be dedicated for purposes of a public park and greenway as per city code. A Parkland Dedication Agreement, acceptable to the Parks and Recreation Department, detailing the specifics related to the Parkland Dedication requirements for the development of any area contained within the PUD is required to be

executed in conjunction with the preliminary plat for the PUD area. At the time of final platting of land directly adjacent to the proposed park and greenway locations, the parcels shall be deeded to the City.

**SECTION 8. MASTER PROPERTY OWNERS ASSOCIATION:** If deemed applicable, proper action shall be taken to establish a master property owners association. The property owners association shall be responsible for the ongoing upkeep and maintenance of any common grounds such as buffer parks, storm water detention facilities, greenbelts, plazas and other common space, as outlined in the association documents and any other specific development improvements noted as their responsibility in this ordinance.

**SECTION 9 STORM WATER MANAGEMENT:** A Storm Water Management Plan will be required with each preliminary plat for ground within the PUD area. The Developer will have said Storm Water Management Plan prepared by a Professional Engineer licensed in the State of Iowa, in conjunction with the submittal of a preliminary plat for the development of the property. The Storm Water Management Plan shall comply with the City's current design standards for storm water management. The method of storm water management and the storm water conveyance system shall be determined prior to City approval of a preliminary plat.

At time of final platting, ownership and responsibility for all storm water detention areas and private storm water detention outlet structures will need to be established through the execution of a Storm Water Facility Maintenance Agreement prepared by the City with information provided by the developer. This agreement essentially provides that the property owner will maintain and repair their storm water facilities. If they fail to do so, the city will make repairs or perform maintenance and assess all costs back to the property owner. As part of the maintenance agreement, the property owner will be responsible to provide a letter certifying the detention facility in in conformance with the approved Storm Water Management Plan. The property owner also will need to provide as-built drawings of the detention facilities. The letter and as-built plans will be required prior to the issuance of a final occupancy permit for the first dwelling on property which is served by a particular detention facility. Both the letter and as-builts will need to be signed and sealed in accordance with Chapter 6, 193C-6.1(542B) of the Iowa Code.

**SECTION 10. REPEALER:** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

**SECTION 11. 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 12. 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 13. 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 14. 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 of \_\_\_\_\_ 2019.

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

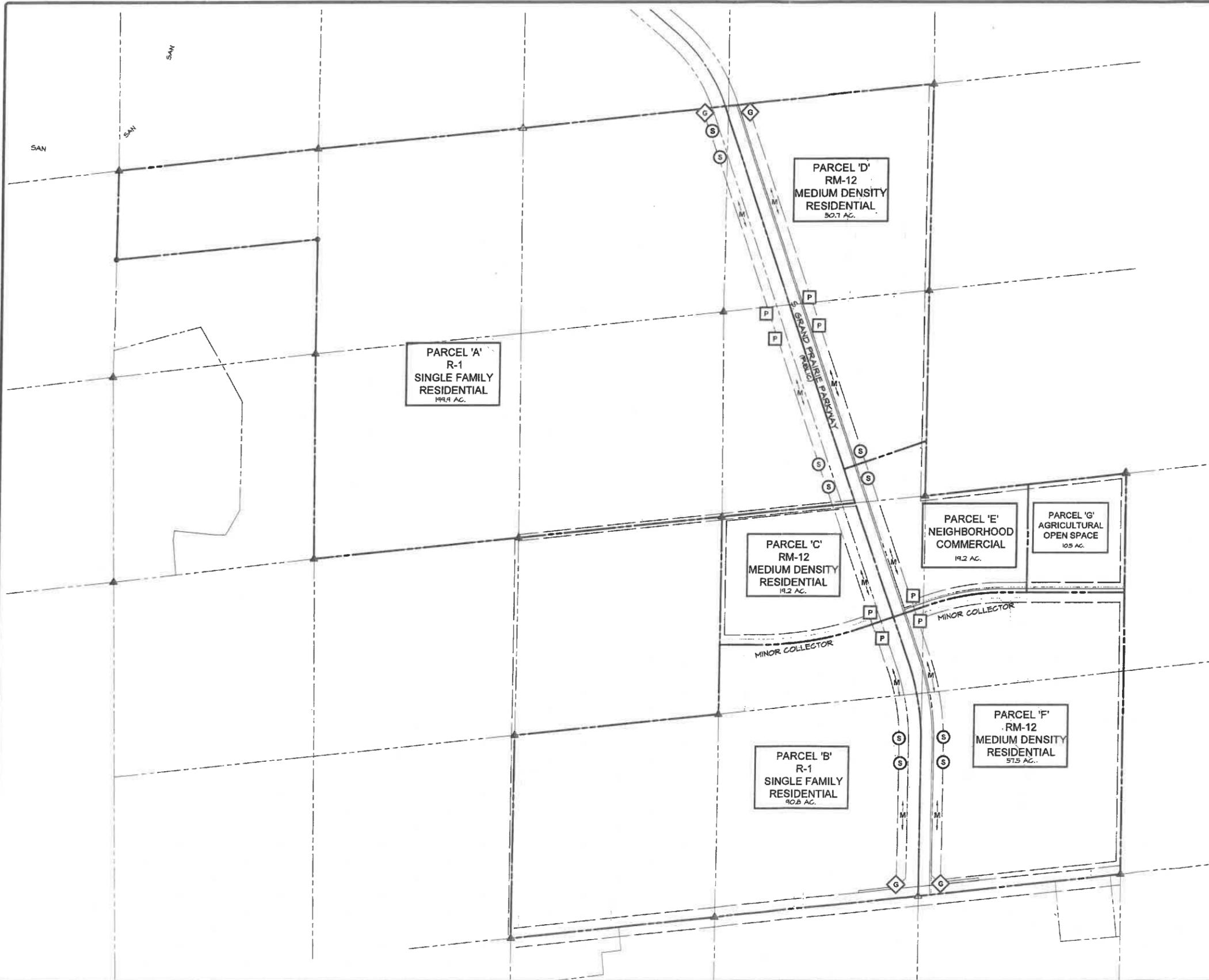
**ATTEST:**

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

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ 2019.

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

**THE PRESERVE**  
**P.U.D. SKETCH MAP**  
 WEST DES MOINES, IOWA,  
 DALLAS & MADISON COUNTY



- LEGEND**
- P PRIMARY ENTRANCE
  - S SECONDARY ENTRANCE
  - G GATEWAY
  - M ZONE FOR MARKER

Civil Engineering Consultants, Inc.  
 2400 86th Street, Unit 12, Des Moines, Iowa 50322  
 515.276.4884 • Fax: 515.276.7084 • mail@cecinc.com



DATE	REVISIONS	COMMENTS
MAY 09, 2018	1	MAY 22, 2018
	2	MAY 30, 2018
	3	
	4	
	5	
	6	

DATE OF SURVEY, DEC. 29, 2018  
 DESIGNED BY: JFO & PC  
 DRAWN BY: MEH

**THE PRESERVE**  
 WEST DES MOINES, IOWA, DALLAS & MADISON COUNTY  
**P.U.D. SKETCH MAP**

SCALE: 1"=300'  
 0' 100' 200' 300'

NORTH

1"=300' PRINTED ON 22"x34" SHEET  
 1"=600' PRINTED ON 11"x17" SHEET

SHEET  
 9  
 0

E-7646

C:\P\THE PRESERVE\PROJECTS\THE PRESERVE\SKETCH MAP\DWG\THE PRESERVE\_PUD\_SKETCH\_MAP.dwg, 11

P:\THE PRESERVE\PROJECTS\THE PRESERVE\SKETCH MAP\DWG\THE PRESERVE\_PUD\_SKETCH\_MAP.dwg, 11

**NO CHANGE FROM PREVIOUS READING**  
**CITY OF WEST DES MOINES**  
**CITY COUNCIL MEETING COMMUNICATION**

**Date: October 21, 2019**

**ITEM:** Jordan West, Southwest corner of EP True Parkway and Jordan Creek Parkway – Amend the Jordan West Specific Plan Ordinance by rezoning the southern portion of PUD Parcel 7 from Support Commercial (SC) to Regional Commercial (RC) to allow for construction of an indoor family entertainment venue – Ryan Companies US, Inc. – ZCSP-004467-2019

**ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, Ryan Companies US, Inc., is requesting approval of a Specific Plan Ordinance Amendment to designate the southern 6.4 acre portion of PUD Parcel 7 (aka Lot 7, Jordan West Plat 3) as Parcel 9 and change the underlying zoning from Support Commercial (SC) to Regional Commercial (RC) to allow for construction of an indoor family entertainment venue that will include recreational uses such as, but not limited to, a bowling alley, laser tag, and video arcade, as well as a bar and grill. The venue will be located south of Slumberland which exists at 350 Jordan Creek Parkway. The Specific Plan Ordinance amendment will only allow for this specific use within newly created PUD Parcel 9.

Previous Council Action:

Vote: 4-0 approval, with Council Member Mickelson absent.

Date: October 7, 2019

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 and adopt the ordinance in final form amending the Jordan West Specific Plan Ordinance to designate the southern 6.4 acre portion of PUD Parcel 7 (aka Lot 7, Jordan West Plat 3) as Parcel 9 and change the underlying zoning from Support Commercial (SC) to Regional Commercial (RC) to allow for construction of an indoor family entertainment venue, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Brian Portz, AICP *BP*

**Staff Reviews:**

Department Director	<i>JA</i>
Appropriations/Finance	
Legal	<i>ADS</i>
Agenda Acceptance	

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

Published In	Des Moines Register
Date(s) Published	September 18, 2019
Letter sent to surrounding property owners	September 17, 2019

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Development & Planning		
Date Reviewed	August 19, 2019		
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

- Exhibit I - Specific Plan Ordinance
- Exhibit A - Specific Plan Map

Prepared by: B. Portz, Development Services Dept., City of West Des Moines, P.O. 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

**ORDINANCE #**

**AN ORDINANCE AMENDING THE OFFICIAL ZONING MAP AND THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA 2019, AND ORDINANCE #1749 AND #2097, AMENDING TITLE 9, ZONING, CHAPTER 9, PLANNED UNIT DEVELOPMENT DISTRICT, 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:**

1. **AMENDMENT:** Ordinance #1749 and #2097 pertaining to the **Jordan West Specific Plan**, complete ordinance; is hereby amended by replacing the Specific Plan Map on file with the City Clerk with Exhibit A thus creating a Parcel 9 on the southern 6.4 acres of current Parcel 7 (aka, Lot 7, Jordan West Plat 3).
2. **AMENDMENT:** Ordinance #1749 and #2097 pertaining to the **Jordan West Specific Plan**, complete ordinance; is hereby amended by changing the Jordan West Specific Plan Map for the southern 6.4 acres as legally described below (newly created Parcel 9) from Support Commercial (SC) to Regional Commercial (RC) in compliance with the adopted City of West Des Moines Comprehensive Land Use Plan of West Des Moines, Iowa:

Legal Description

LOT 7, JORDAN WEST PLAT 3, AN OFFICIAL PLAT RECORDED IN BOOK 2015, PAGE 13195 AT THE DALLAS COUNTY RECORDER'S, EXCEPTING THEREFORM PARCEL 17-132, AN OFFICIAL PARCEL RECORDED IN BOOK 2016, PAGE 25703 AT THE DALLAS COUNTY RECORDER'S OFFICE, ALL IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND CONTAINING 6.40 ACRES MORE OR LESS.

3. **AMENDMENT:** Ordinances #1749 and #2097 pertaining to the **Jordan West Specific Plan Ordinance**, Section 087-04: *Requirements*; is hereby amended by deleting the following highlighted strikethrough text and adding the following bolded italicized text and re-numbering accordingly:

Unless provided otherwise in this ordinance, all general use regulations, performance standards and provisions set forth in title 9, "Zoning", of the city code for the support commercial (SC), ***regional commercial (RC)*** and residential medium-density (RM) districts shall apply to any development within the Jordan West specific plan area. To the extent that the provisions of this section conflict with or are more restrictive than similar provisions provided elsewhere in the West Des Moines zoning ordinance, the provisions of this section shall control. The following land use design criteria, development standards, and landscaping regulations shall apply to all parcels within the Jordan West specific plan area:

A. Land Use:

1. **Parcels 1-7:** All land uses as set forth in title 9, "Zoning", of the city code for the support commercial (SC) district as permitted and permitted conditionally shall apply in ~~planning unit~~ **A parcels 1-7** as identified on the approved Jordan West ~~area~~ **development specific plan map** except as designated below:

a. ~~1.~~ Permitted Uses: All permitted (P) uses within the support commercial (SC) district shall be allowed except those that have been prohibited by this ordinance. ~~Also including the following~~ **The following uses shall also be permitted:**

SIC 5712	Furniture stores
SIC 5731	Radio, television, consumer electronics stores
SIC 5941	Sporting goods stores and bicycle shops
SIC 5944	Jewelry stores
SIC 5999	Packing materials, boxes, padding
SIC 5999	Art, picture frames, and decoration stores
SIC 5999	Banners, flags, decals, and poster stores

b. ~~2.~~ Permitted Conditional Uses: All permitted conditional (Pc) uses within the support commercial (SC) district shall be allowed with the approval of the appropriate review body except those that have been prohibited by this ordinance.

c. ~~3.~~ Prohibited Uses: The following permitted and permitted conditional uses otherwise allowed in the support commercial (SC) district shall be prohibited:

SIC 4925	Mixed, manufactured, or liquefied petroleum gas production and/or distribution
----------	--

2. **Parcel 8:** All land uses as set forth in title 9, "Zoning", of the city code for the residential medium-density (RM-12) district as permitted and permitted conditionally shall apply to parcel 8 as identified on the approved Jordan West Specific Plan sketch map:

a. **The calculation of dwelling unit density permitted on parcel 8 shall also include in the calculation the greenway acres situated along the west side of the property. A total of fifteen (15) acres (parcel 8 acreage (10.5) + greenway acreage (4.5)) shall be used to calculate the number of dwelling units permitted on parcel 8. The permitted number of units on parcel 8 shall not exceed twelve (12) dwelling units per acre. The total number of units permitted is one hundred eighty (180) dwelling units (15 acres x 12 dwelling units per acre).**

3. **Parcel 9:** All land uses as set forth in title 9, "Zoning", of the city code for the regional commercial (RC) district as permitted and permitted conditionally shall apply in parcel 9 as identified on the approved Jordan West Specific Plan sketch map, except as designated below:

a. **Only use SIC 7999: Amusement and Recreational Services, Not Elsewhere Classified, for the development of a family-oriented entertainment venue comprised of a combination of any of the following recreational activities shall be allowed in parcel 9:**

- (1) **Bowling**
- (2) **Video arcade**
- (3) **Laser tag**
- (4) **Billiards**
- (5) **Escape Rooms**

**A Restaurant Class 1 or 2 shall be allowed as an ancillary use in conjunction with the family entertainment venue, but at no time shall the establishment become a standalone Restaurant Class 2 or Bar/Restaurant or have a drive-through.**

~~B. RM-12 Land Uses: All land uses as set forth in title 9, "Zoning", of the city code for the residential medium density (RM-12) district as permitted and permitted conditionally shall apply to planning unit B as identified on the approved Jordan West area development plan with the approval of the appropriate body.~~

~~C. Dwelling Unit Density: The calculation of dwelling unit density permitted on parcel 8 shall also include in the calculation the greenway acres situated along the west side of the property. A total of fifteen (15) acres (parcel 8 acreage (10.5) + greenway acreage (4.5)) shall be used to calculate the number of dwelling units permitted on parcel 8. The permitted number of units on parcel 8 shall not exceed twelve (12) dwelling units per acre. The total number of units permitted is one hundred eighty (180) dwelling units (15 acres x 12 dwelling units per acre).~~

4. **REPEALER:** All ordinances or parts of ordinances in conflict with the provision of this ordinance are hereby repealed.

5. **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.

6. **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 of the City Code of the City of West Des Moines, Iowa.

7. **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.

8. **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 \_\_\_\_\_, 2019.

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

**ATTEST:**

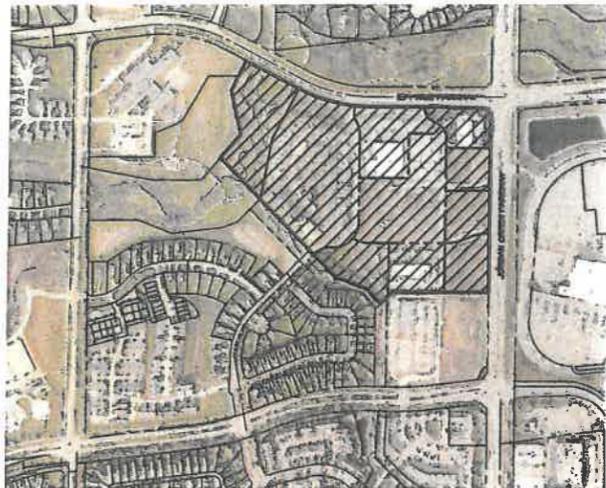
\_\_\_\_\_  
Ryan T. Jacobson  
City Clerk

I certify that the foregoing was published as Ordinance No. \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

# JORDAN WEST

## WEST DES MOINES, IOWA



VICINITY SKETCH



Sheet List Table	
Sheet Number	Sheet Title
1	COVER
2	DIMENSION PLAN
3	UTILITY PLAN

**LEGEND**

--- PLAT BOUNDARY	--- WATER MAIN & SIZE	--- SANITARY SEWER & SIZE	--- STORM SEWER & SIZE	--- UNDERGROUND ELECTRIC CABLE	--- UNDERGROUND TELEPHONE CABLE	--- UNDERGROUND CABLE TV	--- MANHOLE	--- INTRUSION	--- HYDRANT	--- POWER POLYALUMINATE POLE	--- UTILITY BOX/TELEPHONE POLE	--- SILT FENCE	--- CONCOURSE	--- TREES	[Symbol] TRASH ENCLOSURE	[Symbol] TRANSPORTER LOCATION	[Symbol] PEDESTRIAN SPACE
-------------------	-----------------------	---------------------------	------------------------	--------------------------------	---------------------------------	--------------------------	-------------	---------------	-------------	------------------------------	--------------------------------	----------------	---------------	-----------	--------------------------	-------------------------------	---------------------------

**OWNER/DEVELOPER**

RYAN COMPANIES US, INC.  
 11 EAST GRAND, SUITE 200  
 DES MOINES, IA 50304  
 563-264-8500 PHONE  
 ATTN: BRAD SNOBFELDER

**COMPREHENSIVE PLAN**

EXISTING: SUPPORT COMMERCIAL & MEDIUM DENSITY RESIDENTIAL

**ZONING**

EXISTING: JORDAN WEST SPECIFIC PLAN (UNDERLYING ZONING DESIGNATION - SUPPORT COMMERCIAL & MEDIUM DENSITY RESIDENTIAL)

**LEGAL DESCRIPTION**

PARCEL 'A' OF THE SURVEY OF PARCEL 'Z' IN THE SE 1/4 OF SECTION II, TOWNSHIP 18 NORTH, RANGE 26 WEST OF THE 5TH P.M., CITY OF WEST DES MOINES, AS SHOWN IN BOOK 2002, PAGE 17504 IN THE OFFICE OF THE RECORDER OF DALLAS COUNTY, IOWA, EXCEPT THAT PART OF SAID PARCEL 'A' CONVEYED TO THE CITY OF WEST DES MOINES IN DEED FILED IN BOOK 2004, PAGE 5761.

SAID PROPERTY IS MORE PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCING AS A POINT OF REFERENCE AT THE E 1/4 CORNER OF SECTION II-78-26; THENCE S00°00'07"N, 855.24 FEET ALONG THE EAST LINE OF SECTION II TO A POINT; THENCE N41°54'51"W, 82.67 FEET TO THE POINT OF BEGINNING ON THE WEST RIGHT-OF-WAY LINE OF JORDAN CREEK PARKWAY; THENCE S00°00'07"N, 105.64 FEET ALONG SAID WEST RIGHT-OF-WAY LINE TO A POINT ON THE NORTH LINE OF LOT 33, BRIDGEWOOD FLAT I, AN OFFICIAL FLAT; THENCE N41°54'51"W, 592.24 FEET ALONG SAID NORTH LINE TO A POINT; THENCE S41°03'04"W, 44.76 FEET TO A POINT; THENCE N45°03'58"W, 126.94 FEET TO A POINT; THENCE N64°52'48"W, 204.64 FEET TO A POINT; THENCE N44°10'53"W, 1027.22 FEET TO A POINT ON THE SOUTH LINE OF BRIDGEWOOD SCHOOL, AN OFFICIAL FLAT; THENCE N40°54'26"E, 186.85 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE N12°58'12"W, 276.54 FEET ALONG THE EAST LINE OF BRIDGEWOOD SCHOOL TO A POINT; THENCE N25°12'32"E, 204.18 FEET ALONG SAID EAST LINE TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF E.P. TRUE PARKWAY; THENCE S62°11'29"E, 571.0 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO A POINT OF CURVATURE; THENCE EASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 960.00 FEET, AN ARC LENGTH OF 465.41 FEET AND A CHORD BEARING OF 57°05'04"W TO A POINT OF TANGENCY; THENCE S81°54'53"E, 646.41 FEET ALONG SAID SOUTH RIGHT-OF-WAY LINE TO A POINT; THENCE S44°52'19"E, 44.61 FEET TO THE POINT OF BEGINNING AND CONTAINING 91.246 ACRES MORE OR LESS.

**NOTES**

- ONE WEEK PRIOR TO CONSTRUCTION THE CONTRACTOR SHALL NOTIFY:
  - WEST DES MOINES ENGINEER
  - RYAN COMPANIES US, INC.
  - CIVIL ENGINEERS CONSULTANTS, INC.
- ALL DIMENSIONS ARE TO BACK OF CURB, OUTSIDE OF BUILDING WALL, AND TO PROPERTY LINES.
- THE LOCATIONS AND DIMENSIONS SHOWN ON THE PLANS FOR EXISTING FACILITIES ARE IN ACCORDANCE WITH AVAILABLE INFORMATION WITHOUT UNCOVERING AND MEASURING. THE ENGINEER DOES NOT GUARANTEE THE ACCURACY OF THIS INFORMATION OR THAT ALL EXISTING UNDERGROUND FACILITIES ARE SHOWN. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO CONTACT ALL PUBLIC AND/OR PRIVATE UTILITIES SERVING THE AREA TO DETERMINE THE PRESENT EXTENT AND EXACT LOCATION OF THEIR FACILITIES BEFORE BEGINNING WORK.
- PROVIDE 2' CONCRETE BOXOUT AROUND ALL INTAKES AND MANHOLES WITHIN PAVED AREAS.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH CITY OF WEST DES MOINES STANDARD SPECIFICATIONS.
- THE CONTRACTOR IS REQUIRED TO TAKE DUE PRECAUTIONARY MEASURES TO PROTECT THE UTILITIES OR STRUCTURES AT THE SITE. IT SHALL BE THE CONTRACTOR'S RESPONSIBILITY TO NOTIFY THE OWNERS OF UTILITIES OR STRUCTURES CONCERNED BEFORE STARTING WORK. THE CONTRACTOR SHALL NOTIFY THE PROPER UTILITY IMMEDIATELY UPON BREAKING OR DAMAGE TO ANY UTILITY LINE OR APPURTENANCE, OR THE INTERRUPTION OF THEIR SERVICE. HE SHALL NOTIFY THE PROPER UTILITY INVOLVED. IF EXISTING UTILITY LINES ARE ENCOUNTERED THAT CONFLICT IN LOCATION WITH NEW CONSTRUCTION, THE CONTRACTOR SHALL NOTIFY THE ENGINEER SO THAT THE CONFLICT MAY BE RESOLVED.
- SIDEWALK & DRIVE APPROACH INSTALLATIONS TO BE INSPECTED BY CITY OF WEST DES MOINES ENGINEERING DEPARTMENT, MINIMUM 24 HOUR NOTICE.
- ALL DEBRIS SPILLED ON CITY R.O.W. AND ADJOINING PROPERTY SHALL BE REMOVED BY THE OWNER/CONTRACTOR IN TIMELY FASHION.
- ALL CONSTRUCTION WITHIN THE CITY OF WEST DES MOINES R.O.W. SHALL COMPLY WITH THE CITY OF WEST DES MOINES STANDARD CONSTRUCTION SPECIFICATIONS FOR SUBDIVISIONS.
- PUBLIC STREET PAVEMENT THICKNESS SHALL BE 6" P.C.C. W/ 6" P.C.C. CURB & GUTTER.

**CERTIFICATION**

STATE OF IOWA

EDWARD H. ARP

LANDSCAPE ARCHITECT

NO. 250

PROFESSIONAL LANDSCAPE ARCHITECT

I HEREBY CERTIFY THAT THE PORTION OF THIS TECHNICAL SUBMISSION DESCRIBED BELOW WAS PREPARED BY ME OR UNDER MY DIRECT PERSONAL SUPERVISION AND THAT I AM A DULY LICENSED PROFESSIONAL LANDSCAPE ARCHITECT UNDER THE LAWS OF THE STATE OF IOWA.

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
 EDWARD H. ARP, IOWA REG. NO. 250  
 PAGES OR SHEETS COVERED BY THIS SEAL:  
 SHEET \_\_\_\_\_

Civil Engineering Consultants, Inc.  
 2400 86th Street, Unit 12, Des Moines, Iowa 50322  
 515.276.4884 . mail@cecinc.com



DATE	BY	REVISIONS	COMMENTS
		1	
		2	
		3	
		4	
		5	
		6	

JORDAN WEST  
 WEST DES MOINES, IOWA  
 COVER

SHEET  
 OF 3  
 A-2006





**CHANGE FROM PREVIOUS READING**

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

**Date: October 21, 2019**

**ITEM:** Amendment to City Code, Amend Title 9 (Zoning), Chapter 6 (Commercial, Office and Industrial Zoning District), to modify certain regulations as they pertain to physical fitness facilities. – City Initiated – AO-004483-2019

**ORDINANCE: Approval of Second Reading, Waive Third and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** Staff is requesting an amendment to the following section within Title 9 (Zoning) of City Code to modify certain regulations as they pertain to physical fitness facilities:

- Title 9 *Zoning*
  - Chapter 6 *Commercial, Office And Industrial Zoning District*
    - Section 6 *Commercial Office and Industrial Use Regulations, Subsection C, Table 6.1- Use Matrix, Division I - Services*

Previous Council Action:

Vote: 4-0 for approval, with Councilmember Mickelson absent.

Date: October 7, 2019

Motion: Approval of the First Reading of the Ordinance.

**CHANGE:** The prior reading incorrectly referred to the Section 6 as “Use Codes”. This reading correctly identifies the title of Section 6 as “Commercial Office and Industrial Use Regulations”.

**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 and adopt the Ordinance in final form, subject to meeting all City Code requirements.

Lead Staff Member: J. Bradley Munford

**Staff Reviews:**

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

Published In	Des Moines Register
Date(s) Published	September 18, 2019
Letter sent to surrounding property owners	NA

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	City Council Subcommittee		
Date Reviewed	August 19, 2019		
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

Exhibit I - Proposed Ordinance

Prepared by: J.B. Munford, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 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, 2019, BY AMENDING TITLE 9 (ZONING), CHAPTER 6 (COMMERCIAL, OFFICE AND INDUSTRIAL ZONING DISTRICT), SECTION 6 (COMMERCIAL, OFFICE AND INDUSTRIAL USE REGULATIONS), SUBSECTION C, TABLE 6.1, TO MODIFY CERTAIN REGULATIONS AS THEY PERTAIN TO PHYSICAL FITNESS FACILITIES.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:**

**SECTION 1: Amendment.** Title 9 (*Zoning*), Chapter 6 (*Commercial, Office and Industrial Zoning District*), Section 6 (*Commercial, Office and Industrial Use Regulations*), Subsection C, Table 6.1 (*Use Matrix*), *Division I - Services* is hereby amended by deleting the text in strikethrough lettering and adding the text in bold italicized lettering:

SIC CODES	RC	CMC	NC	CVC	SC	VJC	VJHB	WR	BP	VJLI	LI	GI	OF	PCP	OS
<del>7991 Physical fitness facilities</del>	<del>P</del>	<del>P</del>	<del>Pc</del>	<del>-</del>	<del>Pe</del>	<del>Pe</del>	<del>Pe</del>	<del>Pe</del>	<del>Pe</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>P</del>	<del>-</del>
<b><i>7991 Physical fitness facilities</i></b>															
<b><i>- Physical fitness facilities 5,000 sq. ft. or less</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	
<b><i>- Physical fitness facilities greater than 5,000 sq. ft.</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>Pc</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>	<b><i>P</i></b>							

**SECTION 2. Repealer.** All Ordinances or parts of Ordinances in conflict with the provision 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. 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, Sections 1 & 2 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 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 6. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, adoption, and publication as required by law.

Passed by the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

ATTEST:

\_\_\_\_\_  
Ryan T Jacobson  
City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2019, and was published in the Des Moines Register on \_\_\_\_\_, 2019.

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

**NO CHANGE FROM PREVIOUS READING**

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

Date: October 21, 2019

**ITEM:** Amendment to City Code, Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts – City Initiated (AO-003581-2017)

**ORDINANCE: Approval of Second Reading, Waiver of Third Reading and Adopt in Final Form**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The City of West Des Moines requests an amendment to the following in Title 9 (Zoning) to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts. (See Exhibit I – Proposed Ordinance):

- Chapter 7 *Setback and Bulk Density Regulations*
  - Section 4 *Setback and Bulk Density Regulations*, Subsection C9

Previous City Council Action:

Vote: 4-0 approval, Council Member Mickelson absent

Date: October 7, 2019

Motion: Recommend approval of the First Reading of the Amendment to City Code

**OUTSTANDING ISSUES:** There are no outstanding issues.

**RECOMMENDATION:** Based upon the preceding review, staff recommends the City Council approve the second reading, waive the third and adopt the ordinance in final form amending City Code Title 9 (Zoning), Chapter 7 (Setback and Bulk Density Regulations) to update regulations pertaining to rear yard setback requirements for accessory structures in residential zoning districts.

Lead Staff Member: Linda Schemmel, AIA 

**Staff Reviews:**

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

Published In	Des Moines Register
Date(s) Published	September 17, 2019
Letter sent to surrounding property owners	N/A

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Development & Planning		
Date Reviewed	September 3, 2019		
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

Exhibit I - Ordinance

Prepared by: L. Schemmel, West Des Moines Development Services, PO Box 65320, West Des Moines, IA 50265, 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 2019 BY AMENDING TITLE 9 (ZONING), CHAPTER 7 (SETBACK AND BULK DENSITY REGULATIONS) TO UPDATE REGULATIONS PERTAINING TO REAR YARD SETBACK REQUIREMENTS FOR ACCESSORY STRUCTURES IN RESIDENTIAL ZONING DISTRICTS.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

**Section 1. Amendment.** Title 9 (*Zoning*), Chapter 7 (*Setback and Bulk Density Regulations*), Section 4 (*Setback and Density Regulations*), Subsection C9 is hereby amended by deleting the highlighted strike-thru text and adding the bold italic text:

4. Bulk Regulations, Minimum Setbacks and Building Separations for Accessory Buildings and Structures in Residential Districts:
  - a. See Chapter 14 of this Title (Accessory Structures) for additional standards and construction requirements for accessory buildings and structures.
  - b. Accessory buildings and structures that meet the minimum separation distance from the principal building are considered detached accessory structures. In such case, the detached accessory structure must meet the setback requirements as noted in Table 7.5 below.
  - c. Accessory structures that do not meet the minimum separation from the principal structure are considered part of the principal structure, no matter if they are physically separate from the principal structure. In such case, the accessory structure must meet the setback requirements ~~for a principal structure except as noted below.~~
    - (1) Accessory structures (other than fences and walls) that do not exceed thirty inches (30") in height as measured from grade to the highest element and any railing or trellis designed to be open fifty percent (50%) or more may follow the detached accessory structure setbacks, no matter their proximity to the principal structure.
    - (2) ***Accessory structures that are considered part of the principal structure and which exceed thirty inches (30") in height must be setback a minimum of twenty feet (20') from the rear property line(s) and must meet the pertinent side and front yard setback of the principal structure.***

- d. See Chapter 10 of this Title (Performance Standards), Section 4 (Specific Use Regulations) for additional separation requirements for accessory structures that will house animals.
- e. Accessory structures cannot encroach into any buffer area or perimeter setback.
- f. In a footprint development, detached accessory structures and fences are not allowed within footprint lots and are only allowed for development use on common property.
- g. Accessory buildings over one-thousand square feet (1,000 sf), which are only permitted in Residential Estate and Open Space zoning, shall meet the minimum front yard setback of their respective zoning district and be setback a minimum of twenty feet (20') from the side and rear property lines.
- h. Accessory buildings over one-thousand, five hundred square feet (1,500 sf) in multi-family residential districts must meet primary building setbacks and separations including setbacks adjusted for primary building height.

**Section 2. Repealer.** All ordinances or parts of ordinances in conflict with the provision 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. 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, Sections 1 and 2 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 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 6. Effective Date.** This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed by the City Council on the \_\_\_\_\_ day of \_\_\_\_\_, 2019, and approved this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

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

ATTEST:

\_\_\_\_\_  
Ryan T Jacobson  
City Clerk

The foregoing Ordinance No. \_\_\_\_\_ was adopted by the Council for the City of West Des Moines, Iowa, on \_\_\_\_\_, 2019, and was published in the Des Moines Register on \_\_\_\_\_, 2019.

---

Ryan T. Jacobson  
City Clerk

**CITY OF WEST DES MOINES  
MEMORANDUM**

**TO:** Mayor Gaer and Members of the City Council

**FROM:** J. Bradley Munford, Development Services 

**DATE:** October 21, 2019

**RE:** Item 6a – Midtown Redevelopment

At the Plan and Zoning Commission hearing on October 14, 2019, the commission requested a 45' setback for the north building. The commission deferred action to allow the applicant time to determine if a 45' setback can be accommodated and what possible impacts to the site may occur. The Commission will revisit the item on Oct 28<sup>th</sup>. Staff request a continuance to the November 4<sup>th</sup> meeting.

**Cc:** Tom Hadden, City Manager  
Richard Scieszinski, City Attorney  
Lynne Twedt, Director Development Services

CITY OF WEST DES MOINES  
CITY COUNCIL MEETING COMMUNICATION

**ITEM:** Approval to execute a Development Agreement between  
The Iowa Clinic Westlakes I, LLC, The Iowa Clinic, P.C.,  
and the City of West Des Moines

**DATE:** October 21, 2019

**RESOLUTION:** Approval of Development Agreement

**FINANCIAL IMPACT:** Based upon the Iowa Clinic Urban Renewal Plan passed and approved at the May 20, 2019 City Council Meeting and the attached Development Agreement between the City, The Iowa Clinic Westlakes I, LLC, and The Iowa Clinic, P.C., the City anticipates providing incentives in the form of property tax rebates not to exceed \$11,000,000. These costs will be funded by incremental property tax revenues generated by the property. The Iowa Clinic Westlakes I, LLC intends to expend approximately \$51,500,000 on the construction of a new medical office building and parking structure. The company has agreed to sign a Development Agreement with the City, including the Minimum Assessment Agreement ("MAA") to guarantee the valuation for the lifetime of the MAA.

**BACKGROUND:** The Iowa Clinic is planning to expand their existing campus at 60th Street and University Avenue. The plans describe a three-story medical office building and an attached 4-tier parking deck onto the existing building at 5950 University Avenue. The Iowa Clinic has proposed a stair-stepped MAA, starting at \$45 million and maxing out at \$52 million over the lifetime of the MAA. The Iowa Clinic is a property taxpayer due to the nature of their incorporation. The Iowa Clinic has also committed to retain at least 600 (six hundred) full-time employees and create an additional 100 (one hundred) full-time employees within 10 years of completion of the project.

The project site is currently within the newly-created Iowa Clinic Urban Renewal Area. The City has not committed to complete infrastructure improvements as part of the proposed Development Agreement.

At the April 1, 2019 City Council meeting, the Council passed a resolution authorizing staff to initiate a Development Agreement for The Iowa Clinic's project.

This item was taken to the June 14, 2017 Finance and Administration Council Subcommittee meeting for informational purposes. This item has been in negotiation since that time.

This item was continued at the September 3, 2019, September 16, 2019, and the October 7, 2019 Council meetings.

**OUTSTANDING ISSUES:** There are no outstanding issues.

**RECOMMENDATION:** Adopt the resolution approving the Development Agreement and authorizing the Mayor to sign the Agreement on behalf of the City.

Lead Staff Member: Katie Hernandez, Business Development Coordinator, Community & Economic Development *KH*

**STAFF REVIEWS**

Department Director	Clyde Evans, Community and Economic Development Director <i>CEV</i>
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	<i>JDS</i>
Agenda Acceptance	<i>KH</i>

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

Published In	Des Moines Register
Date(s) Published	August 23, 2019
Letter sent to surrounding property owners	N/A

**SUBCOMMITTEE REVIEW** (if applicable)

Committee	Finance & Administration
Date Reviewed	June 14, 2017, July 15, 2019
Recommendation	Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Split <input type="checkbox"/>

**ATTACHMENTS:**

- Exhibit I - Development Agreement
- Exhibit II - Resolution

AGREEMENT FOR PRIVATE DEVELOPMENT

By and among

CITY OF WEST DES MOINES, IOWA

AND

THE IOWA CLINIC

WESTLAKES I, LLC

AND

THE IOWA CLINIC, P.C.

\_\_\_\_\_, 2019

AGREEMENT  
FOR  
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT ("Agreement"), is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and among the CITY OF WEST DES MOINES, IOWA, a municipality (the "City"), established pursuant to the Code of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2019, as amended ("Urban Renewal Act"), THE IOWA CLINIC WESTLAKES I, LLC, an Iowa limited liability company having offices for the transaction of business at 5950 University Avenue, Suite 321, West Des Moines, Iowa ("Developer"), and THE IOWA CLINIC, P.C., an Iowa professional corporation having offices for the transaction of business at 5950 University Avenue, Suite 321, West Des Moines, Iowa ("Tenant"). The City, Developer, and Tenant are the Parties to this Agreement.

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Iowa Clinic Urban Renewal Area (the "Urban Renewal Area"), which is described in the Urban Renewal Plan originally approved for such area by Resolution No. 19-05-20-30 on May 20, 2019 (the "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan has been recorded among the land records in the offices of the Recorder of Dallas County, Iowa; and

WHEREAS, Developer is the owner of certain real property located in the foregoing Urban Renewal Area and as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, Developer shall complete the Minimum Improvements on the Development Property; and

WHEREAS, Tenant shall operate its business at the Minimum Improvements on the Development Property and commit to hire and retain employees in the community; and

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment of this Agreement are in the vital and best interests of the City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted.

NOW, THEREFORE, in consideration of the promises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

## ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Agreement and all exhibits and appendices hereto, as the same may be from time to time modified, amended, or supplemented.

Annual Certification means the certifications that the Developer and Tenant must complete and submit to the City each year as described in Section 5.7 of this Agreement and attached as Exhibits E and F.

Area or Urban Renewal Area means the area known as the Iowa Clinic Urban Renewal Area.

Base Valuation shall mean the taxable valuation of the Development Property as of January 1, 2020.

Certificate of Completion means a certification in the form of the certificate attached hereto as Exhibit C and hereby made a part of this Agreement.

City means the City of West Des Moines, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2019, as amended.

Commencement Date means the date of this Agreement.

Construction Plans means the plans, specifications, drawings, and related documents reflecting the construction work to be performed by the Developer on the Development Property; the Construction Plans shall be as detailed as the plans, specifications, drawings, and related documents which are submitted to the building inspection division of the City as required by applicable City codes.

Developer means The Iowa Clinic Westlakes I, LLC, an Iowa limited liability company, and each assignee that assumes in writing all of the obligations of the Developer under this Agreement with the written consent of the City as provided in Section 6.1 of this Agreement.

Development Property means that portion of the Iowa Clinic Urban Renewal Area described in Exhibit A.

Development Property TIF means the Incremental Property Tax Revenues derived relative to the Minimum Improvements and the Development Property divided and made available to the City for deposit in to The Iowa Clinic Westlakes I, LLC Subfund of the Iowa Clinic Urban Renewal Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code, as amended, and the Ordinance measured from and above the Base Valuation.

Event of Default means any of the events described in Section 9.1 of this Agreement that have continued beyond applicable notice and cure periods.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by Developer from a commercial lender or other financial institution to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or all such Mortgages as appropriate.

Full-Time Equivalent Employment Unit means either (i) an employee who works at least 40 hours per week or 2,000 hours per year; or (ii) any combination of employees who, in the aggregate, work at least forty hours per week at least 2,000 hours per year.

Incremental Property Tax Revenues means the amount of dollars calculated by: (1) determining the consolidated property tax levy (city, county, school, etc.) then in effect with respect to taxation of the Property; (2) subtracting (a) the debt service levies of all taxing jurisdictions, (b) the school district instructional support and physical plant and equipment levies, and (c) any other levies which may be exempted from such calculation by action of the Iowa General Assembly; (3) multiplying the resulting modified consolidated levy rate times any incremental growth in the taxable valuation of the Development Property, as shown on the property tax rolls of Dallas County, above and beyond the Base Valuation; and (4) deducting any property tax credits which shall be available with respect to taxable incremental valuation of the Property.

Iowa Clinic Urban Renewal Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund will be created in order to pay the principal of and interest on loans, monies advanced to, or indebtedness, whether funded, refunded, assumed, or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403, or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Urban Renewal Area.

Minimum Improvements means the construction of a new medical office building, the construction of a new parking ramp, the construction of a new parking lot and related improvements, as more particularly described in Exhibit B to this Agreement.

Minimum Actual Value means the actual value assigned to the Minimum Improvements (including taxable equipment) and the Development Property, pursuant to the Minimum Assessment Agreement entered into between the parties and the County Assessor.

Minimum Assessment Agreement means the minimum assessment agreement in the form of Exhibit G attached hereto.

Mortgage means any mortgage or security agreement in which Developer has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

Net Proceeds means any proceeds paid by an insurer to Developer, as applicable, under a policy or policies of insurance required to be provided and maintained by Developer pursuant to Article IV of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means Ordinance Number 2366 of the City, under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided and a portion paid into the Iowa Clinic Urban

Renewal Tax Increment Revenue Fund.

Payments means the payments to be made by the City to the Developer under Article VII of this Agreement.

Project shall mean the construction and operation of the Minimum Improvements on the Development Property and the creation and maintenance of jobs, as described in this Agreement.

State means the State of Iowa.

Tenant shall mean The Iowa Clinic, P.C., an Iowa professional corporation, and each assignee that assumes in writing all of the obligations of the Tenant under this Agreement with the written consent of the City as provided in Section 6.1 of this Agreement

Term means the time period beginning on and including the Commencement Date and ending on and including the Termination Date.

Termination Date means the date of termination of this Agreement, as established in Section 10.8 of this Agreement.

The Iowa Clinic Westlakes I, LLC Subfund means a separate account within the Iowa Clinic Urban Renewal Tax Increment Revenue Fund of the City in which Development Property TIF received by the City with respect to the Minimum Improvements and the Development Property shall be deposited.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions, or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts, or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State, or local governmental unit (other than acts of the City, with respect to a City-claimed delay).

Urban Renewal Plan means the Urban Renewal Plan, as amended, approved with respect to the Iowa Clinic Urban Renewal Area, described in the preambles hereof.

## ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of the City. The City makes the following representations and warranties based on the actual present knowledge of the signatory to this Agreement said signatory having actual and apparent authority to make representations on behalf of the City:

a. The City is a municipal corporation and municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever

nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

d. The execution and delivery of this Agreement by the City is not in violation of or in conflict with any law, regulation or ordinance.

e. This Agreement has been duly and validly authorized, executed, and delivered by Developer and, assuming due authorization, execution, and delivery by the Developer and Tenant, is in full force and effect and is a valid and legally binding instrument of the City enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally

f. There are no actions, suits, or proceedings pending or threatened against or affecting the City in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the Agreement or the City's ability to perform its obligations under the Agreement.

Section 2.2. Representations and Warranties of Developer. Developer makes the following representations and warranties based on the actual present knowledge of the signatory to this Agreement said signatory having actual and apparent authority to make representations on behalf of the Developer:

a. The Iowa Clinic Westlakes I, LLC is an Iowa limited liability company, duly organized and validly existing under the laws of the State of Iowa, and it has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by Developer and, assuming due authorization, execution, and delivery by the City and Tenant, is in full force and effect and is a valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of Developer or of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits, or proceedings pending or threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results of operations of Developer or which in any manner raises any

questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

e Developer has not received any notice from any local, State, or federal official that the activities of Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Developer is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State, or federal environmental law, regulation, or review procedure applicable to the Development Property, and Developer is not currently aware of any violation of any local, State, or federal environmental law, regulation, or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

f Developer shall cooperate with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

g Developer shall cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

h Developer shall obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and shall meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations which must be obtained or met before the Minimum Improvements may be lawfully constructed.

i The construction of the Minimum Improvements will require a total investment of not less than \$51,500,000.

j Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements in accordance with the Construction Plans contemplated in this Agreement.

k Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by December 31, 2023.

l Developer would not undertake its obligations under this Agreement without the Payments being made to Developer pursuant to this Agreement.

Section 2.3. Representations and Warranties of Tenant. Tenant makes the following representations and warranties based on the actual present knowledge of the signatory to this Agreement said signatory having actual and apparent authority to make representations on behalf of the Tenant:

a. The Iowa Clinic, P.C., is an Iowa professional corporation duly organized and validly existing under the laws of the State of Iowa, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by Tenant and, assuming due authorization, execution, and delivery by the City and Developer, is in full force and

effect and is a valid and legally binding instrument of Tenant enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, nor will result in a violation or breach of the terms, conditions, or provisions of the governing documents of Tenant or of any contractual restriction, evidence of indebtedness, agreement, or instrument of whatever nature to which Tenant is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits or proceedings pending or threatened against or affecting Tenant in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position or results of operations of Tenant or which in any manner raises any questions affecting the validity of the Agreement or Tenant's ability to perform its obligations under this Agreement.

e. Tenant will occupy the Minimum Improvements on the Development Property and maintain its business operations and add and retain employees at the Minimum Improvements until at least the Termination Date, subject to the terms and conditions of this Agreement and the lease between Developer and Tenant.

f. Tenant has not received any notice from any local, State, or federal official that the activities of Developer or Tenant with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Tenant is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State, or federal environmental law, regulation, or review procedure applicable to the Development Property, and Tenant is not currently aware of any violation of any local, State, or federal environmental law, regulation, or review procedure which would give any person a valid claim under any State or federal environmental statute with respect thereto.

g. Tenant will cooperate with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

h. Tenant would not undertake its obligations under this Agreement without the Payments being made to Developer by the City pursuant to this Agreement.

### ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City in accordance with Section 3.2 below. Developer agrees that the scope and scale of the Minimum Improvements to be constructed shall not be significantly less than the scope and scale of the Minimum Improvements as detailed and outlined in the Construction Plans, and shall require a total investment of not less than \$51,500,000 in construction costs.

Section 3.2. Construction Plans. Developer shall cause Construction Plans to be developed for the Minimum Improvements, which shall be subject to approval by the City as provided in this Section 3.2, and which approval shall not be unreasonably withheld, conditioned or delayed. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (v) no Event of Default under the terms of this Agreement has occurred and is continuing beyond applicable notice and cure periods; provided, however, that any such approval of the Construction Plans pursuant to this Section 3.2 shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning, or other ordinances or regulations of the City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property and the surrounding areas where the Minimum Improvements are to be constructed shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official.

Approval of the Construction Plans by the City shall not relieve any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State, and local laws, ordinances, and regulations.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject the City to any liability for the Minimum Improvements as constructed.

Section 3.3. Commencement and Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to begin (the "Construction Commencement Date"): (i) by no later than July 1, 2021; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. The Developer agrees to notify the City in writing at the time the construction of the Minimum Improvements begins.

Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be completed: (i) by no later than December 31, 2023; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof, subject to Developer's rules and regulations for the construction site.

Section 3.4. Certificate of Completion. Within fifteen (15) business days after written request by

Developer and after issuance of an occupancy permit for the Minimum Improvements, the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of Developer to cause construction of the Minimum Improvements.

The Certificate of Completion may be recorded in the Dallas County Recorder's Office at Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.4, the City shall, within such fifteen (15) business day period, instead provide a written statement indicating in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

#### ARTICLE IV. INSURANCE

##### Section 4.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of coverage or payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk– Completed Value Basis," in an amount equal to the full replacement cost of the Minimum Improvements, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least \$1,000,000 for each occurrence. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the project and arising out of any act, error, or omission of Developer, or either entity's directors, officers, shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, Developer shall maintain or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of coverage or the payment of premiums on), insurance as follows:

i. Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limitation the generality of the foregoing) fire, extended coverage, vandalism and malicious mischief, explosion, water damage, demolition cost, debris removal, and collapse in an amount not less than the full insurable replacement value of the Minimum Improvements, but any such policy may have a deductible

amount of not more than \$50,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co- insurance provisions or otherwise, without the prior consent thereto in writing by the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains, and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by Developer and approved by the City.

ii. Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$1,000,000.

iii. Such other insurance, including workers' compensation insurance respecting all employees of Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

c. All insurance required by this Article IV to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article IV, each policy shall contain a provision that the insurer shall not cancel it without giving written notice to Developer and the City at least thirty (30) days (ten (10) days in the case of non- payment of premium) before the cancellation becomes effective. Within ten (10) days of being notified of any modification to the policy by the insurer that would cause a party's coverage to be less than the minimum requirements as set forth in this Agreement, the Developer will provide written notice to the City of the modification. Within fifteen (15) days after the expiration of any policy, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of this Article IV, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

d. Developer agrees to notify the City immediately in the case of damage exceeding \$25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to Developer (as applicable to the specific policy), and Developer, as applicable, will forthwith repair, reconstruct, and restore the Minimum Improvements to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer will apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof.

e. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by Developer for such purposes are

sufficient.

## ARTICLE V. FURTHER COVENANTS OF DEVELOPER AND TENANT

Section 5.1. Maintenance of Development Property. Developer will maintain, preserve, and keep the Development Property (whether owned in fee or a leasehold interest), including but not limited to the Minimum Improvements, in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Section 5.2. Maintenance of Records. Developer and Tenant will keep at all times proper books of record and account in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of Developer and Tenant relating to this Project, and Developer and Tenant will provide reasonable protection against loss or damage to such books of record and account.

Section 5.3. Compliance with Laws. Developer and Tenant, at such time as each party has possession and control of the Development Property, will comply with all State, federal, and local laws, rules, and regulations relating to the Minimum Improvements.

Section 5.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer and Tenant, each for themselves, shall not discriminate against any employees or applicants for employment on the basis of age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, or veteran status and shall include a similarly non-discrimination provision in all agreements associated with their business agreements with the City.

Section 5.5. Available Information. Upon request, Developer and Tenant shall promptly provide the City with copies of information reasonably requested by City that are related to this Agreement so that City can determine compliance with the Agreement.

Section 5.6. Employment. Tenant shall employ and retain a total Monthly Average of at least six hundred (600) Full-Time Equivalent Employment Units at the Development Property from the time of Tenant's occupancy of the Minimum Improvements (but no later than December 31, 2023) until September 30, 2033.

Beginning on October 1, 2033, Tenant shall employ and retain a total Monthly Average of at least seven hundred (700) Full-Time Equivalent Employment Units at the Development Property until the Termination Date.

"Monthly Average" means the average number of Full-Time Equivalent Employment Units employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in the Tenant's Annual Certification in Section 5.7 and in Exhibit F.

Section 5.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Developer and Tenant hereunder, duly authorized officers of Developer and Tenant, as applicable, shall provide Annual Certifications to the City.

Until such time as Developer is released from its obligations hereunder, Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property in the Urban Renewal Area have been paid for the prior fiscal year; (ii) the date of the first full assessment of the Minimum Improvements and the fully assessed value; (iii) proof of occupancy of the Minimum Improvements; and

certification that such officer is familiar with the terms and provisions of this Agreement and that at the date of such certification, there is no Event of Default by Developer hereunder, or if the signer is aware of any such Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Furthermore, the Developer's Annual Certification shall include the calculation and reporting of an amount (the "Developer's Estimate") equal to the estimated Development Property TIF anticipated to become available in the fiscal year immediately following such Annual Certification with respect to the Development Property and the Minimum Improvements. In submitting each such Developer's Estimate, the Developer will complete and submit the worksheet attached hereto as part of Exhibit E. The City reserves the right to review and request revisions to each Developer's Estimate to ensure the accuracy of the figures submitted.

Tenant shall annually provide to the City (i) certifications of the number of Full-Time Equivalent Employment Units as of October 1 and as of the first day of each of the preceding eleven (11) months; and (ii) certifications that such officer is familiar with the terms and provisions of this Agreement and that at the date of such certification, there is no Event of Default by the certifying party hereunder, or if the signer is aware of any such Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

Such statement, proof and certificates required above shall be provided not later than October 15 of each year during the Term, commencing October 15, 2024. Developer and Tenant shall provide supporting information germane to each of their respective Annual Certifications upon request of the City. See Exhibit E for the form required for Developer's Annual Certification and Exhibit F for the form required for Tenant's Annual Certification.

Section 5.8. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to the City performance by Developer of all the terms and provisions of this Agreement pertaining to Developer's obligations with respect to the construction of the Minimum Improvements. Without limiting the generality of the foregoing, Developer guarantees that: (a) construction of the Minimum Improvements shall be completed generally within the time limits set forth herein; (b) the Minimum Improvements shall be constructed and completed in substantial accordance with the Construction Plans; (c) the Minimum Improvements shall be constructed and completed free and clear of any mechanic's liens, materialman's liens and equitable liens; and (d) all costs of constructing the Minimum Improvements shall be paid when due.

Section 5.9. Term of Operation. Developer and Tenant will enter into a lease with a term in effect as of the completion date for the Minimum Improvements and continuing through the Termination Date of this Agreement, during which period the Tenant will maintain its operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 5.6. If either the Developer or Tenant terminates the lease prior to the Termination Date it shall be an Event of Default under this Agreement.

## ARTICLE VI. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 6.1. Status of Developer and Tenant; Transfer of Substantially All Assets; Assignment. As security for the obligations of Developer and Tenant under this Agreement, Developer and Tenant represent and agree that, prior to the Termination Date, Developer and Tenant will maintain their existence as companies and will not wind up or otherwise dispose of all or substantially all of their assets or transfer,

convey, or assign their interest in the Development Property, Minimum Improvements, or this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company, or individual assumes in writing all of the then-outstanding obligations of Developer and Tenant (as the case may be) under this Agreement; and (ii) the City consents thereto in writing in advance thereof, which consent by the City shall not be unreasonably withheld. Notwithstanding the foregoing, Developer may assign its right, title and interest to the Development Property, Minimum Improvements, or this Agreement to a lender for collateral purposes with the City's prior written consent, which consent by the City shall not be unreasonable withheld.

Section 6.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, Developer, or its successors or assigns, agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code §§ 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

## ARTICLE VII. ECONOMIC DEVELOPMENT PAYMENTS

### Section 7.1. Payments.

a. Number of Payments. In recognition of the Developer's and the Tenant's obligations set out above, the City agrees to make ten (10) annual Payments to the Developer during the Term, pursuant to Chapters 15A and 403 of the Code, provided, however, that the aggregate amount of the Payments shall not exceed \$11,000,000 (the "Maximum Payment Total"), and all Payments under this Agreement shall be subject to annual appropriation by the City Council, as provided hereunder.

b. Schedule of Payments. This Agreement assumes that the full taxable valuation from the Minimum Improvements will go onto the Dallas County property tax rolls as of January 1, 2024. Accordingly, Payments will be made on or before each June 1 of each fiscal year, commencing June 1, 2026, and continuing through and including 2035, or until such earlier date upon which the total Payments equal to the Maximum Payment Total have been made. The amount of each Payment shall be determined using the following formula:

June 1, 2026	100% of Development Property TIF for Fiscal Year 2025-2026
June 1, 2027	100% of Development Property TIF for Fiscal Year 2026-2027
June 1, 2028	100% of Development Property TIF for Fiscal Year 2027-2028
June 1, 2029	100% of Development Property TIF for Fiscal Year 2028-2029
June 1, 2030	100% of Development Property TIF for Fiscal Year 2029-2030
June 1, 2031	100% of Development Property TIF for Fiscal Year 2030-2031
June 1, 2032	100% of Development Property TIF for Fiscal Year 2031-2032
June 1, 2033	100% of Development Property TIF for Fiscal Year 2032-2033
June 1, 2034	100% of Development Property TIF for Fiscal Year 2033-2034
June 1, 2035	100% of Development Property TIF for Fiscal Year 2034-2035

c. Amount of Payments. The Payment to be made in a fiscal year shall not exceed an amount equal to the corresponding Appropriated Amount (for example, for the Payment due on June 1, 2026, the maximum amount of such Payment would be determined by the Appropriated Amount determined for certification by December 1, 2024). Furthermore, the amount of each such Payment shall not exceed the amount of Development Property TIF (excluding allocations of “back-fill” or “make-up” payments from the State of Iowa for property tax credits or roll-back) actually received by the City from the Dallas County Treasurer under the terms of the Ordinance deposited into The Iowa Clinic Westlakes I, LLC Subfund (excluding any interest that may accrue thereon prior to payment to Developer) during the twelve-months immediately preceding the extant Payment due date, but subject to limitation and adjustment as provided in this Article.

d. Limitation to Minimum Improvements. Payments are only for the Minimum Improvements described in this Agreement and not any expansions or improvements not included within the definition of the Minimum Improvements which, to be eligible for Payments, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 7.2. Conditions Precedent. Notwithstanding the provisions of Section 7.1 above, the obligation of the City to make a Payment in any year shall be subject to and conditioned upon the following:

- (a) compliance with the terms of this Agreement by Developer and Tenant including, but not limited to, the employment obligations in Section 5.6 of this Agreement, and payment of property taxes;
- (b) timely filing by Developer and Tenant of the Annual Certifications required under Section 5.7 hereof and the Council's approval thereof;
- (c) continual use of the Development Property and Minimum Improvements by Tenant;
- (d) the construction of the Minimum Improvements must have cost at least \$51,500,000 (and the Developer shall provide receipts or other reasonable evidence to the City to substantiate the expenditure of this amount, if requested);
- (e) execution of the Minimum Assessment Agreement by Developer and all lienholders and mortgage holders to the Development Property contemporaneous to execution of this Agreement; and
- (f) compliance with the terms of the Minimum Assessment Agreement and assessment of the Minimum Improvements and Development Property as set out in the Minimum Assessment Agreement.

In the event that an Event of Default occurs or any certification filed by Developer or Tenant under Section 5.7 (or other information) discloses the existence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have the remedies set forth in Section 9.2.

Each Annual Certification filed by Developer and Tenant under Section 5.7 hereof shall be considered separately in determining whether the City shall make a Payment available to Developer under this Section. Under no circumstances shall the failure by Developer or Tenant to qualify Developer for a Payment in any year serve to extend the term of this Agreement beyond the Termination Date or the years

during which Payments may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Payments only if Developer and Tenant fully comply with the provisions hereof and the Developer becomes entitled thereto, up to the maximum aggregate amount set forth in Section 7.3.

After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if the Developer's and Tenant's Annual Certifications are timely filed and contain the information required under Section 5.7 and the Council approves of the same, the City shall certify to the County prior to December 1 of that year its request for the available Development Property TIF resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on the following June 1 provided Developer and Tenant remain in compliance with the terms of this Agreement at the time of payment. (Example: assuming completion by December 31, 2023, and first full assessment on January 1, 2024, if Developer and Tenant certify in October, 2024 and the City certifies to the County by December 1, 2024, the first Payment would be paid to Developer on June 1, 2026 (for 100% of the Tax Increment for fiscal year 2025-2026) provided Developer and Tenant are in compliance with the Agreement at the time of payment). Compliance with the terms and conditions of this Agreement is a condition precedent to receiving a Payment.

Section 7.3. Annual Appropriation. The Payments shall be subject to annual appropriation by the City Council. Prior to December 1 of each year during the Term, commencing in calendar year 2024, the City Council of the City shall consider the question of obligating for appropriation to the funding of the Payment due in the following fiscal year, an amount (the "Appropriated Amount") of Development Property TIF to be collected in the following fiscal year equal to or less than the most recently submitted Developer's Estimate.

In any given fiscal year, if the City Council determines to not obligate the then-considered Appropriated Amount, then the City will be under no obligation to fund the Payment scheduled to become due in the following fiscal year, and the Developer will have no rights whatsoever to compel the City to make such Payments or to seek damages relative thereto or to compel the funding of such Payment in future fiscal years. A determination by the City Council to not obligate funds for any particular fiscal year's Payment shall not render this Agreement null and void, and the Developer shall make the next succeeding submission of the Developer's Estimate as called for in Section 5.7 above, provided however that no Payment shall be made after June 1, 2035. Failure to appropriate the funding of part or all of a Payment shall not constitute an Event of Default.

Notwithstanding the provisions of Section 7.1 hereof, the City shall have no obligation to make a Payment to Developer if at any time during the Term the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Development Property TIF resulting from the Minimum Improvements to fund a Payment to Developer, as contemplated under said Section 7.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Payments would otherwise have been paid to Developer under the terms of Section 7.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer and Tenant.

Section 7.4. Source of Payments. The Payments shall not constitute general obligations of the City, but shall be made solely and only from the Development Property TIF received by the City from the Dallas County Treasurer attributable to the taxable valuation of the Minimum Improvements on the Development Property, Furthermore, the Payments shall be payable from and secured solely and only by amounts deposited and held in The Iowa Clinic Westlakes I, LLC Subfund. The City hereby covenants and agrees to maintain the Ordinance in force with respect to the Development Property during the term hereof and to make sufficient deposits of Development Property TIF, if available, into The Iowa Clinic Westlakes I, LLC Subfund to fund the Payments. The Payments shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under chapter 441.21A shall not be included in the calculation to determine the amount of Payments for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Payments for which Developer is eligible.

Section 7.5. Certification of Payment Obligation. In any given fiscal year, if the City Council determines to obligate the then-considered Appropriated Amount, as set forth in Section 7.3 above, then the City Clerk will certify by December 1 of each such year to the Dallas County Auditor an amount equal to the most recently obligated Appropriated Amount.

Section 7.6. Real Property Taxes. Developer shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property. Until such obligations have been assumed by any other person, all pursuant to the provisions of this Agreement, Developer shall be responsible for all assessments and taxes.

Developer and Tenant and their permitted successors agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property or Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property or the Minimum Improvements between the date of execution of this Agreement and the Termination Date.

c. The assessment category for the Development Property is commercial/industrial and Developer shall not take any action to request or effect a change in such category.

Section 7.7. Minimum Assessment Agreement. As further consideration for this Agreement, Developer shall execute, contemporaneous with the execution of this Agreement, an Assessment Agreement pursuant to the provisions of Iowa Code Section 403.6(19) specifying the Assessor's Minimum Actual Value for the Development Property, with the Minimum Improvements thereon, for calculation of real property taxes in the form attached as Exhibit G ("Assessment Agreement" or "Minimum Assessment Agreement"). Specifically, Developer, the City, the County Assessor, the holder of any mortgage and all prior lienholders shall agree to a minimum actual value for the Development Property, with the Minimum

Improvements thereon, of not less than (1) Forty-Five Million Dollars (\$45,000,000) as of January 1, 2024 until December 31, 2029; (2) Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) as of January 1, 2030 until December 31, 2034; (3) Forty-Nine Million Five Hundred Thousand Dollars (\$49,500,000) as of January 1, 2035 until December 31, 2039; and (4) Fifty-Two Million Dollars (\$52,000,000) as of January 1, 2040 and through the remainder of the period during which the Assessment Agreement is in effect. Each minimum actual value, at the time applicable, is herein referred to as the "Assessor's Minimum Actual Value".

Nothing in the Assessment Agreement shall limit the discretion of the Assessor to assign an actual value to the property in excess of such Assessor's Minimum Actual Value nor prohibit Developer from seeking through the exercise of legal or administrative remedies a reduction in such actual value for property tax purposes; provided, however, that Developer shall not seek a reduction of such actual value below the Assessor's Minimum Actual Value in any year so long as the Assessment Agreement shall remain in effect. The Assessment Agreement shall remain in effect for such time as is necessary to allow for a twenty-year period (the "TIF Collection Period") of collections of incremental property tax revenues from the Property based on the Minimum Actual Values established herein, as permitted by Chapter 403 of the Code of Iowa. In no event will such TIF Collection Period end later than the City's 2044-2045 fiscal year, the taxes of which will be calculated and collected based on the January 1, 2043 taxable valuation of the Property. The Assessment Agreement shall be certified by the Assessor for the County as provided in Iowa Code Section 403.6(19) (2019) and shall be filed for record in the office of the County Recorder, and such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property or part thereof, whether voluntary or involuntary. Such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, as well as all prior lienholders and the holder of first mortgage, each of which shall sign a consent to the Minimum Assessment Agreement.

## ARTICLE VIII. INDEMNIFICATION

### Section 8.1. Release and Indemnification Covenants.

a. Developer and Tenant release the City and the governing body members, officers, agents, servants, and employees thereof (hereinafter, for purposes of this Article VIII, the "indemnified parties") from, covenant and agree that the indemnified parties shall not be liable for, and agrees to indemnify, defend, and hold harmless the indemnified parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements or Development Property.

b. Except to the extent arising from any willful misrepresentation, gross negligence, or any willful or wanton misconduct or any unlawful act of the indemnified parties, Developer and Tenant agree to protect and defend the indemnified parties, now or forever, and further agree to hold the indemnified parties harmless, from any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from: (i) any violation of any agreement or condition of this Agreement (except with respect to any suit, action, demand, or other proceeding brought by Developer or Tenant against the City to enforce its rights under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

c. The indemnified parties shall not be liable for any damage or injury to the persons or property of Developer or Tenant or their officers, agents, servants, or employees or any other person who may be about the Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants, or employees.

d. The provisions of this Article VIII shall survive the termination of this Agreement.

#### ARTICLE IX. REMEDIES

Section 9.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events during the Term of this Agreement:

a. Failure by Developer to cause the construction of the Minimum Improvements to be completed and the operations to continue pursuant to the terms and conditions of this Agreement;

b. Failure by Developer or Tenant to comply with Sections 5.6, 5.7, 5.8, or 5.9 of this Agreement, as applicable;

c. Transfer of Developer's interest in the Development Property, Minimum Improvements, or this Agreement in violation of the provisions of this Agreement;

d. Failure by Developer to pay ad valorem taxes on the Development Property or Minimum Improvements;

e. Failure by Developer or Tenant to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

f. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

g. Developer shall:

i. file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or

ii. make an assignment for the benefit of its creditors; or

iii. admit in writing its inability to pay its debts generally as they become due; or

iv. be adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer as bankrupt or either entity's reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Developer or the Minimum Improvements, or part thereof, shall be appointed in any

proceedings brought against Developer, and shall not be discharged within ninety (90) days after such appointment, or if Developer shall consent to or acquiesce in such appointment;

h. Any representation or warranty made by Developer or Tenant in this Agreement or in any written statement or certificate furnished by Developer or Tenant pursuant to this Agreement, shall prove to have been incorrect, incomplete or misleading in any material respect on or as of the date of the issuance or making thereof; or

i. Failure of the Developer or any lienholder to execute or comply with the Minimum Assessment Agreement.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs and is continuing, the City, as specified below, may take any one or more of the following actions after the giving of thirty (30) days' written notice by the City to Developer, Tenant, and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Developer and/or Tenant does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement until it receives assurances from Developer and/or Tenant, deemed adequate by the City, that Developer and/or Tenant will cure the default and continue its performance under this Agreement;

b. The City may terminate this Agreement;

c. The City may withhold the Certificate of Completion;

d. The City may take any action, including legal, equitable, or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Developer and/or Tenant, as the case may be, under this Agreement; or

e. The City will have no obligation to make Payments to Developer subsequent to the Event of Default and shall be entitled to recover from Developer, and Developer shall repay to the City, an amount equal to the full amount of the Payments previously made to Developer under Article VII hereof, with interest thereon at the highest rate permitted by State law. The City may take any action, including any legal action it deems necessary, to recover such amounts from Developer.

Section 9.3. Immediate Termination of Agreement. Notwithstanding the provisions of Sections 9.1 and 9.2 of this Agreement, the City, the Developer and the Tenant agree that this Agreement and the Minimum Assessment Agreement shall terminate automatically (without any further action on the part of any party hereto) if the Developer does not begin construction of the Minimum Improvements by the Construction Commencement Date (as defined in Section 3.3 of this Agreement).

Section 9.4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing

upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 9.5. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous, or subsequent breach hereunder.

Section 9.6. Agreement to Pay Attorneys' Fees and Expenses.

a. Developer shall pay to the City an amount equal to the actual costs incurred by the City in connection with the drafting and execution of this Agreement, including, but not limited to publication fees for legal notices, actual costs associated with City Council meetings, and reasonable legal fees of the City, associated with the preparation and adoption of the Urban Renewal Plan and negotiation, drafting and authorization of this Agreement. Payment by Developer of such costs will be made by the Developer to the City within 30 days of the date on which the City presents a statement to the Developer demonstrating such costs, or if not previously paid the costs shall be deducted from the first Payment.

b. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer or Tenant herein contained, and the City prevails in an action to enforce this Agreement, Developer and Tenant agree that the defaulting party shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE X. MISCELLANEOUS

Section 10.1. Conflict of Interest. Developer and Tenant represent and warrant that, to their best knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 10.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- a. In the case of Developer, is addressed or delivered personally to The Iowa Clinic Westlakes I, LLC at 5950 University Avenue, Suite 321, West Des Moines, Iowa 50265, Attn: Mark Reece;
- b. In the case of Tenant, is addressed or delivered personally to The Iowa Clinic, P.C. at 5950

University Avenue, Suite 321, West Des Moines, Iowa 50266, Attn: Mark Reece;

- c. In the case of the City, is addressed to or delivered personally to the City at 4200 Mills Civic Pkwy, PO Box 65320, West Des Moines, Iowa 50265-0320, Attn: Ryan Jacobson, City Clerk;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 10.3. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 10.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 10.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 10.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 10.7. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

Section 10.8. Termination Date. This Agreement shall terminate on the date on which the twenty-year period (the "TIF Collection Period") of collections of incremental property tax revenues from the Property, as permitted by Chapter 403 of the Code of Iowa, concludes. In no event will such TIF Collection Period end later than the City's 2044-2045 fiscal year.

Section 10.9. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit D, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for all costs of recording.

Section 10.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and Developer and Tenant have caused this Agreement to be duly executed in their names and behalf by their authorized representatives, all on or as of the day first above written.

[Signatures start on the next page]

(SEAL)

CITY OF WEST DES MOINES, IOWA

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

ATTEST:

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

STATE OF IOWA                    )  
  ) SS  
COUNTY OF POLK                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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 the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, 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



THE IOWA CLINIC, P.C.

By: \_\_\_\_\_  
Mark Reece, Chairman

STATE OF IOWA                    )  
  ) SS  
COUNTY OF DALLAS            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me the undersigned, a Notary Public in and for said State, personally appeared Mark Reece, to me personally known, who, being by me duly sworn, did say that he is the Chairman of The Iowa Clinic, P.C., and that said instrument was signed on behalf of said professional corporation; and that the said Mark Reece as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said professional corporation, by him voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

EXHIBIT A

DEVELOPMENT PROPERTY

The Development Property is described as follows:

LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.

Dallas County, Iowa Parcel ID number: 1601201003

Address: 1620 59<sup>th</sup> Place, West Des Moines, Iowa

## EXHIBIT B

### MINIMUM IMPROVEMENTS

Minimum Improvements shall mean the construction of a new medical office building, the construction of a new parking ramp and the construction of a new parking lot on the Development Property. The construction of the Minimum Improvements are expected to be completed by December, 2023. Construction costs for the Minimum Improvements are expected to be no less than \$51,500,000.

The assessed value after construction of the Minimum Improvements for the purpose of this Agreement is required to be at least (1) Forty-Five Million Dollars (\$45,000,000) as of January 1, 2024 until December 31, 2029; (2) Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) as of January 1, 2030 until December 31, 2034; (3) Forty-Nine Million Five Hundred Thousand Dollars (\$49,500,000) as of January 1, 2035 until December 31, 2039; and (4) Fifty-Two Million Dollars (\$52,000,000) as of January 1, 2040, until termination of the Agreement pursuant to the Minimum Assessment Agreement entered into by and among the City, Developer, and the Dallas County Assessor.

A preliminary site plan for the Minimum Improvements is attached as Exhibit B-1. A final site plan further describing the Minimum Improvements will be attached as Exhibit B-1 when completed and approved.

EXHIBIT B-1

[Preliminary Site Plan – to be replaced with final upon approval by the City]

EXHIBIT C  
CERTIFICATE OF COMPLETION

WHEREAS, the City of West Des Moines, Iowa (the "City"), The Iowa Clinic Westlakes I, LLC (the "Developer"), and The Iowa Clinic, P.C. (the "Tenant") did on \_\_\_\_\_, 2019, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby the Developer 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:

LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.

Dallas County, Iowa Parcel ID number: 1601201003

Address: 1620 59<sup>th</sup> Place, West Des Moines, Iowa

(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 Dallas 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

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

ATTEST:

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

STATE OF IOWA                    )  
  ) SS  
COUNTY OF POLK                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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 the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, 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

**EXHIBIT D**

**Type of Document:** **MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT  
AMONG THE CITY OF WEST DES MOINES THE IOWA CLINIC  
WESTLAKES I, LLC, and THE IOWA CLINIC, P.C.**

**Return Document to:** **Ryan T. Jacobson  
City of West Des Moines  
4200 Mills Civic Parkway, Suite 1A  
West Des Moines, IA 50265**

**Preparer Information:** **John P. Danos  
Dorsey & Whitney, LLP  
801 Grand Avenue, Suite  
4100 Des Moines, IA  
50309 (515) 283-1000**

**Taxpayer Information:** N/A

GRANTORS: N/A

GRANTEES: N/A

**LEGAL DESCRIPTION:**

**LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST  
DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF  
WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.**

Dallas County, Iowa Parcel ID number: 1601201003

Address: 1620 59<sup>th</sup> Place, West Des Moines, Iowa

MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of West Des Moines, Iowa (the "City"), The Iowa Clinic Westlakes I, LLC, an Iowa limited liability company ("Developer"), and The Iowa Clinic, P.C., an Iowa professional corporation ("Tenant") did on \_\_\_\_\_, 2019, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Tenant agreed, in accordance with the terms of the Agreement and the Iowa Clinic Urban Renewal Plan (the "Plan"), to develop and operate certain real property located within the City and within the Iowa Clinic Urban Renewal Area.

The Development Property is described as follows:

LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.

Dallas County, Iowa Parcel ID number: 1601201003

Address: 1620 59<sup>th</sup> Place, West Des Moines, Iowa.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the \_\_\_\_ day of \_\_\_\_\_, 2019 and terminates on the Termination Date (as defined in the Agreement), unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City, Developer, and Tenant desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.
2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.
3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, West Des Moines, Iowa.

IN WITNESS WHEREOF, the City, Tenant and Developer have executed this Memorandum of Agreement for Private Development on \_\_\_\_\_, 2019.

[Signatures Start on Next Page]

(SEAL)

CITY OF WEST DES MOINES, IOWA

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

ATTEST:

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

STATE OF IOWA                                    )  
  ) SS  
COUNTY OF POLK                                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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 the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, 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



THE IOWA CLINIC, P.C.

By: \_\_\_\_\_  
Mark Reece, Chairman

STATE OF IOWA                    )  
  ) SS  
COUNTY OF DALLAS            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me the undersigned, a Notary Public in and for said State, personally appeared Mark Reece, to me personally known, who, being by me duly sworn, did say that he is the Chairman of The Iowa Clinic, P.C., and that said instrument was signed on behalf of said professional corporation; and that the said Mark Reece as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said professional corporation, by him voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

EXHIBIT E  
DEVELOPER ANNUAL CERTIFICATION  
(due by October 15th as required under terms of Development Agreement)

Developer certifies the following:

During the time period covered by this Certification, Developer is and was in compliance with Section 5.7 of the Agreement as follows:

(i) all ad valorem taxes on the Development Property in the Urban Renewal Area have been paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

(ii) the Minimum Improvements were first fully assessed on January 1, 20\_\_\_\_, at a full assessment value of \$\_\_\_\_\_, and are currently assessed at \$\_\_\_\_\_;

(iii) The Minimum Improvements are occupied by the following commercial enterprise(s) employing individuals therein:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please attach proof of occupancy (e.g., a rent roll with occupant's name or a signed statement on tenant's letterhead).

(iv) the undersigned officer of Developer has re-examined the terms and provisions of this Agreement and that at the date of such certification, and during the preceding twelve (12) months, certify that Developer is not, or was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certification, or if the signers are aware of any such Event of Default, said officers have disclosed the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE IOWA CLINIC WESTLAKES I, LLC

By: \_\_\_\_\_  
\_\_\_\_\_  
[Name, Title]

**DEVELOPER'S ESTIMATE WORKSHEET**

- (1) Date of Preparation: October \_\_\_\_, 20\_\_.
- (2) Assessed Valuation of Property as of January 1, 20\_\_:  
\$\_\_\_\_\_.
- (3) Base Taxable Valuation of Property:  
\$\_\_\_\_\_.
- (4) Incremental Taxable Valuation of Property (2 minus 3):  
\$\_\_\_\_\_ (the "TIF Value").
- (5) Current City fiscal year consolidated property tax levy rate for purposes of calculating Incremental Property Tax Revenues (the "Adjusted Levy Rate"):  
\$\_\_\_\_\_ per thousand of value.
- (6) The TIF Value (4) factored by the Adjusted Levy Rate (5).  
\$\_\_\_\_\_ x \$\_\_\_\_\_ /1000 = \$\_\_\_\_\_ (the "TIF Estimate")
- (7) Subtract anticipated property tax credits from the TIF Estimate (6 minus 7) = \$\_\_\_\_\_ (the "Available TIF Estimate")  
  
Developer's Estimate = \$\_\_\_\_\_

EXHIBIT F  
TENANT ANNUAL CERTIFICATION  
(due by October 15th as required under terms of Development Agreement)

Tenant certifies the following:

During the time period covered by this Certification, Tenant is and was in compliance with Section 5.7 as follows:

(i) The number of Full-Time Equivalent Employment Units employed at the Minimum Improvements as of October 1, 20\_\_\_\_ and as of the first day of each of the preceding eleven (11) months were are follows:

October 1, 20 : _____	April 1, 20 : _____
September 1, 20 : _____	March 1, 20 : _____
August 1, 20 : _____	February 1, 20 : _____
July 1, 20 : _____	January 1, 20 : _____
June 1, 20 : _____	December 1, 20 : _____
May 1, 20 : _____	November 1, 20 : _____

(iii) the undersigned officer of Tenant is familiar with the terms and provisions of this Agreement and certifies that Tenant is not in default in the fulfillment of any of the terms and conditions of this Agreement, or if the signer is aware of any such Event of Default, said officer has disclosed the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE IOWA CLINIC, P.C.

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

\_\_\_\_\_  
[Name, Title]

**EXHIBIT G**

**Type of Document:** **MINIMUM ASSESSMENT AGREEMENT AMONG THE CITY OF WEST DES MOINES AND THE IOWA CLINIC WESTLAKES I, LLC**

**Return Document to:** **Ryan T. Jacobson  
City of West Des Moines  
4200 Mills Civic Parkway, Suite 1A  
West Des Moines, IA 50265**

**Preparer Information:** **John P. Danos  
Dorsey & Whitney LLP  
801 Grand Ave, Ste.  
#4100 Des Moines, IA  
50309 (515) 283-1000**

**Taxpayer Information:** **N/A**

GRANTORS: N/A

GRANTEES: N/A

**LEGAL DESCRIPTION:**

**LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.**

**Dallas County, Iowa Parcel ID number: 1601201003**

**Address: 1620 59<sup>th</sup> Place. West Des Moines, Iowa**

MINIMUM ASSESSMENT AGREEMENT

THIS AGREEMENT, dated as of the \_\_\_\_ day of \_\_\_\_\_, 2019, by and among the City of West Des Moines, Iowa (the “City”), The Iowa Clinic Westlakes I, LLC (the “Developer”), and the County Assessor of Dallas County (the “Assessor”).

WITNESSETH

WHEREAS, the Developer owns the real property, the legal description of which is contained in Exhibit A attached hereto (the “Property”), which is located in the Iowa Clinic Urban Renewal Area in the City; and

WHEREAS, an development agreement (the “Development Agreement”), dated \_\_\_\_\_, 2019, has been executed between the City and the Developer with respect to the construction of a general family practice medical building on the Property (the “Project”); and

WHEREAS, the Assessor’s records show the valuation for the Property and any improvements as of January 1, 2020 to be \$ \_\_\_\_\_ and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, the City and the Developer desire to establish a minimum taxable values for the Property and the improvements to be constructed thereon, which shall be effective on the dates set forth herein, and from such dates until this Agreement is terminated pursuant to the terms herein and which minimum taxable values are intended to reflect the minimum market value of the land and improvements;

NOW, THEREFORE, the parties to this Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Effective January 1, 2024, the minimum actual value which shall be assessed for the Property taking into account the improvements to be constructed thereon, shall be Forty-Five Million Dollars (\$45,000,000) until December 31, 2029.

2. Effective January 1, 2030, the minimum actual value which shall be assessed for the Property taking into account the improvements to be constructed thereon, shall be Forty-Seven Million Five Hundred Thousand Dollars (\$47,500,000) until December 31, 2034.

3. Effective January 1, 2035, the minimum actual value which shall be assessed for the Property taking into account the improvements to be constructed thereon, shall be Forty-Nine Million Five Hundred Thousand Dollars (\$49,500,000) until December 31, 2039.

4. Effective January 1, 2040, the minimum actual value which shall be assessed for the Property taking into account the improvements to be constructed thereon, shall be Fifty-Two Million Dollars (\$52,000,000) until termination of this Agreement.

5. The Developer hereby agrees that the assessed valuations (hereinafter, collectively referred to as the “Minimum Actual Values”) set forth in Sections 1 through 4 above shall become and remain effective as of the appointed dates, and throughout the term of this Agreement, regardless of the actual degree of completion or incompleteness of the Project, even if construction of the Project

is not commenced by such date. Furthermore, the Developer acknowledges that the City has changed its position in reliance on the timeliness of such increases in valuation as set forth in the Development Agreement.

6. The Developer agrees to pay when due, all taxes and assessments, general or special, and all other charges whatsoever levied upon or assessed or placed against the Property, subject to any limitations set forth in the Development Agreement. The Developer further agrees that until this Agreement is terminated it will not seek administrative or judicial review of the applicability, enforceability, or constitutionality of this Agreement or the obligation to be taxed based upon the Minimum Actual Values or to raise any such argument by way of defense in any proceedings, including delinquent tax proceedings.

7. This Agreement, and the Minimum Actual Values established herein, shall be in effect for such time as is necessary to allow for a twenty-year period (the "TIF Collection Period") of collections of incremental property tax revenues from the Property based on the Minimum Actual Values established herein, as permitted by Chapter 403 of the Code of Iowa. In no event will such TIF Collection Period end later than the City's 2044-2045 fiscal year, the taxes of which will be calculated and collected based on the January 1, 2043 taxable valuation of the Property.

8. Nothing herein shall be deemed to waive the Developer's rights under Section 403.6(19) Code of Iowa, (2019) or otherwise, to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Values.

9. This Agreement shall be promptly recorded with the Dallas County Recorder, along with a copy of Iowa Code Section 403.6.

10. All lienholders shall have signed consents to this Assessment Agreement, which consents are attached hereto and made a part hereof.

11. Neither the preamble nor provisions of this Agreement are intended to, nor shall they be construed as, modifying the terms of any other contract between the City and the Developer, including the Development Agreement.

EXHIBIT A

(Legal Description of Property)

Certain real property situated in the City of West Des Moines, Dallas County, State of Iowa legally described as follows:

LOT 5 IN WEST LAKES OFFICE PARK PLAT 9, AN OFFICIAL PLAT, CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA, EXCEPT LAND DEEDED TO THE CITY OF WEST DES MOINES AND RECORDED IN BOOK 2008, PAGE 15369.

Dallas County, Iowa Parcel ID number: 1601201003

Address: 1620 59<sup>th</sup> Place, West Des Moines, Iowa

(SEAL)

CITY OF WEST DES MOINES, IOWA

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

ATTEST:

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

STATE OF IOWA                    )  
  ) SS  
COUNTY OF POLK                )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, 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 the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, 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

THE IOWA CLINIC WESTLAKES I, LLC

By: \_\_\_\_\_  
Mark Reece, Chairman

STATE OF IOWA                    )  
  ) SS  
COUNTY OF DALLAS            )

On this \_\_\_\_\_ day of \_\_\_\_\_, 2019, before me the undersigned, a Notary Public in and for said State, personally appeared Mark Reece, to me personally known, who, being by me duly sworn, did say that he is the Chairman of The Iowa Clinic Westlakes I, LLC, and that said instrument was signed on behalf of said limited liability company; and that the said Mark Reece as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa





## RESOLUTION \_\_\_\_\_

Resolution Approving Development Agreement with The Iowa Clinic Westlakes I, LLC and The Iowa Clinic, P.C., Authorizing Annual Appropriation Tax Increment Payments and Pledging Certain Tax Increment Revenues to the Payment of the Agreement

WHEREAS, the City of West Des Moines, Iowa (the “City”), pursuant to and in strict compliance with all laws applicable to the City, and in particular the provisions of Chapter 403 of the Code of Iowa, has adopted an Urban Renewal Plan for the Iowa Clinic Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, this City Council has adopted an ordinance providing for the division of taxes levied on taxable property in the Urban Renewal Area pursuant to Section 403.19 of the Code of Iowa and establishing the fund referred to in Subsection 2 of Section 403.19 of the Code of Iowa (the “Urban Renewal Tax Revenue Fund”), which fund and the portion of taxes referred to in that subsection may be irrevocably pledged by the City for the payment of the principal of and interest on indebtedness incurred under the authority of Section 403.9 of the Code of Iowa to finance or refinance in whole or in part projects in the Urban Renewal Area; and

WHEREAS, a certain development agreement (the “Agreement”) among the City, The Iowa Clinic Westlakes I, LLC (the “Developer”) and The Iowa Clinic, P.C. (the “Tenant”) has been prepared, pursuant to which the Developer would undertake the construction of a new medical office building, the construction of a new parking ramp, the construction of a new parking lot and related improvements (the “Project”) in the Urban Renewal Area for use in the business operations of the Tenant; and

WHEREAS, under the Agreement, the City would provide annual appropriation tax increment payments to the Developer in a total amount not exceeding \$11,000,000; and

WHEREAS, this City Council, pursuant to Section 403.9 of the Code of Iowa, has published notice, has held a public hearing on the Agreement on October 21, 2019, and has otherwise complied with statutory requirements for the approval of the Agreement; and

WHEREAS, Chapter 15A of the Code of Iowa (“Chapter 15A”) declares that economic development is a public purpose for which a City may provide grants, loans, tax incentives, guarantees and other financial assistance to or for the benefit of private persons; and

WHEREAS, Chapter 15A requires that before public funds are used for grants, loans, tax incentives or other financial assistance, a City Council must determine that a public purpose will reasonably be accomplished by the spending or use of those funds; and

WHEREAS, Chapter 15A requires that in determining whether funds should be spent, a City Council must consider any or all of a series of factors;

NOW, THEREFORE, It Is Resolved by the City Council of the City of West Des Moines, Iowa, as follows:

Section 1. Pursuant to the factors listed in Chapter 15A, the City Council hereby finds that:

(a) The Project will add diversity and generate new opportunities for the West Des Moines and Iowa economies;

(b) The Project will generate public gains and benefits, particularly in the creation of new jobs, which are warranted in comparison to the amount of the proposed property tax incentives.

Section 2. The City Council further finds that a public purpose will reasonably be accomplished by entering into the Agreement and providing the incremental property tax payments to the Developer thereunder.

Section 3. The Agreement is hereby approved and the Mayor and City Clerk are hereby authorized and directed to execute and deliver the Agreement on behalf of the City, in substantially the form and content in which the Agreement has been presented to this City Council, and such officers are also authorized to make such changes, modifications, additions or deletions as they, with the advice of bond counsel, may believe to be necessary, and to take such actions as may be necessary to carry out the provisions of the Agreement.

Section 4. All payments by the City under the Agreement shall be subject to annual appropriation by the City Council, in the manner set out in the Agreement. As provided and required by Chapter 403 of the Code of Iowa, the City's obligations under the Agreement shall be payable solely from a subfund (the "Iowa Clinic Westlakes I, LLC Subfund") which is hereby established, into which shall be paid that portion of the income and proceeds of the Urban Renewal Tax Revenue Fund attributable to property taxes derived from the property as described as follows:

Certain real property situated in the City of West Des Moines, Dallas County, State of Iowa, bearing Dallas County Property Tax Parcel Identification Number 1601201003.

Section 5. The City hereby pledges to the payment of the Agreement the Iowa Clinic Westlakes I, LLC Subfund and the taxes referred to in Subsection 2 of Section 403.19 of the Code of Iowa to be paid into such Subfund, provided, however, that no payment will be made under the Agreement unless and until monies from the Iowa Clinic Westlakes I, LLC Subfund are appropriated for such purpose by the City Council.

Section 6. After its adoption, a copy of this resolution shall be filed in the office of the County Auditor of Dallas County to evidence the continuing pledging of the Iowa Clinic Westlakes I, LLC Subfund and the portion of taxes to be paid into such Subfund and, pursuant to the direction of Section 403.19 of the Code of Iowa, the County Auditor shall allocate the taxes in accordance therewith and in accordance with the tax allocation ordinance referred to in the preamble hereof.

Section 7. All resolutions or parts thereof in conflict herewith are hereby repealed.  
Passed and approved October 21, 2019.

---

Mayor

Attest:

---

City Clerk

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

**ITEM:** Approval to execute a Development Agreement between High Water Investments LLC, Nan's Nummies, L.L.C., and the City of West Des Moines **DATE:** October 21, 2019

**RESOLUTION:** Approval of Development Agreement

**FINANCIAL IMPACT:** Based on the Historic West Des Moines Urban Renewal Plan, and the attached development agreement between the City, High Water Investments LLC, and Nan's Nummies, L.L.C., the City anticipates providing incentives in the form of a zero-interest loan for property improvement projects not to exceed \$17,625, repayable over ten (10) years. The final amount will be dependent upon receipts submitted to the City for review and approval.

**BACKGROUND:** On February 6, 2017, the City Council adopted a resolution creating the Property Improvement Fund (PIF) Pilot Program to provide assistance to property owners for renovation and upgrade of older commercial, office, industrial, and mixed-use properties within the Historic West Des Moines Urban Renewal Area. The program is structured as a zero-interest loan, based on a reimbursement basis, and repayable to the City within 5 to 10 years. The original structure required the applicant to sign a minimum assessment agreement to repay the loan in full through an increase in property taxes. This repayment structure within the program was later amended. The program requires the creation/retention of a minimum of two (2) full-time equivalent (FTE) jobs.

On May 30, 2017, the City Council amended the PIF Pilot Program to add the provision of progress payments to the recipient based on completed projects within the full renovation project. The Program was also amended to provide for a restructure of the PIF to remove the minimum assessment agreement requirement and instead administer the full loan through the City, with repayment of the zero-interest loan being directly payable to the City.

On July 8, 2019, the Finance and Administration City Council Subcommittee reviewed the recommendations of the Due Diligence Committee via email. After review of the item, the Subcommittee members directed staff to forward the recommendations of the Due Diligence Committee to the full City Council. F&A's directions to staff also included the recommendation of the Due Diligence Committee to have the City Council authorize applicants to apply for building permits, and to begin construction after issuance.

At the July 15, 2019, City Council meeting, the Council approved the recommendations for applications for assistance from the PIF (and the Regulatory Compliance Fund) for the Historic West Des Moines area and approved the award recipients to apply for building permits and to begin construction upon issuance of those permits.

In this particular case, the Tenant, Nan's Nummies, L.L.C. is undertaking an improvement project located at the development property, 501 Elm St. (aka 300 5<sup>th</sup> Street), with an estimated value of \$21,000. The Tenant is also committing to create/retain three (3) FTEs within the proposed development agreement.

**OUTSTANDING ISSUES:** There are no outstanding issues.

**RECOMMENDATION:** Adopt the resolution approving the Development Agreement and authorizing the Mayor to sign the Agreement on behalf of the City.

Lead Staff Member: Katie Hernandez, Business Development Coordinator, Community and Economic Development KH

**STAFF REVIEWS**

Department Director	Clyde Evans, Community and Economic Development Director <span style="float: right;">CEE</span>
Appropriations/Finance	Tim Stiles, Finance Director <span style="float: right;">TS</span>
Legal	<span style="float: right;">JDS</span>
Agenda Acceptance	<span style="float: right;">W</span>

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

Published In	Des Moines Register
Date(s) Published	October 11, 2019
Letter sent to surrounding property owners	N/A

**SUBCOMMITTEE REVIEW** (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

**ATTACHMENTS:**

- Exhibit I - Development Agreement
- Exhibit II - Resolution

**PROPERTY IMPROVEMENT FUND  
AGREEMENT FOR PRIVATE DEVELOPMENT**

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (“Agreement”), is made on or as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by and between the CITY OF WEST DES MOINES, IOWA, a municipality (the “City”), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapter 15A of the Code of Iowa, 2019, and HIGH WATER INVESTMENTS LLC, an Iowa limited liability company (the “Property Owner”), and NAN'S NUMMIES, L.L.C., an Iowa limited liability company (the “Tenant”).

**BACKGROUND**

**WHEREAS**, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and is engaged in carrying out urban renewal project activities in an area known as the Historic West Des Moines Urban Renewal Area (the “Area”), which is described in the Urban Renewal Plan (“Plan”) approved for such area by Resolution No. 17-04-03-14 on April 3, 2017; and

**WHEREAS**, the City has also approved Resolution No.17-02-06-20 on February 6, 2017, establishing the Property Improvement Fund (“PIF”) Program, and the program was later amended by Resolution No. 17-05-30-16 on May 30, 2017, which is an economic incentive policy to provide assistance to property owners in the Area for renovation and upgrade of older commercial, office, industrial, and mixed use properties; and

**WHEREAS**, the City has also approved Resolution No. 17-02-06-21 on February 6, 2017, and the program was later amended by Resolution No. 17-06-12-11 on June 12, 2017, establishing the Regulatory Compliance Fund (“RCF”) Program, which is an economic incentive policy to assist property owners in the Area with costs of compliance with government regulations; and

**WHEREAS**, the PIF Program and the RCF Program are both identified as urban renewal projects in the Plan; and

**WHEREAS**, the Tenant has submitted an application to receive funding through one or both of the above programs for certain construction activities as described on the attached Exhibit B (hereinafter the “Project”) that the Tenant seeks to undertake on the property legally described on the attached Exhibit A (the “Development Property”), which is located within the Area; and

**WHEREAS**, Tenant shall operate its business at the Development Property and commit to hire and retain employees thereon; and

**WHEREAS**, the City has conditionally approved the Tenant to receive economic development incentive funding as specified in Article II of this Agreement (the “Development Incentives”) in return for the Tenant’s completion of the Project, provided that the Property Owner and Tenant agrees to and remains in compliance with the terms of this Agreement; and

**WHEREAS**, the City Council has found the Project to be consistent with the objectives of the Plan for the Area, the PIF and RCF programs, and has further found that the use of City funds to finance the Development Incentives is in accord with the provisions of the applicable laws under which the Project will be undertaken, including but not limited to, Iowa Code Chapter 15A.

**NOW, THEREFORE**, the City, Property Owner and Tenant, in consideration of the promises and mutual obligations set forth in this Agreement now agree and covenant as follows:

**ARTICLE I**  
**REPRESENTATIONS AND COVENANTS OF PROPERTY OWNER AND TENANT**

1. Representations and Covenants of Tenant. Tenant makes the following representations and covenants:
  - a. Employment. Within two (2) years after Completion Date, as defined in Article I, Section 1(e), the Tenant shall employ at least three (3) Full-Time Equivalent Employees at the Development Property, and Tenant shall retain at least three (3) Full-Time Equivalent Employees at the Development Property through the Termination Date of this Agreement, as that term is defined in Article VI, Section 11.

For purposes of this Agreement, "Full Time Equivalent Employees" shall mean either (i) a "full time" employee who works at least 40 hours per week or 2,000 hours per year or (ii) any combination of "part time" employees, who, in the aggregate, work at least 2,000 hours per year.
  - b. Minimum Improvements. Tenant shall cause the improvements described in Exhibit B to this Agreement (the "Minimum Improvements") to be constructed in accordance with the terms of this Agreement, the Plan, and all local, State, and federal laws and regulations. The Minimum Improvements shall remain on the property for the duration of this Agreement.
  - c. Total Investment. Tenant represents that the total investment in the Development Property for the Project will be not less than \$21,000, and that without the Development Incentives contemplated herein, Tenant would not undertake the Project.
  - d. Insurance. Tenant agrees during construction of the Minimum Improvements and thereafter until the Termination Date, as that term is defined in Article VI, Section 11, to maintain builder's risk, property damage, and liability insurance coverages with respect to the Minimum Improvements in such amounts as are customarily carried by like organizations engaged in activities of comparable size and liability exposure with insurance companies reasonably satisfactory to the City, together with such additional coverages as the City may reasonably request, and shall provide evidence of such coverages to the City upon request.
  - e. Completion Date. Tenant expects that, barring delays resulting from acts or occurrences outside its reasonable control, including but not limited to storms, floods, fires, explosions, or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts, or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the City), the Minimum Improvements will be completed by October, 2019.
  - f. No Violations or Claims. To its knowledge and with respect to the Project, the Tenant is not in material violation of any local, state, or federal environmental law or regulation and is not aware of any pending or threatened claim against the Tenant with respect to such laws.

- g. Cooperation. Tenant will cooperate fully with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Project.
- h. Operation of Minimum Improvements. Tenant will occupy the Development Property until at least the Termination Date as that term is defined in Article VI, Section 11.
- i. Compliance with Laws. Tenant will comply with all state, federal, and local laws, rules, and regulations relating to the Minimum Improvements, including laws prohibiting discrimination against any applicant, employee, or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.
- j. Available Information. Upon request, Tenant shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with the Agreement.
- k. Inspection. Tenant agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.
- l. Annual Certification. To assist the City in monitoring the Agreement and performance of Tenant hereunder, a duly authorized officer of Tenant shall annually provide to the City: (i) certification of the number of Full-Time Equivalent Employees employed by Tenant as of October 1 and as of the first day of each of the preceding eleven (11) months (prorated for the first certification); and (ii) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Tenant is not, or was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than October 15 of the year in which the Tenant first receives any Development Incentives, and each subsequent October 15 through the Termination Date. Tenant shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit D-2 for form required for Tenant's Annual Certification.
- m. Signage. Tenant shall prominently post a sign viewable by the public during the construction of the Minimum Improvements and for at least sixty (60) days following the receipt of a certificate of occupancy which reads: "This project is made possible by funding from the City of West Des Moines Redevelopment Programs for Historic West Des Moines." The sign will be provided by the City of West Des Moines.
2. Representations and Covenants of the Property Owner. Property Owner makes the following representations and covenants:

a. No Violations or Claims. To its knowledge and with respect to the Project, the Property Owner is not in material violation of any local, state, or federal environmental law or regulation and is not aware of any pending or threatened claim against the Property Owner with respect to such laws.

b. Property Tax Rebate Program. If applying and/or approved for the Property Tax Rebate Program, Property Owner represents and warrants that Property Owner does not and will not, during the term of this Agreement, have a present or future property interest in Tenant or Tenant's business.

c. Cooperation. Property Owner will cooperate fully with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements, as defined in Article I, Section 1(b).

d. Compliance with Laws. Property Owner will comply with all state, federal, and local laws, rules, and regulations relating to the Minimum Improvements, including laws prohibiting discrimination against any applicant, employee, or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

e. Available Information. Upon request, Property Owner shall promptly provide the City with copies of information requested by City that are related to this Agreement so that City can determine compliance with the Agreement.

f. Inspection. Property Owner agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.

g. Real Property Taxes and Assessments. Property Owner agrees that prior to the Termination Date of this Agreement:

i. Property Owner will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, Minimum Improvements (as defined in Article I, Section 1(b)), or Property Owner, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings;

ii. Property Owner will not seek any tax exemption deferral or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date; and

iii. Property Owner will not seek to change the current land assessment category from commercial/industrial, or the zoning classification, of the Development Property or the Minimum Improvements, as defined in Article I, Section 1(b).

h. Annual Certification. To assist the City in monitoring the Agreement and performance of Property Owner hereunder, a duly authorized officer of Property Owner shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements (as defined in Article I, Section 1(b)) have been paid for the prior fiscal year and any taxes due and payable for the current fiscal year as of the date of certification; and (ii) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Property Owner is not, or was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than October 15 of the year in which the Tenant first receives any Development Incentives, and each subsequent October 15 through the Termination Date. Property Owner shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit D-1 for form required for Property Owner's Annual Certification.

i. Tenant Lease. Property Owner shall allow Tenant to lease the Development Property until at least the Termination Date of this Agreement, as that term is defined in Article VI, Section 11.

## **ARTICLE II**

### **DEVELOPMENT INCENTIVES**

1. Applicable Development Incentives. Subject to the conditions set forth in this Article and this Agreement, the City has conditionally approved Tenant to receive Development Incentives through the following program(s):

- Property Improvement Fund Program (“PIF”) (Article II, Section 2)
- Regulatory Compliance Fund Program (“RCF”)

Tenant is only eligible to receive those Development Incentives described in the Section(s) of this Article II that are associated with the program(s) for which Tenant is approved, as shown above. If Tenant is approved for Incentives under both the PIF and RCF programs, the same project costs may not be submitted for reimbursement under both programs. Those Development Incentives granted through the above approved program(s) shall be the only monetary consideration given by the City to the Tenant in connection with this Agreement.

#### **2. Property Improvement Fund (“PIF”) Incentives**

a. No Interest Loan. If Tenant is approved to receive incentives under the PIF program, then for and in consideration of the obligations of the Tenant as set forth herein, and as a necessary means of achieving the goals and objectives of the Urban Renewal Plan, the City agrees (subject to the conditions set forth in this Article and this Agreement) to make a No Interest Loan to the Tenant for certified and approved Project Costs (as described in Sections 2(b)(iv)-(v) below) incurred by Tenant in constructing the Minimum Improvements, but not to exceed \$17,625 (the “No Interest Loan”). The No Interest Loan shall not include any Project Costs that are being

reimbursed through the RCF program or which must be paid by the Tenant in order to qualify for the RCF incentive.

b. Conditions Precedent. The City's obligation to make the No Interest Loan to Tenant under this Agreement shall be subject to satisfaction of ALL of the following conditions precedent:

(i) the Tenant shall be in material compliance with all the terms and provisions of this Agreement;

(ii) Project construction shall have begun within six (6) months from the date of this Agreement;

(iii) the Tenant shall have executed a Promissory Note in the form attached as Exhibit C, in compliance with Article II, Section 2(d);

(iv) the Tenant shall certify to the City the amount of the incurred Project Costs in the form attached as Exhibit F with accompanying proof of payment and lien waivers; and

(v) the Project Costs are subject to review and approval by the City, which shall approve the certified Project Costs if it determines, in good faith but in its sole discretion, that the Project Costs were incurred for the Project, were fully paid by the Tenant, are free and clear of any liens, and have not otherwise been reimbursed by the City and do not need to be paid by the Tenant in order to qualify for the RCF incentive.

c. Timing of Loan Disbursement(s). Conditioned upon satisfaction of the Conditions Precedent in Article II, Section 2(b) and the approval by the applicable City building official of the satisfactory completion of a discrete portion of the Minimum Improvements, the City shall provide Tenant that portion of the No Interest Loan necessary to reimburse the Tenant for the approved Project Costs incurred in constructing the completed portion of the Minimum Improvements, but not to exceed \$17,625 in the aggregate. Each payment under this provision shall be made consistent with the City's disbursement schedule following the City's approval of the completion of the discrete portion of the Minimum Improvements and the approval of the associated Project Costs.

d. Promissory Note/Repayment of No Interest Loan. The Tenant shall execute a Promissory Note in the form attached as Exhibit C to this Agreement as a condition precedent to the grant of the No Interest Loan (see Article II, Section 2(b)). Tenant shall repay the No Interest Loan consistent with the terms of the Promissory Note.

e. No Interest Loan Default. If the loan is not repaid by Tenant pursuant to the terms of this Agreement or the Note, or if the Property Owner or Tenant fails to comply with the terms of this Agreement, then an Event of Default has occurred, in which event the City has all the rights under this Agreement and under the terms of the Promissory Note.

f. Maximum Amount. The total amount of the No Interest Loan paid by the City to Tenant shall not exceed the amount of the certified and approved Project Costs (excluding any Project Costs that are being reimbursed through the RCF program or which must be paid by the Tenant in order to qualify for the RCF incentive) or \$17,625, whichever is less. The City makes no guarantee

as to the actual amount of the No Interest Loan which Tenant shall receive. The No Interest Loan is only for the Minimum Improvements described in this Agreement and not any future expansions which, to be eligible for additional incentives, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

- g. Cancellation of Promissory Note. The Promissory Note will be cancelled when no outstanding balance of the Promissory Note exists.

### **ARTICLE III INDEMNIFICATION**

1. Release and Indemnification. The Property Owner and Tenant release the City and the governing body members, officers, agents, servants and employees thereof (the "Indemnified Parties") from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Project.

Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, the Property Owner and Tenant agree to protect and defend the Indemnified Parties, now or forever, and further agree to hold the Indemnified Parties harmless, from any claim, demand, suit, action or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from (i) any violation of any agreement or condition of this Agreement (except with respect to any suit, action, demand or other proceeding brought by the Property Owner or Tenant against the City to enforce its rights under this Agreement), (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Project or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Property Owner or Tenant or its officers, agents, servants or employees or any other person who may be about the Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants or employees.

2. Survival. The provisions of this Article III shall survive the termination of this Agreement.

### **ARTICLE IV PROHIBITION AGAINST ASSIGNMENT AND TRANSFER**

1. Status of Property Owner; Transfer of Substantially All Assets; Assignment. As security for the obligations of Property Owner and Tenant under this Agreement, Property Owner and Tenant represent and agree that, prior to the Termination Date, Property Owner and Tenant will maintain their existence as companies and will not wind up or otherwise dispose of all or substantially all of their assets or transfer, convey, or assign their interest in the Development Property, the Minimum Improvements, or their interest in this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the then-outstanding obligations of Property Owner and Tenant (as the case may be) under this Agreement; and (ii) the City consents thereto

in writing in advance thereof. Notwithstanding the foregoing, however, or any other provisions of this Agreement, Tenant may pledge any and/or all of its assets as security for any financing of the Minimum Improvements, and the City agrees that Tenant may assign its interest under this Agreement for such purpose.

2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Property Owner, or its successors, or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

## **ARTICLE V**

### **DEFAULT AND REMEDIES**

1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events during the Term of this Agreement:

- a. Failure by Tenant to cause the construction of the Minimum Improvements to be completed and the operations to continue pursuant to the terms and conditions of this Agreement;
- b. Transfer of Property Owner or Tenant's interest in the Development Property or any interest in this Agreement or the assets of Property Owner or Tenant in violation of the provisions of this Agreement;
- c. Failure by Property Owner to pay ad valorem taxes on the Development Property and the Minimum Improvements;
- d. Failure by Tenant to repay the No Interest Loan consistent with the terms of this Agreement and the Promissory Note;
- e. Failure by Property Owner or Tenant to substantially observe or perform any covenant, condition, or obligation under this Agreement, including but not limited to the employment obligations;
- f. The holder of any mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable mortgage documents;
- g. Failure by Tenant to comply with any and all obligations in the Promissory Note, if receiving incentives through the PIF program under Article II, Section 2;
- h. Property Owner or Tenant shall:

- (i) file any petition in bankruptcy or for any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar relief under the United States Bankruptcy Act of 1978, as amended, or under any similar federal or state law; or
  - (ii) make an assignment for the benefit of its creditors; or
- (iii) admit in writing its inability to pay its debts generally as they become due; or
- (iv) be adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Property Owner or Tenant as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Property Owner or Tenant or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against Property Owner or Tenant, and shall not be discharged within ninety (90) days after such appointment, or if Property Owner or Tenant shall consent to or acquiesce in such appointment; or

i. Any representation or warranty made by Property Owner or Tenant in this Agreement or in any written statement or certificate furnished by Property Owner or Tenant pursuant to this Agreement, shall prove to have been incorrect, incomplete or misleading in any material respect on or as of the date of the issuance or making thereof.

2. Property Owner or Tenant Breach. If the Property Owner or Tenant fails to perform any of its obligations under this Agreement, and fails to cure said breach within thirty (30) days after written notice from the City to the Property Owner or Tenant, the City shall be entitled to do any one or more of the following: (i) suspend its performance under this Agreement, (ii) terminate this Agreement upon written notice to the Property Owner and Tenant, (iii) demand and receive payment in full from Tenant of any outstanding portion of the No Interest Loan or otherwise enforce the terms of the Promissory Note as described in Article II, Section 2(d), and/or (iv) take any other legal or equitable action deemed appropriate to enforce the Property Owner's and/or Tenant's obligations under this Agreement.

4. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

5. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

6. Enforcement Costs. Whenever any Event of Default occurs and the City shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Property Owner or Tenant herein contained, Property Owner and Tenant agree that the defaulting party shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be

reasonably and appropriately incurred by the City in connection therewith.

**ARTICLE VI**  
**MISCELLANEOUS**

1. Conflict of Interest. Property Owner and Tenant represent and warrant that, to their best knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

2. Notices. Notices, demands, or other communications under this Agreement by either party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

a. In the case of the City, to the City of West Des Moines at 4200 Mills Civic Pkwy, P.O. Box 65320, West Des Moines, Iowa 50265-0320, Attn: Ryan Jacobson, City Clerk;

b. In the case of the Property Owner, to High Water Investments LLC, (the "Property Owner"), 801 37th Street, West Des Moines, Iowa 50265, Attn: Mark Veiock, Manager;

c. In the case of the Tenant, to Nan's Nummies, L.L.C., (the "Tenant"), 501 Elm Street, West Des Moines, Iowa 50265, Attn: Nancy Earll, Manager;

or to such other designated individual or officer or to such other address as either party shall have furnished to the other in writing in accordance herewith.

3. Iowa Law Controlling. This Agreement shall be governed and construed under the laws of the State of Iowa.

4. Entire Agreement. This Agreement and the Exhibits here referenced shall constitute the entire agreement between the City, the Property Owner, and the Tenant and supersedes all other written and oral agreements, discussions and negotiations.

5. Amendments. This Agreement may not be amended or assigned by either party without the express written permission of the other party.

6. Counterparts. This Agreement may be executed in counterparts, each of which shall constitute one and the same instrument.

7. Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

8. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of

and be binding upon the parties hereto and their respective successors and assigns.

9. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

10. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit G, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for all costs of recording.

11. Termination Date. Unless terminated earlier under the provisions of this Agreement, the Agreement shall terminate and be of no further force or effect on the later of: (i) October 31, 2029, or (ii) the date on which the No Interest Loan is fully repaid.

12. Personal Guaranty. This Private Development Agreement is not binding until the attached Personal Guaranty (Exhibit "H") is executed. Exhibit H is incorporated by reference.

**IN WITNESS WHEREOF**, the City has caused this Agreement to be duly executed in its name and behalf by its Mayor and its seal to be hereunto duly affixed and attested by its City Clerk, and the Property Owner and Tenant have caused this Agreement to be duly executed in their names and behalf by their authorized representatives, all on or as of the day first above written.

*[Remainder of page intentionally left blank; Signature pages follow]*

CITY OF WEST DES MOINES, IOWA,  
an Iowa municipal corporation

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

ATTEST:

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

STATE OF IOWA    )  
                          ) ss:  
COUNTY OF POLK )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me a Notary Public in and for said County, 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 municipal corporation, created and existing under the laws of the State of Iowa and that said record was signed on behalf of said municipal corporation by authority and resolution of its City Council as contained in Resolution No. 19-\_\_\_\_\_, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said municipal corporation by it voluntarily executed.

\_\_\_\_\_  
Notary, State of Iowa

*(Signature page to Development Agreement – City of West Des Moines, Iowa)*

High Water Investments LLC, an Iowa limited liability company

By: \_\_\_\_\_  
Mark Veiock, Manager

STATE OF IOWA            )  
                                  )SS  
COUNTY OF POLK        )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Mark Veiock, as Manager of High Water Investments LLC.

\_\_\_\_\_  
Notary Public in and for said County and State

*[Signature page to Agreement for Private Development – Property Owner]*

Nan's Nummies, L.L.C., an Iowa limited liability company

\_\_\_\_\_  
By: Nancy Earll, Manager

STATE OF IOWA            )  
                                  )SS  
COUNTY OF POLK        )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Nancy Earll as Manager of Nan's Nummies, L.L.C.

\_\_\_\_\_  
Notary Public in and for said County and State

*[Signature page to Agreement for Private Development – Tenant]*

**EXHIBIT A**  
**DESCRIPTION OF DEVELOPMENT PROPERTY**

Street address: 501 Elm St. (aka 300 5th Street), West Des Moines

Legal description: LOT 9 BLK 19 1ST ADD TO VALLEY JUNCTION

Parcel No.: 320/04597-000-000

**EXHIBIT B**  
**DESCRIPTION OF PROJECT**

**MINIMUM IMPROVEMENTS:**

The Minimum Improvements consists of: Removal of existing commercial walk-in freezer, installation of replacement commercial walk-in freezer, and labor and materials to replace flooring in front retail space.

Those improvements, if any, necessary for regulatory compliance include: N/A.

The construction of the Minimum Improvements will be completed by: October, 2019

Construction costs are expected to be approximately: \$21,000

**EXHIBIT C**  
**PROMISSORY NOTE**

\_\_\_\_\_, 20\_\_\_\_

As of \_\_\_\_\_, 2019 (Date of Promissory Note), for valuable consideration received, NAN'S NUMMIES, L.L.C., (the "Borrower") agrees and promises to pay to the order of the CITY OF WEST DES MOINES (the "Lender") the total amount of the No Interest Loan in the amount of \$17,625, or so much thereof as is distributed to Borrower under the terms of an Agreement for Private Development dated \_\_\_\_\_, 2019 between the parties ("Development Agreement"). The following are the terms of this Promissory Note ("Note").

1. The principal balance shall be paid by Borrower in consecutive, equal, monthly installments that shall be due on the 1st of the month for one-hundred twenty (120) consecutive months beginning with the 1st of the month following the earlier of the completion of the Minimum Improvements or the one year anniversary of the date of the Development Agreement. For purposes of this Note, the Minimum Improvements shall be deemed completed as of the date the City building official completes a final inspection and approves the last Improvement or the date the final occupancy permit is issued for the Minimum Improvements.

2. All payments on this Note shall be made by check or wire transfer to the City of West Des Moines at 4200 Mills Civic Pkwy, PO Box 65320, West Des Moines, Iowa 50265-0320, or at such other place in the United States of America as Lender shall designate to Borrower in writing.

3. The entire principal balance hereof or the portion due and owing shall be payable to the Lender according to the terms of the Development Agreement and this Note. If Borrower fails to repay the entire amount of the No Interest Loan due under this Note, or if Borrower defaults under any term or condition of the Development Agreement, then Borrower will be in Default and subject to the consequences for Default in Paragraph 5 of this Note and the Development Agreement.

4. The Borrower may at any time prepay without penalty all or any part of the unpaid principal balance of this Promissory Note.

5. Any default under the Development Agreement shall be a Default hereunder and payment may be accelerated. Upon Default, the Lender may, at its option, exercise any and all rights and remedies available to it under this Promissory Note, the Development Agreement, or any applicable law, including, without limitation, the right to collect from the Borrower all sums due under this Note with interest accruing at an annual rate of 4% beginning 30 days following the City's demand for payment until paid in full, regardless of any prior forbearance, without demand or notice. The Borrower hereby waives presentment, demand for payment, notice of nonpayment, notice of dishonor, protest, and all other notices or demands in connection with the delivery, acceptance, performance, or Default of this Note.

6. If this Promissory Note is placed in the hands of an attorney for collection after Default in the payment of principal or interest, or if all or any part of the indebtedness represented hereby is proved, established, or collected in any court or in any bankruptcy, receivership, debtor relief, probate, or other court proceeding, the Borrower shall pay all reasonable costs and expenses incurred by or on behalf of Lender in connection with the Lender's exercise of any or all of its rights and remedies under this

Promissory Note, including, without limitation, court costs, and attorneys' fees.

7. No delay or failure of the Lender to exercise any power or right shall operate as a waiver thereof, and such rights and powers shall be deemed continuous; nor shall a partial exercise preclude full exercise of such rights and powers. No right or remedy of the Lender shall be deemed abridged or modified by any course of conduct, and no waiver thereof shall be predicated thereon.

8. The obligations of the Borrower under the terms of this Promissory Note shall be binding on the successors-in-interest, legal representatives, and assigns of the Borrower, and shall inure to the benefit of the Lender and the Lender's successors-in-interest, legal representatives, and assigns.

9. This Promissory Note is also subject to the terms and conditions of the Development Agreement.

**IMPORTANT: READ BEFORE SIGNING: The terms of this Note and the Development Agreement should be read carefully because only those terms in writing are enforceable. No other terms or oral promises not contained may be legally enforced. You may change the terms of this Agreement only by another written agreement.**

Dated as of \_\_\_\_\_, 2019.

Nan's Nummies, L.L.C.  
An Iowa limited liability company

\_\_\_\_\_  
By: Nancy Earll, Manager

STATE OF IOWA            )  
  )SS  
COUNTY OF POLK        )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019 by Nancy Earll as Manager as of Nan's Nummies, L.L.C.

\_\_\_\_\_  
Notary Public in and for said County and State

**EXHIBIT D -1**  
**PROPERTY OWNER ANNUAL CERTIFICATION**

(due before October 15<sup>th</sup> as required under terms of Development Agreement)

The Property Owner certifies the following:

During the time period covered by this Certification, the Property Owner is and was in compliance with the Agreement as follows:

(i) All ad valorem taxes on the Development Property then owned by the Property Owner in the Urban Renewal Area have been timely paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

(ii) The undersigned officer of Property Owner has re-examined the terms and provisions of the Agreement and certify that at the date of such certificate, and during the preceding twelve (12) months, the Property Owner is not, or was not, in default in the fulfillment of any of the terms and conditions of the Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

High Water Investments LLC

By: \_\_\_\_\_  
Mark Veiock, Manager

**Attachments: Proof of payment of taxes**

**EXHIBIT D -2**  
**TENANT ANNUAL CERTIFICATION**

(due before October 15<sup>th</sup> as required under terms of Development Agreement)

The Tenant certifies the following:

During the time period covered by this Certification, the Tenant is and was in compliance with the Agreement as follows:

(i) The total number of Full-Time Equivalent Employees, as defined in Article I, paragraph 2(a) of the Agreement, employed by Tenant at the Development Property as of October 1, 20\_\_ and as of the first day of each of the preceding eleven (11) months were are follows:

October 1, 20__ : _____	April 1, 20__ : _____
September 1, 20__ : _____	March 1, 20__ : _____
August 1, 20__ : _____	February 1, 20__ : _____
July 1, 20__ : _____	January 1, 20__ : _____
June 1, 20__ : _____	December 1, 20__ : _____
May1, 20__ : _____	November 1, 20__ : _____

(ii) The undersigned officer of Tenant has re-examined the terms and provisions of the Agreement and certify that at the date of such certificate, and during the preceding twelve (12) months, the Tenant is not, or was not, in default in the fulfillment of any of the terms and conditions of the Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_.

Nan's Nummies, L.L.C.

By: \_\_\_\_\_  
Nancy Earll, Manager

**EXHIBIT F**  
**TENANT CERTIFICATION OF PROJECT COSTS**

Nan's Nummies, L.L.C. (the "Tenant") certifies that the expenses shown on the table below were/are the actual expenses incurred by the Tenant for the Minimum Improvements that are the subject of a Development Agreement entered into the \_\_\_\_ day of \_\_\_\_\_, 2019 between the City of West Des Moines, Iowa and the Tenant (the "Agreement"). The Tenant certifies that no expenses claimed or shown on this table relate to personal or unallowable expenses.

In the event of an overpayment by the City for expenses not actually incurred or for unallowable expenses, or if payment was received from another source for any portion of the expenses claimed, the Tenant assumes responsibility for repaying the City in full for those expenses.

<b>Certified Project Costs</b>					
Necessary For Regulatory Compliance? Y/N (Y=will be applied to RCF program if eligible; N=will be applied to PIF program if eligible)	Project Cost Category	Engineering, Plans, Specifications	Construction Costs	Material Costs	Miscellaneous
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	Invoice description and cost				
	<b>Total Cost per category</b>				

If you need additional space please attach another table.

**Attach actual receipts and invoices and lien waivers**

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

By: \_\_\_\_\_  
Nan's Nummies, L.L.C.

**EXHIBIT G**  
**MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT**

**Type of Document:** **MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT BETWEEN THE CITY OF WEST DES MOINES, HIGH WATER INVESTMENTS LLC, AND NAN'S NUMMIES, L.L.C.**

**Return Document to:** Ryan Jacobson, City Clerk  
City of West Des Moines  
4200 Mills Civic Parkway, Suite 2B  
West Des Moines, IA 50265

**Preparer Information:** Katie Hernandez, City of West Des Moines, 4200 Mills Civic Parkway, Suite 1E, West Des Moines, IA 50265, 515-273-0770

**Taxpayer Information:** N/A

GRANTORS: N/A

GRANTEES: N/A

**LEGAL DESCRIPTION:**

LOT 9 BLK 19 1ST ADD TO VALLEY JUNCTION

Polk County, Iowa Parcel ID number is 320/04597-000-000

Address: 501 Elm St. (aka 300 5th Street), West Des Moines

WHEREAS, the City of West Des Moines, Iowa (the "City"), High Water Investments LLC ("Property Owner"), and Nan's Nummies, L.L.C. ("Tenant") did on or about the \_\_\_\_ day of \_\_\_\_\_, 2019, make, execute and deliver, each to the other, an Agreement for Private

Development (the "Agreement"), wherein and whereby Property Owner and Tenant agreed, in accordance with the terms of the Agreement to develop and operate certain real property located within the City.

The Development Property is described as follows:

LOT 9 BLK 19 1ST ADD TO VALLEY JUNCTION

Polk County, Iowa Parcel ID number is 320/04597-000-000

Address: 501 Elm St. (aka 300 5th Street), West Des Moines

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the \_\_\_\_ day of \_\_\_\_\_, 2019, and terminates as set forth in the Agreement; and

WHEREAS, the City, Property Owner and Tenant desire to record a Memorandum of the Agreement referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.
2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.
3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, West Des Moines, Iowa.

*[Signatures Start on Next Page]*

CITY OF WEST DES MOINES, IOWA,  
an Iowa municipal corporation

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

ATTEST:

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

STATE OF IOWA    )  
                          ) ss:  
COUNTY OF POLK )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me a Notary Public in and for said County, 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 municipal corporation, created and existing under the laws of the State of Iowa and that said record was signed on behalf of said municipal corporation by authority and resolution of its City Council as contained in Resolution No. 19-\_\_\_\_\_, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said municipal corporation by it voluntarily executed.

\_\_\_\_\_  
Notary, State of Iowa

*(Signature page to Memorandum of Agreement – City of West Des Moines, Iowa)*

High Water Investments LLC

By: \_\_\_\_\_  
Mark Veiock, Manager

STATE OF IOWA            )  
                                  )SS  
COUNTY OF POLK        )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Mark Veiock, as Manager of High Water Investments LLC.

\_\_\_\_\_  
Notary Public in and for said County and State

*(Signature page to Memorandum of Agreement –Property Owner)*

Nan's Nummies, L.L.C.

By: \_\_\_\_\_  
Nancy Earll, Manager

STATE OF IOWA            )  
                                  )SS  
COUNTY OF POLK        )

This record was acknowledged before me on this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by Nancy Earll as Manager of Nan's Nummies, L.L.C..

\_\_\_\_\_  
Notary Public in and for said County and State

*(Signature page to Memorandum of Agreement –Tenant)*

**EXHIBIT H**  
**PERSONAL GUARANTY**

*(Insert signed Personal Guaranty after this page)*

## PERSONAL GUARANTY

The undersigned Guarantor(s) (whether one or more, hereafter called "Guarantor") requests that the City of West Des Moines, a municipal corporation in the State of Iowa, ("City") enter into a Private Development Agreement with Nan's Nummies, L.L.C. ("Debtor"), and in consideration of benefits received by the Debtor, the Guarantor agrees as follows:

A. The term "Obligations" includes all obligations of Debtor to the City when incurred, regardless of the nature of the obligation, whether existing prior to the date of this Guaranty or arising hereafter, or whether it subsequently becomes unenforceable against Debtor as a result of Debtor's bankruptcy or otherwise.

B. Guarantor hereby unconditionally and irrevocably guarantees payment of all Obligations of Debtor to the City, plus all interest, costs, attorney's fees, and other expenses in the collection of any Obligations guaranteed hereby or in the enforcement of this Guaranty.

C. Guarantor acknowledges that this Guaranty shall be effective and binding on Guarantor without further notice or acknowledgement that it is applicable to all Obligations of Debtor to City. This Guaranty shall terminate on October 31, 2029, or upon receipt of written notice of termination from the Guarantor by registered or certified mail, provided that such termination shall not affect the liability of the Guarantor with respect to:

- Obligations incurred prior to such date; or
- Extensions or renewals of, interest accruing on, or fees, costs, or expenses incurred with respect to, such Obligations on or after such date.

D. This Guaranty is a guarantee of payment, and not merely a guarantee of collection. The City may proceed against Guarantor without first proceeding against Debtor or any collateral securing the Obligations.

E. The liability of the Guarantor hereunder shall not be affected by any surrender or release by the City of any security or rights it may have for any Obligations herein guaranteed, or by any amendment or change in the terms of the Obligations, whether with or without notice to, or the consent of the Guarantor.

F. Until all Obligations guaranteed hereby are paid in full, any indebtedness (including any right or interest or salary, dividends, options, benefits, or proceeds) of Debtor now or hereafter owing to Guarantor is hereby subordinated to all Obligations of Debtor to the City. All amounts received by the Guarantor prior to payment in full of the Obligations shall be received in trust for the City.

G. The Obligations hereunder of Guarantor (if more than one) shall be joint and several.

H. Payments under this Guaranty shall be made to the City at 4200 Mills Civic Parkway, West Des Moines, Iowa, or at such other place as the City shall designate from time to time.

I. If any provision of this Guaranty shall be held invalid or unenforceable, such invalidity or enforceability shall not affect the provisions of this Guaranty which may be given effect without

the invalid or unenforceable provisions, and to this end, the provisions of this Guaranty are to be construed as severable.

J. In consideration of the Private Development agreement with Debtor, Guarantor acknowledges that the City is relying on the evidence of financial solvency and security submitted by the Guarantor to the City and Guarantor agrees to provide the City with a personal financial statement contemporaneously with the execution of this guaranty or at any subsequent date as requested or deemed necessary by the City in its sole discretion. Guarantor agrees to promptly notify the City of any material change in financial status, including marital status, change of address, and any other information which may be material to Guarantor's financial solvency and security for the purpose of this Guaranty.

K. Guarantor waives presentment, demand, protest, notice of dishonor, protest, and nonpayment, and all due diligence or promptness that may otherwise be required by law. The liability of Guarantor hereunder may only be extinguished by payment in full of the amounts guaranteed herein. All rights, power and remedies of the City under this Guaranty shall be cumulative and in addition to all rights, powers, and remedies which the City may otherwise have against Guarantor.

L. This Guaranty shall be governed by and construed according to the laws of Iowa, and the Guarantor hereby submits to the jurisdiction of the District Court of Polk County, in any action brought under or arising out of this Guaranty.

IN TESTIMONY WHEREOF, witness the signature(s) of the Guarantor(s), this \_\_\_\_ day of \_\_\_\_\_, 2019.

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

STATE OF IOWA                    )  
  ) SS:  
COUNTY OF \_\_\_\_\_ )

This record was acknowledged before me on this \_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_ and \_\_\_\_\_ on behalf of whom the record was executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

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

RESOLUTION APPROVING AND AUTHORIZING  
EXECUTION OF A DEVELOPMENT AGREEMENT BY AND  
AMONG THE CITY OF WEST DES MOINES, HIGH WATER  
INVESTMENTS LLC, AND NAN’S NUMMIES, L.L.C.

WHEREAS, the City has approved Resolution No. 17-02-06-20, establishing the Property Improvement Fund (“PIF”) Program, later amended by Resolution No. 17-05-30-16, which is an economic incentive policy to provide assistance to property owners and tenants in the eligibility area for renovation and upgrade of older commercial, office, industrial, and mixed use properties; and

WHEREAS, it is desirable that properties within the eligibility area be redeveloped as part of the Historic West Des Moines Master Plan; and

WHEREAS, the City has received a proposal from High Water Investments LLC (the “Property Owner”) and Nan’s Nummies, L.L.C. (the “Tenant”), in the form of a proposed Development Agreement (the “Agreement”) by and among the City, Property Owner, and Tenant, pursuant to which, among other things, the Tenant would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the eligibility area as defined and legally described in the Agreement (“Development Property”) consisting of a freezer replacement, together with all related site improvements, as outlined in the proposed Development Agreement; and

WHEREAS, pursuant to the Property Improvement Fund program, the Agreement would obligate the City to submit reimbursements to Tenant in the form of a No Interest Loan not to exceed \$17,625 for improvement projects, subject to City approval and the terms and conditions of the Agreement, and Tenant would pay back the loan in full within no more than 10 years after project completion; and

WHEREAS, one of the obligations of the Tenant relates to employment retention and/or creation; and

WHEREAS, this Agreement is consistent with the Property Improvement Fund Program; and

WHEREAS, Iowa Code Chapter 15A authorizes cities to make loans and grants for economic development and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Historic West Des Moines Master Plan and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of

Chapter 15A of the Iowa Code taking into account any or all of the factors set forth in Chapter 15A, to wit:

- a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.
- b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.
- c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.
- d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds; and

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES IN THE STATE OF IOWA:

Section 1. That the performance by the City of its obligations under the Agreement, including but not limited to making of loans to the Tenant in connection with the development of the Development Property under the terms set forth in the Agreement, be and is hereby declared to be a public undertaking and purpose and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapter 15A of the Iowa Code, taking into account the factors set forth therein.

Section 2. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such

documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 21<sup>st</sup> day of October, 2019.

---

Mayor

ATTEST:

---

City Clerk

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

**DATE: October 21, 2019**

**ITEM:**

Public Hearing (5:35 p.m.)  
Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements

**FINANCIAL IMPACT:**

The Engineering Estimate of Construction Cost for the Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements was estimated to be \$815,000.00 for the Base Bid, \$9,100.00 for Alternate No. 1, and \$10,200.00 for Alternate No. 2 for a total of \$834,300.00. There were three (3) bids submitted with the low Base Bid of \$593,300.00 being submitted by Lang Construction Group, LLC of Grimes, Iowa. The bids for Alternate No. 1 and Alternate No. 2 associated with this Base Bid were \$28,800.00 and \$3,000.00, respectively, for a total of \$625,100.00. Payments will be made from account no. 500.000.000.5250.490 with the ultimate funding intended to come from General Obligation Bonds.

**BACKGROUND:**

The project includes membrane roof removal and replacement, structural modifications to wood columns, masonry mechanical screen, siding replacement, minor interior remodeling, removal and replacement of existing mechanical systems, new building automation system, and select light fixture upgrades at the Nature Lodge located at 2500 Grand Avenue. The project is anticipated to be completed by June 12, 2020.

Alternate No. 1 includes installation of metal soffit panels over existing tectum in lieu of painting. After further review and discussion, it was determined that the Architect's Estimate for this alternate underestimated the small scope of work and its impact on the actual costs. It was determined that the bid price for this alternate was reasonable. City Staff recommend acceptance of Alternate No. 1.

Alternate No. 2 includes removal and replacement of an existing fireplace insert. City Staff recommend acceptance of Alternate No. 2.

Parks & Recreation Staff are handling advance reservations for the Nature Lodge to minimize inconveniences that may be caused by construction of these improvements.

This agenda item was distributed to the Public Services Subcommittee by e-mail only since there was no meeting.

**OUTSTANDING ISSUES:** None.

**RECOMMENDATION:**

City Council Adopt:

- Resolution adopting Plans, Specifications, Form of Contract, and Estimate of Costs for Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements;
- Motion receiving and filing Report of Bids;
- Resolution awarding the construction contract to Lang Construction Group, LLC.

**Lead Staff Member:** Brian J. Hemesath, P.E., City Engineer *Bob*

**STAFF REVIEWS**

Department Director	Brian J. Hemesath, P.E., City Engineer
Appropriations/Finance	Tim Stiles, Finance Director <i>TS</i>
Legal	Richard Scieszinski, City Attorney <i>RS</i>
Agenda Acceptance	<i>RS</i>

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

Published In	Des Moines Register
Dates(s) Published	October 11, 2019

**SUBCOMMITTEE REVIEW** (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

**RESOLUTION APPROVING ADOPTING PLANS, SPECIFICATIONS, FORM OF  
CONTRACT, AND ESTIMATE OF COST**

**WHEREAS**, on September 16, 2019, Plans, Specifications, Form of Contract, and Estimate of Cost were filed with the City Clerk for the following described public improvement:

**Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements  
Project No. 0510-019-2018**

and,

**WHEREAS**, notice of hearing on Plans, Specifications, Form of Contract, and Estimate of Cost for said public improvements were published as required by law;

therefore,

**BE IT FURTHER RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES**, that the Plans, Specifications, Form of Contract, and Estimate of Costs for said Public Improvement are hereby approved.

**PASSED AND APPROVED** on this **21st** day of **October, 2019**.

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

ATTEST:

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

**RESOLUTION APPROVING THE AWARDING OF A CONTRACT**

**WHEREAS**, the City Council of the City of West Des Moines has heretofore directed advertisement for bids for the following described public improvement:

**Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements  
Project No. 0510-019-2018**

and,

**WHEREAS**, bids have been received and opened by the City Clerk and placed on file by the City Council; and,

**WHEREAS**, the bid of Lang Construction Group, LLC in the amount of \$625,100.00 was the lowest responsible bid received for said public improvement;

therefore,

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA**, that a contract for the Nature Lodge HVAC Replacement, Roof Repairs & Exterior Improvements is hereby awarded to Lang Construction Group, LLC in the amount of \$625,100.00 and the bond of said bidder for the project is hereby fixed in the same amount.

**BE IT FURTHER RESOLVED** that the City Engineer is authorized and directed to return bid bond(s) and/or check(s) to any unsuccessful bidder.

**BE IT FURTHER RESOLVED** that work on said project may commence as soon as the final contract and bond have been approved by the City Engineer and have been signed by the City Clerk and after the contractor is given a written notice to proceed by the City Engineer.

**PASSED AND ADOPTED** on this **21st** day of **October, 2019**.

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

ATTEST:

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



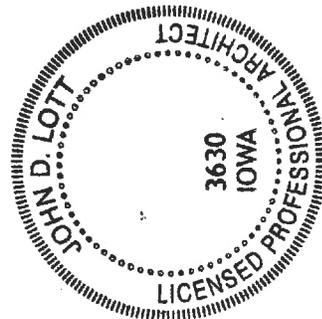
Benjamin Design Collaborative, P.C.  
 401 Clark Ave., Suite 200  
 Ames, Iowa 50010  
 515-232-0888

# Bid Tabulation Form

WDM Nature Lodge HVAC, Roof, & Exterior Improvements  
 2500 Grand Avenue, West Des Moines, Iowa  
 Project No. 0510-019-2018

October 16, 2019  
 2:00 p.m.

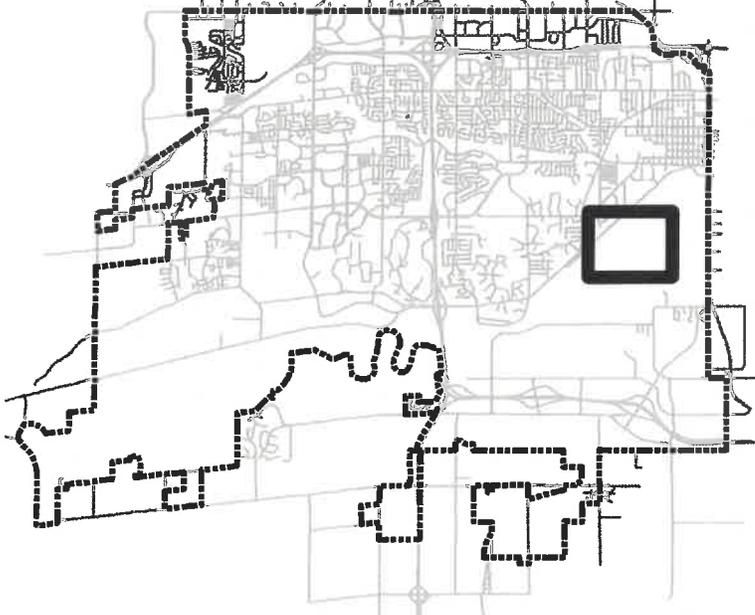
CONTRACTOR	Add No. 1	Add No. 2	Bid Sec. - 10%	Bidder Status Form	Lump Sum Base Proposal	Alternate 1: Metal Soffit Panels	Alternate 2: Replace Fireplace	Unit Price No. 1	Unit Price No. 2
2J Construction, Inc.									
Breiholz Construction									
Brocon Services, LLC	✓	✓	✓		\$693,000.00	\$57,000.00	\$8,000.00	\$75.00	\$58.00
Duncan Construction, LLC									
Eick & Day Construction									
Hildreth Construction Services, LLC									
Hilsabeck Schacht Inc.									
Lang Construction	✓	✓	✓		\$595,300.00	\$28,800.00	\$3,000.00	\$224.00	\$144.00
Mohr Construction Services, LLC									
<i>CERBERA GROUP, LLC</i>	✓	✓	✓		\$597,500.00	\$3,105.00	\$9,910.00	\$66.75	\$88.50
<b>Opinion of Probable Cost</b>					\$815,000.00	\$9,100.00	\$10,200.00	\$4.00	\$6.50



Certified  
 October 16, 2019



**VICINITY MAP**



**LEGEND**

PROJECT LOCATION 



PROJECT: **Nature Lodge HVAC Replacement, Roof Repair, Exterior Improvement**

LOCATION: **Exhibit "A"**

DRAWN BY: JDR

DATE: 7/27/2018

PROJECT NUMBER/NAME: 0510-019-2018

SHT. 1 of 1

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

**Date: October 21, 2019**

**ITEM:** Mill Ridge Plat 4, Northwest Corner of S88th Street and Sugar Creek Drive –  
Subdivide the property into 79 lots and 7 outlots for a townhome development –  
Mill Ridge Homes LLC. – FP-004404-2019

**RESOLUTION: Acceptance of Surety and Approval and Release of Final Plat**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** Mill Ridge Homes LLC., represented by Josh Trygstad, of Civil Design Advantage, LLC is requesting approval of a 16.04 acre Final Plat to create 79 lots and 7 outlots for private drives, storm water detention and open space.

**CITY COUNCIL SUBCOMMITTEE:** This item was presented to the Development and Planning City Council Subcommittee on August 5, 2019, as an informational item only. No discussion was had and no disagreement with the proposal was expressed.

**OUTSTANDING ISSUES:** There are no outstanding issues. The applicant has stated that they agree with all of staff's recommendations and conditions. Staff would note that as part of this approval, the Council is approving and accepting the following:

- Surety in lieu of public improvements associated with the construction of streets, sewers, sidewalks, including all appurtenances associated with said improvements;
- Surety for the installation of landscape buffers required of the development;
- A deed for Street Lot A, to be dedicated as public street right(s)-of-way;
- Legal documents to establish public easements for Public Utility and Sanitary Sewer;
- Storm Water Management Maintenance Facility Covenant and Permanent Easement Agreement for this property;

**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 goals and policies of the Comprehensive Plan and the land use map of the Comprehensive Plan.

**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 Final Plat, Mill Ridge Plat 4, to establish 79 lots and 7 outlots for a townhome development, subject to the applicant complying with all applicable City Code requirements.

Lead Staff Member: J. Bradley Munford 

**Staff Reviews:**

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

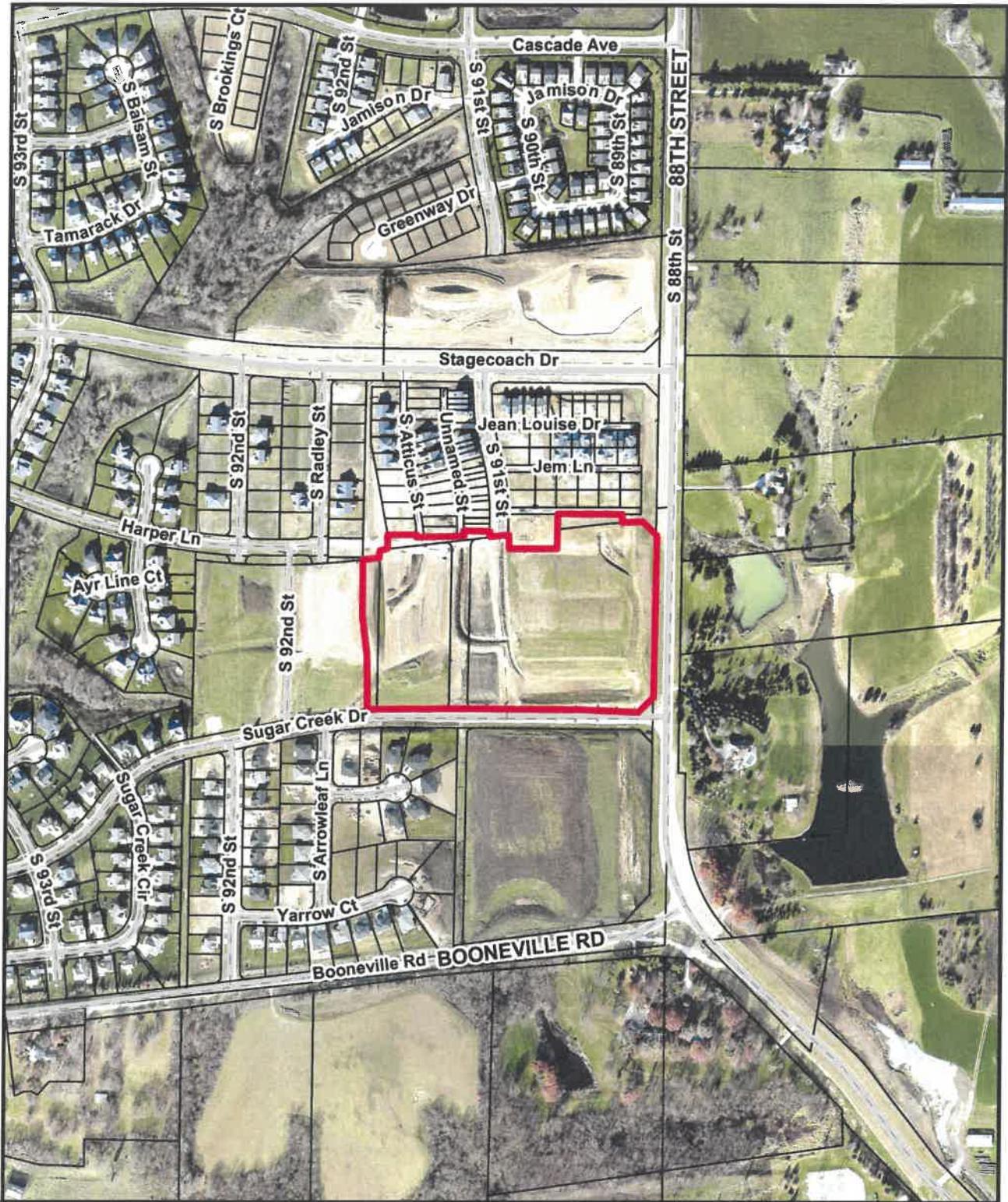
Published In	n/a
Date(s) Published	n/a
Letter sent to surrounding property owners	n/a

**SUBCOMMITTEE REVIEW (if applicable)**

Committee	Development & Planning		
Date Reviewed	August 5, 2019		
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: Accepting Surety for Public Improvements and Approval and Release of Final Plat
- Exhibit A - Legal Description
- Exhibit B - Conditions of Approval



### Mill Ridge Plat 4







Prepared by: J. B. Munford, 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, ACCEPTING SURETY IN LIEU OF PUBLIC IMPROVEMENTS AND APPROVING AND RELEASING THE FINAL PLAT MILL RIDGE PLAT 4 (FP-004404-2019) FOR THE PURPOSE OF CREATING 79 LOTS AND 7 OUTLOTS FOR A TOWNHOME 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, Mill Ridge Homes LLC. has requested approval for a Final Plat (FP-004404-2019) for that 16.04 acre site located at Northwest Corner of S88th Street and Sugar Creek Drive for the purpose of subdividing the property into 79 lots and 7 outlots for private drives, storm water detention and open space;

Legal Description

See Exhibit A

**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 Mill Ridge and recommended approval on March 14, 2016; and

**WHEREAS**, the Final Plat that was submitted for review was determined to be generally consistent with the Preliminary Plat for Mill Ridge that was reviewed and approved by the City Council on March 21, 2016; and

**WHEREAS**, on October 21, 2019, this City Council held a duly-noticed meeting to consider the application for Final Plat (FP-004404-2019); and

**WHEREAS**, the West Des Moines City Council adopted a resolution which approved the Final Plat for Mill Ridge Plat 4 at their meeting on October 21, 2019, subject to any conditions of approval; and

**WHEREAS**, the City Council did accept surety in lieu of constructing public improvements associated with the construction of streets, public sanitary sewer, and public storm sewer within the plat boundaries, and;

**WHEREAS**, the necessary easements have been established for Public Utility and Sanitary Sewer; and

**WHEREAS**, the City Council did accept surety for the construction of sidewalks within the plat; and

**WHEREAS**, the City Council did accept surety for landscape buffers required as a part of this plat; and

**WHEREAS**, the City Council did accept the Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement for this property; and

**WHEREAS**, the City Council approves of the following address assignments;

Lot 1	1191 S ATTICUS STREET
Lot 2	1225 S ATTICUS STREET
Lot 3	1247 S ATTICUS STREET
Lot 4	1253 S ATTICUS STREET
Lot 5	1277 S ATTICUS STREET
Lot 6	1285 S ATTICUS STREET
Lot 7	1300 S ATTICUS STREET
Lot 8	1323 S ATTICUS STREET
Lot 9	1351 S ATTICUS STREET
Lot 10	1368 S ATTICUS STREET
Lot 11	1356 S ATTICUS STREET
Lot 12	1334 S ATTICUS STREET
Lot 13	1320 S ATTICUS STREET
Lot 14	1298 S ATTICUS STREET
Lot 15	1292 S ATTICUS STREET
Lot 16	1280 S ATTICUS STREET
Lot 17	1272 S ATTICUS STREET
Lot 18	1256 S ATTICUS STREET
Lot 19	1250 S ATTICUS STREET
Lot 20	1244 S ATTICUS STREET
Lot 21	1228 S ATTICUS STREET
Lot 22	1212 S ATTICUS STREET
Lot 23	1198 S ATTICUS STREET
Lot 24	1189 S 91 <sup>ST</sup> STREET
Lot 25	1195 S 91 <sup>ST</sup> STREET
Lot 26	1203 S 91 <sup>ST</sup> STREET
Lot 27	1211 S 91 <sup>ST</sup> STREET
Lot 28	1217 S 91 <sup>ST</sup> STREET
Lot 29	1229 S 91 <sup>ST</sup> STREET
Lot 30	1235 S 91 <sup>ST</sup> STREET
Lot 31	1243 S 91 <sup>ST</sup> STREET
Lot 32	1251 S 91 <sup>ST</sup> STREET
Lot 33	1257 S 91 <sup>ST</sup> STREET
Lot 34	1269 S 91 <sup>ST</sup> STREET
Lot 35	1275 S 91 <sup>ST</sup> STREET
Lot 36	1283 S 91 <sup>ST</sup> STREET
Lot 37	1291 S 91 <sup>ST</sup> STREET
Lot 38	1297 S 91 <sup>ST</sup> STREET
Lot 39	1309 S 91 <sup>ST</sup> STREET
Lot 40	1325 S 91 <sup>ST</sup> STREET
Lot 41	1337 S 91 <sup>ST</sup> STREET
Lot 42	1343 S 91 <sup>ST</sup> STREET
Lot 43	1359 S 91 <sup>ST</sup> STREET
Lot 44	1371 S 91 <sup>ST</sup> STREET
Lot 45	1377 S 91 <sup>ST</sup> STREET
Lot 46	9078 MOCKINGBIRD DRIVE
Lot 47	9064 MOCKINGBIRD DRIVE
Lot 48	9042 MOCKINGBIRD DRIVE
Lot 49	9020 MOCKINGBIRD DRIVE
Lot 50	8986 MOCKINGBIRD DRIVE
Lot 51	8954 MOCKINGBIRD DRIVE
Lot 52	8932 MOCKINGBIRD DRIVE

Lot 53	8918 MOCKINGBIRD DRIVE
Lot 54	1290 MAYCOMB DRIVE
Lot 55	1278 MAYCOMB DRIVE
Lot 56	1264 MAYCOMB DRIVE
Lot 57	1252 MAYCOMB DRIVE
Lot 58	1236 MAYCOMB DRIVE
Lot 59	1230 MAYCOMB DRIVE
Lot 60	1227 MAYCOMB DRIVE
Lot 61	1233 MAYCOMB DRIVE
Lot 62	1249 MAYCOMB DRIVE
Lot 63	1261 MAYCOMB DRIVE
Lot 64	1275 MAYCOMB DRIVE
Lot 65	1287 MAYCOMB DRIVE
Lot 66	9025 MOCKINGBIRD DRIVE
Lot 67	9047 MOCKINGBIRD DRIVE
Lot 68	9069 MOCKINGBIRD DRIVE
Lot 69	9081 MOCKINGBIRD DRIVE
Lot 70	9080 CALPURNIA DRIVE
Lot 71	9068 CALPURNIA DRIVE
Lot 72	9046 CALPURNIA DRIVE
Lot 73	9024 CALPURNIA DRIVE
Lot 74	8967 CALPURNIA DRIVE
Lot 75	8951 CALPURNIA DRIVE
Lot 76	8933 CALPURNIA DRIVE
Lot 77	8936 NELLE LANE
Lot 78	8954 NELLE LANE
Lot 79	8970 NELLE LANE

**WHEREAS**, Mill Ridge Plat 4 is zoned Tallyn's Reach PUD, Residential Medium Density (RM-12) 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 21, 2019, or as amended orally at the City Council hearing of October 21, 2019, are adopted.

**SECTION 2.** Final Plat, Mill Ridge Plat 4 (FP-004404-2019) is approved, subject to compliance with all the conditions in the staff report, dated October 21, 2019, including conditions added at the Hearing, if any, 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.

**SECTION 3.** This resolution does release the Mill Ridge Plat 4 (FP-004404-2019) 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 21, 2019 and Roll Call No. \_\_\_\_\_.

**CERTIFICATE**

I, Ryan 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 21, 2019, among other proceedings, Roll Call No. \_\_\_\_\_

approved said plat on October 21, 2019, and released said Final Plat for recordation.

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

**IN WITNESS WHEREOF**, I have hereunto set my hand this \_\_\_\_\_ day of October, 2019.

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

ATTEST:

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

**EXHIBIT A:  
LEGAL DESCRIPTION**

ALL OF OUTLOT 'Q' AND STREET LOT 'I', CORRECTED MICHAEL'S LANDING PLAT 1, AN OFFICIAL PLAT, AND ALL OF OUTLOT 'Y', MILL RIDGE PLAT 2, AN OFFICIAL PLAT, AND A PART OF OUTLOT 'R' AND OUTLOT 'P', SAID CORRECTED MICHAEL'S LANDING PLAT 1, AND A PART OF OUTLOT 'S', SAID MILL RIDGE PLAT 2, ALL IN THE CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF SAID OUTLOT 'Y', MILL RIDGE PLAT 2; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID OUTLOT 'Y', 109.02 FEET TO THE SOUTHEAST CORNER OF LOT 9, SAID MILL RIDGE PLAT 2; THENCE SOUTHERLY CONTINUING ALONG SAID NORTH LINE AND A CURVE CONCAVE WESTERLY WHOSE RADIUS IS 337.50 FEET, WHOSE ARC LENGTH IS 7.07 FEET AND WHOSE CHORD BEARS SOUTH 01°08'21" EAST, 7.07 FEET TO THE SOUTHWEST CORNER OF OUTLOT 'U', SAID MILL RIDGE PLAT 2; THENCE NORTH 89°49'25" EAST CONTINUING ALONG SAID NORTH LINE, 175.01 FEET TO THE SOUTHEAST CORNER OF OUTLOT 'P', SAID MILL RIDGE PLAT 2; THENCE NORTH 00°10'35" WEST CONTINUING ALONG SAID NORTH LINE, 19.17 FEET TO THE SOUTHWEST CORNER OF LOT 41, SAID MILL RIDGE PLAT 2; THENCE NORTH 89°53'55" EAST CONTINUING ALONG SAID NORTH LINE, 96.54 FEET TO THE NORTHEAST CORNER OF SAID OUTLOT 'Y'; THENCE SOUTH 00°06'05" EAST ALONG THE EAST LINE OF SAID OUTLOT 'Y', 21.53 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT 'Y'; THENCE NORTH 83°18'02" EAST ALONG THE SOUTH LINE OF STREET LOT 'A', SAID MILL RIDGE PLAT 2, A DISTANCE OF 70.47 FEET TO THE SOUTHWEST CORNER OF OUTLOT 'S', SAID MILL RIDGE PLAT 2; THENCE SOUTH 00°06'05" EAST ALONG THE WEST LINE OF LOT 1, MILL RIDGE PLAT 3, AN OFFICIAL PLAT, 53.21 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE NORTH 90°00'00" EAST ALONG THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 178.14 FEET TO THE SOUTHEAST CORNER OF SAID LOT 1; THENCE NORTH 00°00'00" EAST ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 131.42 FEET TO THE NORTH LINE OF SAID OUTLOT 'S', MILL RIDGE PLAT 2; THENCE NORTH 90°00'00" EAST ALONG SAID NORTH LINE, 243.50 FEET TO THE NORTHEAST CORNER OF SAID OUTLOT 'S'; THENCE SOUTH 00°00'00" EAST ALONG THE EAST LINE OF SAID OUTLOT 'S', 31.57 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT 'S'; THENCE EASTERLY ALONG THE NORTH LINE OF SAID OUTLOT 'R', CORRECTED MICHAEL'S LANDING PLAT 1 AND A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 1465.00 FEET, WHOSE ARC LENGTH IS 77.70 FEET AND WHOSE CHORD BEARS NORTH 88°24'56" EAST, 77.70 FEET; THENCE SOUTH 44°32'36" EAST CONTINUING ALONG SAID NORTH LINE, 70.66 FEET TO THE NORTHEAST CORNER OF SAID OUTLOT 'R'; THENCE SOUTH 00°29'50" WEST ALONG THE EAST LINE OF SAID OUTLOT 'R', 600.52 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT 'R'; THENCE SOUTH 45°29'50" WEST ALONG THE SOUTH LINE OF SAID OUTLOT 'R', 70.71 FEET; THENCE NORTH 89°30'10" WEST ALONG THE SOUTH LINE OF SAID OUTLOT 'R', STREET LOT 'I', AND OUTLOT 'Q', 871.51 FEET; THENCE WESTERLY ALONG THE SOUTH LINE OF SAID OUTLOT 'Q' AND OUTLOT 'P' AND A CURVE CONCAVE SOUTHERLY WHOSE RADIUS IS 2035.00 FEET, WHOSE ARC LENGTH IS 113.03 FEET AND WHOSE CHORD BEARS SOUTH 88°54'22" WEST, 113.01 FEET; THENCE NORTH 02°41'06" WEST, 198.00 FEET; THENCE NORTH 17°10'19" WEST, 147.04 FEET; THENCE NORTH 00°37'08" EAST, 214.16 FEET TO THE SOUTHWEST CORNER OF SAID MILL RIDGE PLAT 2; THENCE NORTH 83°18'02" EAST ALONG THE SOUTH LINE OF SAID MILL RIDGE PLAT 2, A DISTANCE OF 63.14 FEET; THENCE NORTH 00°29'50" EAST CONTINUING ALONG SAID SOUTH LINE, 30.24 FEET; THENCE NORTH 83°18'02" EAST CONTINUING ALONG SAID SOUTH LINE, 28.06 FEET TO THE SOUTHWEST CORNER OF SAID OUTLOT 'Y'; THENCE NORTH 00°00'00" EAST ALONG THE WEST LINE OF SAID OUTLOT 'Y', 53.44 FEET TO THE POINT OF BEGINNING AND CONTAINING 16.04 ACRES (698,856 SQUARE FEET). THE PROPERTY IS SUBJECT TO ANY AND ALL EASEMENTS OF RECORD.

**EXHIBIT B:  
CONDITIONS OF APPROVAL**

1. None

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

**Date: October 21, 2019**

**ITEM:** 214 5th Street Facade, – Approval of building remodel for an office use – Legacy Capital Partners, Inc. – MML2-004345-2019

**ORDINANCE: Approval of Minor Modification to Site Plan**

**FINANCIAL IMPACT:** Undetermined.

**BACKGROUND:** The applicant, Legacy Capital Partners, Inc. with permission from the owner ComPort LLC, represented by Daniel Porter, is requesting approval of a Minor Modification Level 2 Site Plan to remodel an existing retail building on approximately 0.08 acres located at 214 5th Street in preparation for use as an office.

Plan and Zoning Commission Action:

Vote: 6-0 approval, with Commissioner(s) Drake absent.

Date: October 14, 2019

Motion: Adopt a resolution recommending the City Council approve the Minor Modification to Site Plan

**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 & Planning*: June 3, 2019
- Staff Review and Comments
  - *Hold Harmless Agreement and Temporary Setback No Build Agreement*
- Comprehensive Plan Consistency
- Site Plan Findings
- Staff Recommendations and Conditions of Approval
- Property Owner/Applicant 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 Minor Modification Level 2 Site Plan to allow remodeling of an existing building for an office use, subject to the applicant meeting all City Code requirements and the following:

1. The City Council approving and accepting the Hold Harmless and Temporary Setback No-Build Agreements.

Lead Staff Member: J. Bradley Munford



**Staff Reviews:**

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	

**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	June 3, 2019		
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
  - Exhibit A - Conditions of Approval
  - Attachment B - Location Map
  - Attachment C - Site Plan
  - Attachment D - Hold Harmless Agreement
  - Attachment E - Temporary Setback No Build Agreement
- Exhibit II - City Council Resolution
  - Exhibit A - Conditions of Approval

**CITY OF WEST DES MOINES  
PLAN AND ZONING COMMISSION COMMUNICATION**

**Meeting Date:** October 14, 2019

**Item:** 214 5th Street Facade, – Approval of building remodel for an office use – Legacy Capital Partners – MML2-004345-2019

**Requested Action:** Approval of a Minor Modification Level 2 Site Plan

**Case Advisor:** J. Bradley Munford 

**Applicant's Request:** The applicant, Legacy Capital Partners, represented by Daniel Porter, is requesting approval of a Minor Modification Level 2 Site Plan to remodel an existing retail building on approximately 0.08 acres located at 214 5th Street in preparation for use as an office.

**History:** The property was platted as Block 10, Lot 6 Valley Junction. The building was built in 1940.

**City Council Subcommittee:** This item was presented to the Development and Planning City Council Subcommittee on June 3, 2019. The Subcommittee expressed support of the development.

**Staff Review and Comment:** This request was distributed to other City departments and other agencies for their review and comment. There are no outstanding issues. Staff notes the following:

**Hold Harmless Agreement and Temporary Setback No Build Agreement:** The proposed plan includes window and door openings on the south façade. Since the southern wall is located on the property line, the Building Code requires fire rated construction which limits the amount of wall openings that are less than five feet (5') from a property line. The City owns the land immediately to the south and utilizes it as a landscape walkway between the public parking lot and 5<sup>th</sup> Street. The walkway currently does not have any structures. The applicant requested a no-build easement from the City that would prohibit construction of any structure within five feet (5') of our north property line in order to allow for the installation of windows and doors for the office use. The City has agreed to the no-build easement and the document. Additionally, the façade modification plan proposes to install four building canopies over the right of way of 5th Street and the City owned walkway located south of the applicant's property. The applicant has submitted a Hold Harmless agreement that release the City from any liability related to the canopies. Attachment D and E are copies of the Hold Harmless and the No-Build agreements. For policy purposes, formal acceptance by the City Council of these documents is required.

**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.

**Site 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 Recommendations and Conditions of Approval:** Based upon the preceding review and a finding of consistency with the Comprehensive Plan, staff recommends the Plan and Zoning Commission adopt a resolution approving the Minor Modification Level 2 Site Plan to allow remodeling of an existing building for an office use, subject to the applicant meeting all City Code requirements and the following:

2. The City Council approving and accepting the Hold Harmless and Temporary Setback No-Build Agreements.

**Property Owner/Applicant:**

Legacy Capital Partners  
3737 Woodland Ave Suite 630  
West Des Moines, Iowa 50266

**Applicant's Representatives:**

Wade Squiers  
The Squiers Studio  
206 3<sup>rd</sup> Street SW  
Mount Vernon, Iowa 52314  
[Wade@ss-designgroup.com](mailto:Wade@ss-designgroup.com)

**Attachments:**

- |              |   |                                       |
|--------------|---|---------------------------------------|
| Attachment A | - | Plan and Zoning Commission Resolution |
| Exhibit A    | - | Conditions of Approval                |
| Attachment B | - | Location Map                          |
| Attachment C | - | Site Plan                             |
| Attachment D | - | Hold Harmless Agreement               |
| Attachment E | - | Temporary Setback No Build Agreement  |

**RESOLUTION NO.** - PZC-19-070**A RESOLUTION OF THE PLAN AND ZONING COMMISSION OF THE CITY OF WEST DES MOINES, RECOMMENDING TO THE CITY COUNCIL THAT IT APPROVE A MINOR MODIFICATION LEVEL 2 FOR 214 5TH STREET (MML2-004345-2019) TO ALLOW THE REMODELING OF AN EXISTING BUILDING FOR AN OFFICE USE**

**WHEREAS**, pursuant to the provisions of Title 10, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant, The Legacy Capital Partners, has requested approval of modifications to allow the remodeling of an existing commercial building for an office use on property located at 214 5th Street (MML2-004345-2019 );

**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;

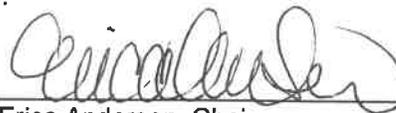
**WHEREAS**, on October 14, 2019 this Commission held a duly-noticed public meeting to consider the application for a Minor Modification Level 2 (MML2-004345-2019);

**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 October 14, 2019 or as amended orally at the Plan and Zoning Commission meeting of October 14, 2019 are adopted.

SECTION 2. Minor Modification Level 2 (MML2-004345-2019) to allow the remodeling of an existing building for an office use, is recommended to the City Council for approval, subject to compliance with all the conditions in the staff report dated October 14, 2019, including conditions added at the meeting, 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 October 14, 2019.



Erica Andersen, Chair  
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 October 14, 2019, by the following vote:

AYES: Andersen, Costa, Crowley, Erickson, Hatfield, Southworth

NAYS:

ABSTENTIONS:

ABSENT: Drake

ATTEST:



Recording Secretary

**EXHIBIT A  
CONDITIONS OF APPROVAL**

1. The City Council approving and accepting the Hold Harmless and Temporary Setback No Build Agreements.



214 5th Street Facade



# LEGACY CAPITAL PARTNERS TI

MINOR MODIFICATION APPLICATION - 01.16.19  
 MINOR MODIFICATION APPLICATION - 05.24.19  
 MINOR MODIFICATION APPLICATION - 07.01.19  
 MINOR MODIFICATION APPLICATION - 07.18.19

PERMIT APPLICATION 08.13.19  
 MINOR MODIFICATION REV 1 09.18.19

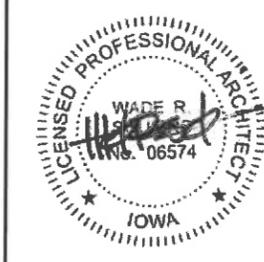


1st STREET SW  
 MT VERNON, IOWA 52314  
 319.631.8075  
 wade@ss-designgroup.com

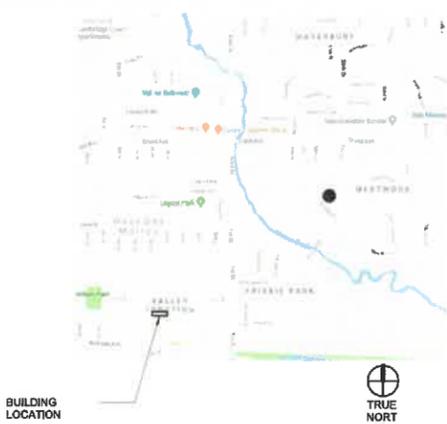
CONSULTANTS:  
**STRUCTURAL ENGINEER**  
  
**CIVIL ENGINEER**  
  
**MEP ENGINEER**

PRINTED	
DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
08.16.19	MINOR MOD. REVISION #1

Revision Schedule		
Rev#	Description	Date



## REGIONAL MAP



## VICINITY MAP



PROJECT LOCATION  
 214 5th STREET  
 WEST DES MOINES

## BUILDING PERSPECTIVE



## ABBREVIATIONS

ACT	ACOUSTIC CEILING TILE	EQUIP	EQUIPMENT	OPP	OPPOSITE
ADA	AMERICANS WITH DISABILITIES ACT	EXT	EXTERIOR	ORD	OVERFLOW ROOF DRAIN
ADJ	ADJUSTABLE	EXP	EXPANSION, EXPOSED	PLAM	PLASTIC LAMINATE
AFB	ABOVE FINISHED FLOOR	FD	FLOOR DRAIN	PLYWD	PLYWOOD
AHU	AIR HANDLING UNIT	FE	FIRE EXTINGUISHER	PR	PAIR
ALT	ALTERNATE	FEC	FIRE EXTINGUISHER CABINET	PREFIN	PREFINISHED
ALUM	ALUMINUM	FIN	FINISH	PT	PAINT
ANOD	ANODIZED	FKT	FIXTURE	PTD	PAPER TOWEL DISPENSER
ANSI	AMERICAN NATIONAL STANDARD INSTITUTE	FHC	FIRE HOSE CABINET	R	RADIUS
APPROX	APPROXIMATE	FLR	FLOOR	RAD	RADIUS
ARCH	ARCHITECTURAL	FOF	FACE OF FINISH	RB	RUBBER BASE
ASTM	ASTM INTERNATIONAL	FRP	FIBERGLASS REINFORCED PLASTIC	RCP	REFLECTED CEILING PLAN
AW	ARCHITECTURAL WOODWORK	FGL	FIBERGLASS	RD	ROOF DRAIN
BD	BOARD	FT	FOOT OR FEET	REF	REFRIGERATOR
BLDG	BUILDING	G	GROUND	REIN	REINFORCE
BLKG	BLOCKING	GA	GALVE	REQD	REQUIRED
BGC	BY GENERAL CONTRACTOR	GALV	GALVANIZED	RF	RESILIENT FLOORING
BO	BY OTHER (THAN CONTRACTOR)	GB	GRAB BAR	RO	ROUGH OPENING
BRG	BEARING	GC	GENERAL CONTRACTOR	RTU	ROOF TOP UNIT
CAB	CABINET	GFCI	GROUND FAULT CIRCUIT INTERRUPTER	RV	ROOF VENT
CB	CERAMIC BASE	GL	GLASS	SIM	SIMILAR
CIP	CAST-IN-PLACE	GYP	GYPSON	SLNT	SEALANT
CG	CORNER GUARD	GYP BD	GYPSON BOARD	SCHED	SCHEDULE
CJ	CONTROL JOINT	HDW	HARDWARE	SPEC	SPECIFICATION
CL	CENTER LINE	HM	HOLLOW METAL	SQ	SQUARE
CLG	CEILING	HORIZ	HORIZONTAL	SST	STAINLESS STEEL
CLR	CLEAR	HT	HEIGHT	STRUCT	STRUCTURAL
CMU	CONCRETE MASONRY UNIT	HVAC	HEATING, VENTILATION, & AIR CONDITIONING	SURF	SURFACE
CNTR	COUNTER	IBC	INTERNATIONAL BUILDING CODE	SUSP	SUSPEND
CONC	CONCRETE	ID	INSIDE DIAMETER	SYMM	SYMMETRICAL
CONST	CONSTRUCTION	INSUL	INSULATION	T	TEMPERED
CONT	CONTINUOUS	INT	INTERIOR	T&G	TONGUE AND GROOVE
CORR	CORRIDOR	IN	INCH	THRU	THROUGH
CPT	CARPET	INT	INTERIOR	TKBD	TACKBOARD
CS	CONCRETE SEALED	JAN	JANITOR	TOB	TOE OF BEAM
CSWK	CASEWORK	JOINT	JOINT	TOC	TOP OF CONCRETE
CT	CERAMIC TILE	KS	KNEE SPACE	TOF	TOP OF FOOTING
CTB	CERAMIC TILE BASE	LAV	LAVATORY	TOS	TOP OF STEEL
CTR	CENTER, CENTERED	LKR	LOCKER	TPD	TOILET PAPER DISPENSER
CW	CURTAIN WALL	LVR	LOUVER	TSAT	THERMOSTAT
D	DEPTH	MFR	MANUFACTURER	TV	TELEVISION
DBL	DOUBLE	MAX	MAXIMUM	TYL	TYPICAL
DEMO	DEMOLITION	MECH	MECHANICAL	UL	UNDERWRITERS LABORATORIES
DEPT	DEPARTMENT	MEZZ	MEZZANINE	UNF	UNFINISHED
DET	DETAIL	MLWK	MILLWORK	UNO	UNLESS NOTED OTHERWISE
DF	DRINKING FOUNTAIN	mm	MILLIMETER	VCT	VINYL COMPOSITE TILE
DIA	DIAMETER	MO	MASONRY OPENING	VERT	VERTICAL
DIAG	DIAGONAL	MTL	METAL	VEST	VESTIBULE
DM	DIMENSION	MISC	MISCELLANEOUS	VIF	VERIFY IN FIELD
DISP	DISPENSER	MTD	MOUNTED	VTR	VENT THROUGH ROOF
DN	DOWN	N	NEW	WVC	VINYL WALL COVERING
DW	DISHWASHER	NA	NOT APPLICABLE	W/	WITH
DWG	DRAWING	NFPA	NATIONAL FIRE PROTECTION ASSOCIATION	W/O	WITHOUT
EA	EACH	NIC	NOT IN CONTRACT	WBL	WOOD BLOCKING
EPS	EXTERIOR INSULATION & FINISH SYSTEM	NOM	NOMINAL	WC	WATER CLOSET
EJ	EXPANSION JOINT	NTS	NOT TO SCALE	WD	WOOD
ELECT	ELECTRICAL	OC	ON CENTER	WF	WATERPROOF
EL	ELEVATION	OD	OUTSIDE DIAMETER	WR	WATER RESISTANT
ELEV	ELEVATOR	OFICI	OWNER FURNISHED, CONTRACTOR INSTALLED	WSCT	WAINSCOT
EMER	EMERGENCY	OH	OVERHEAD	WT	WEIGHT
ENCL	ENCLOSURE	OPNG	OPENING	WWF	WELDED WIRE FABRIC
EQ	EQUAL			WWM	WELDED WIRE MESH

## MATERIAL LEGEND GENERAL PROJECT

EARTH	BRICK	MASONRY	CONCRETE	STEEL	ALUMINUM
COMPACT GRANULAR FILL	MASONRY	CONCRETE	STEEL	ALUMINUM	DIMENSIONAL LUMBER
FINISHED LUMBER	PLYWOOD SHEATHING	GYPSON BOARD	RIGID INSULATION	BATT INSULATION	EIFS

## NOTES

1. SCALE THE DRAWINGS
2. ALL WORK SHALL COMPLY WITH ALL APPLICABLE BUILDING CODES, ORDINANCES, AND REGULATIONS AS ADOPTED BY LOCAL AUTHORITIES HAVING JURISDICTIONS AND IN FORCE AT TIME OF CONSTRUCTION.
3. CONSTRUCTION NOTES APPLY TO ALL TRADES. THESE NOTES ARE PROVIDED FOR GENERAL PROJECT INFORMATION AND ARE TO BE APPLIED TO ALL AREAS OF THE PROJECT WHERE WORK IS BEING COMPLETED.
4. THE GENERAL CONTRACTOR SHALL VERIFY ALL DIMENSIONS AND JOB CONDITIONS PRIOR TO BIDDING THE WORK AND SHALL REPORT TO THE ARCHITECT IMMEDIATELY ANY DISCREPANCIES OR OMISSIONS WHICH WOULD INTERFERE WITH SATISFACTORY COMPLETION OF WORK.
5. THE GENERAL CONTRACTOR IS TO VERIFY FIELD CONDITIONS PRIOR TO COMMENCEMENT OF EACH PORTION OF WORK.
6. ALL CONSTRUCTION DRAWINGS AND SPECIFICATIONS ARE COMPLIMENTARY, AND WHAT IS CALLED FOR BY EITHER WILL BE BINDING AS IF CALLED FOR BY ALL. ANY WORK SHOWN OR REFERRED TO ON ANY SET OF DRAWINGS SHALL BE PROVIDED AS THOUGH SHOWN ON ALL RELATED DRAWINGS.
7. REFER TO STRUCTURAL, MECHANICAL, ELECTRICAL, AND PLUMBING DRAWINGS FOR ADDITIONAL NOTES AND SYMBOLS.
8. THE GENERAL CONTRACTOR SHALL NOTIFY THE ARCHITECT IN WRITING OF ANY DISCREPANCIES BETWEEN THE DRAWINGS, THESE NOTES, ANY SPECIFICATIONS, AND FIELD CONDITIONS BEFORE COMMENCING ANY WORK AND REQUEST CLARIFICATION.
9. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR THE COORDINATION OF ALL WORK BY ALL TRADES, INCLUDING THOSE PROVIDED AND DIRECTED BY THE OWNER.
10. ALL WORK NOTED "BY OTHER" OR "N.I.C." IS TO BE ACCOMPLISHED BY A CONTRACTOR OTHER THAN THE GENERAL CONTRACTOR AND IS NOT TO BE PART OF THE CONSTRUCTION AGREEMENT. THE GENERAL CONTRACTOR IS TO COORDINATE WITH THE "OTHER" CONTRACTOR AS REQUIRED.
11. ALL CONSTRUCTION ACTIVITIES SHALL BE COORDINATED WITH THE OWNER TO MINIMIZE DISRUPTION OF THE NORMAL DAILY FUNCTIONS OF THE OWNER'S OCCUPIED AREAS (IF APPLICABLE).
12. CONTRACTORS SHALL CONSULT PLANS OF ALL TRADES FOR OPENINGS AND ROUGH-INS THROUGH SLABS, WALLS, CEILINGS, AND ROOFS FOR DUCTS, PIPES, CONDUITS, CABINETS AND EQUIPMENT, AND SHALL VERIFY SIZE AND LOCATION BEFORE PROCEEDING WITH WORK.
13. CONTRACTOR SHALL COORDINATE WITH ALL OWNER FURNISHED ITEMS AND PROVIDE ALL REQUIRED MECHANICAL AND ELECTRICAL CONNECTIONS, INCLUDING STUB OUTS FOR NEW OR FUTURE WORK INDICATED.
14. THE GENERAL CONTRACTOR IS RESPONSIBLE FOR INSURING THE SUBCONTRACTORS ARE BIDDING AND CONSTRUCTING FROM A COMPLETE SET OF THE MOST CURRENT SET OF DRAWINGS.
15. THE GENERAL CONTRACTOR SHALL MAINTAIN A CURRENT AND COMPLETE SET OF CONSTRUCTION DRAWINGS ON SITE DURING ALL PHASES OF CONSTRUCTION FOR USE BY ALL TRADES.
16. ALL STRUCTURAL, MECHANICAL, ELECTRICAL, AND PLUMBING DRAWINGS ARE SUPPLEMENTARY TO THE ARCHITECTURAL DRAWINGS. FIXTURES AND FITTINGS, ELECTRICAL AND COMMUNICATION OUTLETS ETC., WHEN SHOWN ON THE ARCHITECTURAL DRAWINGS, ARE FOR LOCATION PURPOSES ONLY. IT SHALL BE THE RESPONSIBILITY OF EACH CONTRACTOR TO COORDINATE WITH THE ARCHITECTURAL DRAWINGS BEFORE INSTALLATION OF THEIR WORK. ANY DISCREPANCIES BETWEEN THE ARCHITECTURAL AND CONSULTING ENGINEER'S DRAWINGS SHALL BE BROUGHT TO THE ATTENTION OF THE ARCHITECT BY WRITTEN NOTIFICATION FOR CLARIFICATION. ANY WORK INSTALLED INCORRECT WITH THE ARCHITECT'S DRAWINGS SHALL BE CORRECTED AT THE CONTRACTOR'S EXPENSE AND AT NO EXPENSE TO THE OWNER.
17. THE CONTRACTOR SHALL PROVIDE AND INSTALL COMPLETE SYSTEMS. ALL TRADES SHALL INSTALL SYSTEMS AND PRODUCTS IN CONFORMANCE WITH MANUFACTURER'S RECOMMENDATIONS AND FOLLOW BEST PRACTICES SPELLED OUT BY VARIOUS TRADE ASSOCIATIONS. IE: BIA - BRICK INDUSTRY ASSOCIATION, NABA - NATIONAL AIR BARRIER ASSOCIATION, ETC.
18. ROOM FINISH SCHEDULE SHALL NOT BE TAKEN AS A COMPLETE SPECIFICATION FOR ALL INTERIOR ROOM MATERIALS. HOWEVER, IT SHALL BE BINDING TO THE EXTENT OF THE MATERIAL IT DOES SPECIFY.
19. UNLESS OTHERWISE INDICATED, PLANS DIMENSIONS ARE TO THE COLUMN GRID LINES, NOMINAL FACE OF MASONRY, FACE OF STUDS, AND FACE OF CONCRETE WALLS.
20. "FLOOR LINE" AND LEVEL INDICATORS REFER TO THE TOP OF CONCRETE SLAB AND THE TOP OF SUBFLOOR IN WOOD CONSTRUCTION. FINISH FLOORING AND GYPCRETE ARE TO BE INSTALLED ABOVE THE FLOOR LINE. FOR DEPRESSED FLOORS AND CURBS, SEE STRUCTURAL DRAWINGS.
21. LINE OF GRADES SHOWN ON THE BUILDING ELEVATIONS AND SECTIONS ARE APPROXIMATE. REFER TO CIVIL DRAWINGS FOR FINAL GRADES.
22. WHERE A DOOR IS LOCATED NEAR A CORNER OF A ROOM AND IS NOT LOCATED BY A DIMENSION, ON PLAN OR DETAILS, THE DIMENSION SHALL BE 3" FROM THE FACE OF THE STUD (WALL) TO FACE OF ROUGH OPENING. THE DIMENSION SHALL BE 6" FROM FACE OF WALL TO EDGE OF ROUGH OPENING AT CONCRETE WALLS AND 4" AT CMU WALLS.
23. WALL, FLOOR, AND ROOF ASSEMBLIES WITH UL DESIGN NUMBERS SHALL BE CONSTRUCTED TO UL STANDARDS. PRODUCTS USED SHALL BEAR UL CLASSIFICATIONS WHERE REQUIRED BY THE UL DESIGN.
24. ALL FIRE RATED WALLS SHALL BE PERMANENTLY IDENTIFIED PER INTERNATIONAL BUILDING CODE CHAPTER 7. SIGNS OR STENCILS SHALL BE MIN 6" IN HEIGHT WITH RED LETTERING, EXCEPT R-2 OCCUPANCIES.
25. ALL PENETRATIONS AND OPENINGS SHALL MEET OR EXCEED WALL ASSEMBLY FIRE RATINGS REQUIREMENTS OF THE GOVERNING FIRE AUTHORITIES.
26. ALL LISTED METAL STUD DIMENSIONS, GAGE, AND THICKNESS ARE MINIMUMS AND ARE PROVIDED AS BASIS OF DESIGN. REFER TO STRUCTURAL DRAWINGS.
27. ALL INTERIOR STUD WALLS SHALL BE CONSTRUCTED TO ACHIEVE MINIMUM S.T.C. RATINGS AS INDICATED ON THE DRAWINGS.
28. INSTALL DEFLECTION TRACK AT ALL METAL STUD WALLS EXTENDING TO THE UNDERSIDE OF

## SHEET INDEX

DISCIPLINE	ORDER	SHEET NUMBER	SHEET NAME	SET ISSUE	
				PRICING	BUILDING PERMIT
0. GENERAL		G000	TITLE SHEET		0
0. GENERAL		G100	CODE COMPLIANCE		0
0. GENERAL		G102	ADA STANDARDS		0
2. ARCHITECTURAL		A100	SITE PLAN		0
2. ARCHITECTURAL		A101	FLOOR PLANS		0
2. ARCHITECTURAL		A102	ENLARGED PLANS & INTERIOR ELEVATIONS		0
2. ARCHITECTURAL		A103	ROOF PLAN & RCP		0
2. ARCHITECTURAL		A104	WALL SECTIONS & MISC DETAILS		0
2. ARCHITECTURAL		A200	BUILDING ELEVATIONS		0
2. ARCHITECTURAL		A201	RENDERED ELEVATIONS		0
9. REFERENCE		R101	SPEC		0
9. REFERENCE		R102	SPEC		0
9. REFERENCE		R103	SPEC		0
9. REFERENCE		R104	SPEC		0

## ARCHITECTURAL SYMBOLS

NORTH ARROW	DRAWING VIEW	DRAWING REFERENCE
DIRECTION INDICATOR	TITLE	
	1 NAME	1 DW
	SCALE	
WALL TYPE IDENTIFICATION	DOOR TYPE IDENTIFICATION	ROOM TAG IDENTIFICATION
		ROOM NAME
		101
	WINDOW TYPE IDENTIFICATION	KEYNOTE TYPE IDENTIFICATION
		1

## KEY PLAN

LEGACY PARTNERS OFFICE  
 RENNOVATION  
 214 5TH STREET  
 WEST DES MOINES, IOWA

TITLE SHEET

00-000000	G000
DRAWN BY: WRB	
APPROVED BY:	

FOR CONSTRUCTION

# CODE COMPLIANCE

## APPLICABLE CODES:

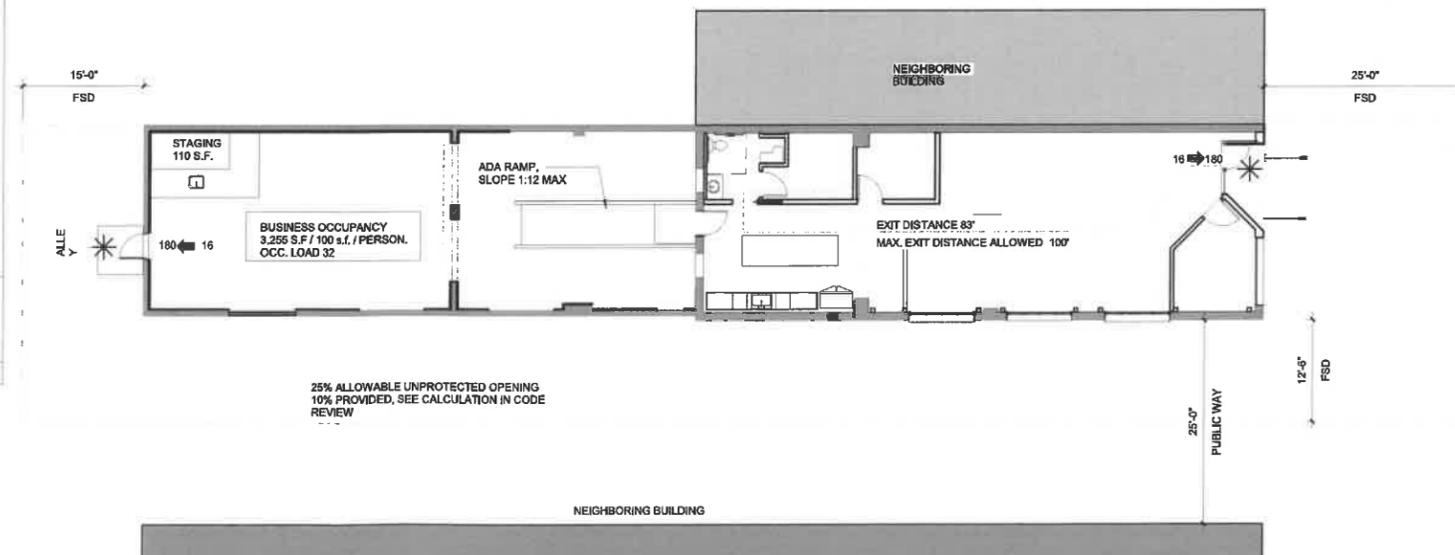
### CODE TYPE

BUILDING  
FIRE PREVENTION  
ACCESSIBILITY  
ELECTRICAL  
ELEVATORS  
MECHANICAL  
PLUMBING

### MODEL CODE BASIS

2015 INTERNATIONAL BUILDING CODE  
2015 INTERNATIONAL FIRE CODE W/ LOCAL AMMENDMENTS  
2010 ADA STANDARDS FOR ACCESSIBLE DESIGN  
STATE OF IOWA ELECTRICAL CODE (2017 NEC)  
N/A  
STATE OF IOWA MECHANICAL CODE (2015 IMC)  
2015 STATE OF IOWA PLUMBING CODE (2015 UPC)

	CODE SECTION	ALLOWED	PROVIDED	COMMENTS
OCCUPANCY USE GROUP	IBC 310.3		BUSINESS (B)	
CONSTRUCTION TYPE	IBC 602.5		VB	NON-SPRINKLED
HEIGHT AND AREA LIMITATIONS	IBC 504.3 IBC 504.4 IBC 505.2	80 FEET 3 STORIES 9,945 SQ. FT.	42 FEET 10 INCH 1 STORIES 3,255 SQ. FT.	SEE AREA INCREASE CALC BELOW
AREA INCREASE CALCULATIONS BASED ON A-2 OCCUPANCY TYPE	IBC 508.2		$I_f = (F/P - 0.25) \frac{W30}{W30}$ $F = 165$ $P = 324$ $W = 9.75$	$A_a = A_i + (N_S \times I_f)$ $A_i = 9,000$ $N_S = 9,000$ $I_f = 10.5\%$ $A_a = 9,000 + (9,000 \times 0.105)$ $A_a = 9,945$
OCCUPANCY SEPARATION	IBC 508.4	NA	NA	
BUILDING ELEMENTS FIRE RESISTANCE		TYPE VB		
STRUCTURAL FRAME	IBC 601	0 HR.	0 HR.	
BEARING WALLS - EXTERIOR		0 HR.	0 HR.	
BEARING WALLS - INTERIOR		0 HR.	0 HR.	
NONBEARING WALLS/PARTITIONS - EXTERIOR		0 HR.	0 HR.	
NONBEARING WALLS/PARTITIONS - INTERIOR		0 HR.	0 HR.	
FLOOR CONSTRUCTION		0 HR.	0 HR.	
ROOF CONSTRUCTION		0 HR.	0 HR.	
FIRE SEPARATION DISTANCE	IBC 602			EXISTING 3 WYTH BRICK WALL
NORTH: FSD 0'		1 HR.	1 HR.	
WEST: FSD 15'		0 HR.	0 HR.	
SOUTH: FSD 12.5'		0 HR.	0 HR.	
EAST: FSD 25'		0 HR.	0 HR.	
CONSTRUCTION CLASSIFICATION	IBC 602		TYPE VB	NON-SPRINKLED
FIRE AND SMOKE PROTECTION FEATURES				
ALLOWABLE AREA OF EXTERIOR OPENINGS	IBC 705.8	0% 24% 25% NO LIMIT	-- -- 10%	2,203 S.F. OF WALL; 228 S.F. OF OPENINGS; OWNER REQUESTING A 15' NO BUILD EASEMENT FROM PARKS AND REC.
NORTH: FSD 0'				
WEST: FSD 15'				
SOUTH: FSD 15'				
EAST: FSD 25'				
VERTICAL SEPARATION OF OPENINGS PARAPETS	IBC 705.8.5 IBC 705.11	NA EXIST, BRICK	NA EXISTING BRICK	
FIRE PARTITIONS	IBC 708	NA	NA	
HORIZONTAL ASSEMBLIES	IBC 711	NA	NA	
SHAFT/STAIR ENCLOSURES	IBC 713.4	NA	NA	
OPENING PROTECTIVES	IBC 716.5	NA	NA	
CORRIDOR WALLS		NA	NA	
STAIR/EXIT ENCLOSURES		NA	NA	
DRAFTSTOPPING	IBC 718.4.2	NA	NA	
INTERIOR FINISHES				
WALLS AND CEILINGS	IBC 803.11	CLASS C CLASS B CLASS B		OCCUPANCY GROUP B - NON-SPRINKLED
ROOMS AND ENCLOSED SPACES				
CORRIDORS AND EXIT ACCESS				
INTERIOR EXIT STAIRWAYS				
INTERIOR FLOOR FINISHES	IBC 804			DOC FF-1 PILL TEST OR ASTM D2859 COMPLIANCE
ACOUSTICAL CEILING SYSTEMS	IBC 808			INSTALL PER ASTM C635 AND ASTM C636
MEANS OF EGRESS				
OCCUPANT LOAD: BUSINESS (3,255 s.f.) 100 GROSS		32		
EXIT CAPACITY	IBC 1005.3.2	2	2	32 OCC LOAD * .2' / PERSON = 6.4" REQUIRED EGRESS WIDTH
NUMBER OF EXITS	IBC 1006	2	2	72" PROVIDED
COMMON PATH OF TRAVEL	IBC 1006.2.1	75 FT MAX NOT REQ'D	13 FT MAX NOT REQ'D	
ACCESSIBLE ELEVATORS	IBC 1009.4	44" MIN.	NA	
EXIT ACCESS STAIR WIDTH	IBC 1011	200 FT MAX	88 FT	
TRAVEL DISTANCE	IBC 1017	44" MIN.	NA	
CORRIDORS	IBC 1020.1	44" MIN.	NA	
CORRIDOR WIDTH	IBC 1020.2	25 FT MAX	0	
DEAD END CORRIDOR	IBC 1020.4			
PLUMBING FIXTURES				
TOTAL OCC. LOAD 32, or 16 PER GENDER	IPC TABLE 403.1	1	1	1 PER 75 MALE, 1 PER 75 FEMALE
WATER CLOSETS		1	1	1 PER 200 MALE, 1 PER 200 FEMALE
LAVATORIES		1	0	NOT REQUIRED, OCC LOAD < 15
DRINKING FOUNTAIN				
ELEVATOR LOBBY AND HOISTWAY	IBC 3005.2	NOT REQ'D	NOT REQ'D	NO ELEVATOR PROVIDED



### CODE COMPLIANCE LEGEND

- FIRE EXTINGUISHER CABINET - PROVIDE SIGNAGE
- EXIT SIGN
- EXIT DISCHARGE
- EXIT ACCESS
- PATH OF TRAVEL
- 1-HOUR RATED ASSEMBLY
- 2-HOUR RATED ASSEMBLY

**THE SQUIERS STUDIO**  
ARCHITECTS

1st STREET SW  
MT VERNON, IOWA 52314  
319.631.8075  
wade@ss-designgroup.com

CONSULTANTS:  
**STRUCTURAL ENGINEER**

**CIVIL ENGINEER**

**MEP ENGINEER**

### PRINTED

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.9	MINOR MOD. REVISION #1

### Revision Schedule

Rev#	Description	Date



KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION  
214.6TH STREET  
WEST DES MOINES, IOWA  
**CODE COMPLIANCE**

00-000000	<b>G100</b>
DRAWN BY: WRS	
APPROVED BY:	

FOR CONSTRUCTION

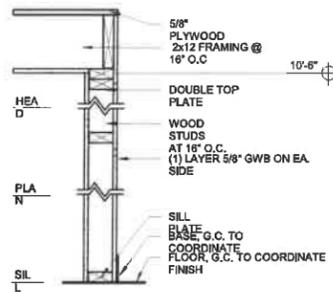
**1 CODE PLAN**  
1" = 10'-0"

C:\D:\The Squiers Studio\PROJECTS\Legacy Partners Office Renovation\Drawings\Paper Office Renovation Rev.mxd

8/18/2019 10:24:23 AM



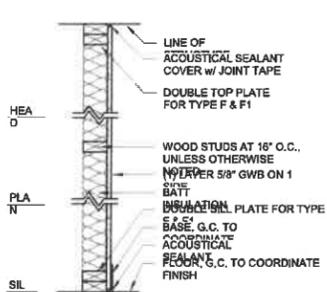




**WALL TYPES**  
1" = 1'-0"

A INTERIOR WALL - 2X4 WOOD STUD  
STC: -

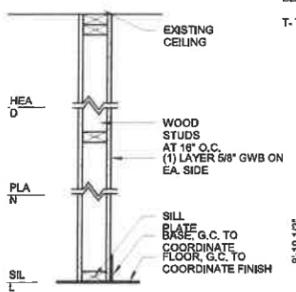
B KNEE WALL - 2X6 WOOD STUD  
STC: -



F TYPICAL - FURRING - 2X4 WOOD STUD WALL  
STC: -

F1 2X6 STUD  
STC: -

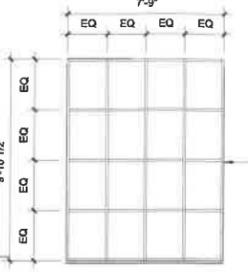
F2 2X4 STUD INSTALLED  
INSTALL 1.5" RIGID INSULATION



C INTER. WALL - 2X4 WOOD STUD  
STC: -

C1 INTER. WALL - 2X6 WOOD STUD  
STC: -

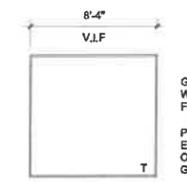
WINDOWS TO BE SL-30 ISO BY ALL STEEL. COLOR MATTE BLACK ANODIC 30% T-TEMPERED GLAZING



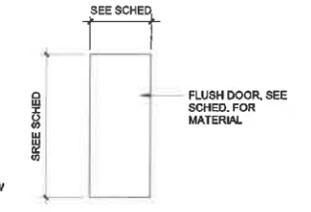
3 WINDOW A  
1/4" = 1'-0"

DOOR SCHEDULE														
Type Mark	TYPE	WIDTH	HEIGHT	MATERIAL	FINISH	FRAME TYPE	MATERIAL	FINISH	DETAIL HEAD	JAMB	SILL	HARDWARE SET	FIRE RATINGS	COMMENTS
2		3'-0"	7'-0"	SCW	STAINED	1	HM	PAINTED						INSULATED
3		3'-0"	7'-0"	GHM	PAINTED	2	GHM	PAINTED						POCKET DOOR
4		3'-0"	7'-0"	SCW	STAINED									

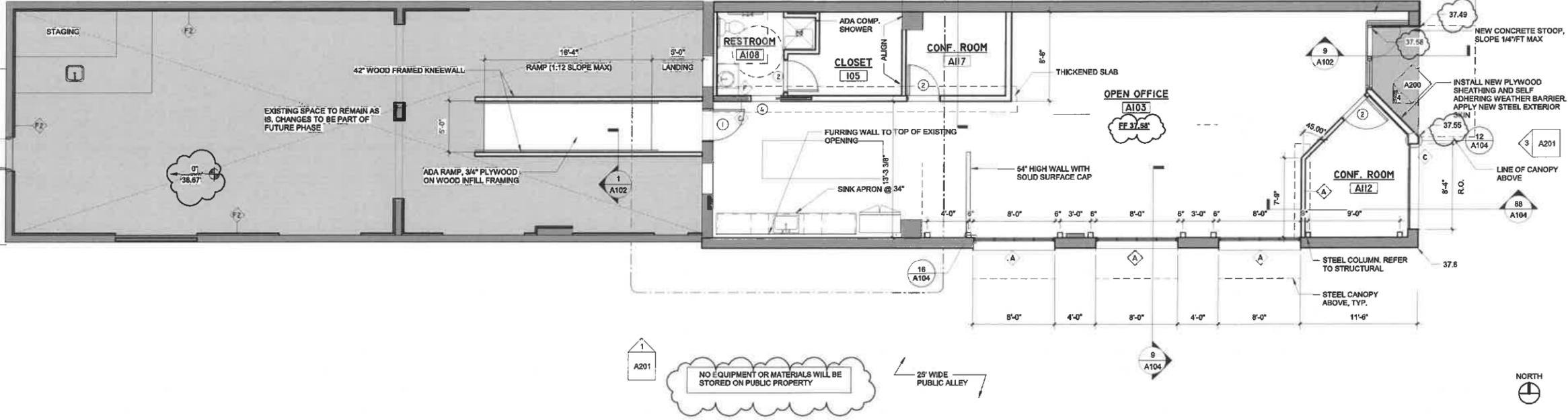
NOTE: DOOR #1 TO HAVE CUSTOM FRAM WIDTH TO ENSURE 36" DOOR. DOOR AND FRAME TO FIT WITHIN EXISTING MASONRY OPENING



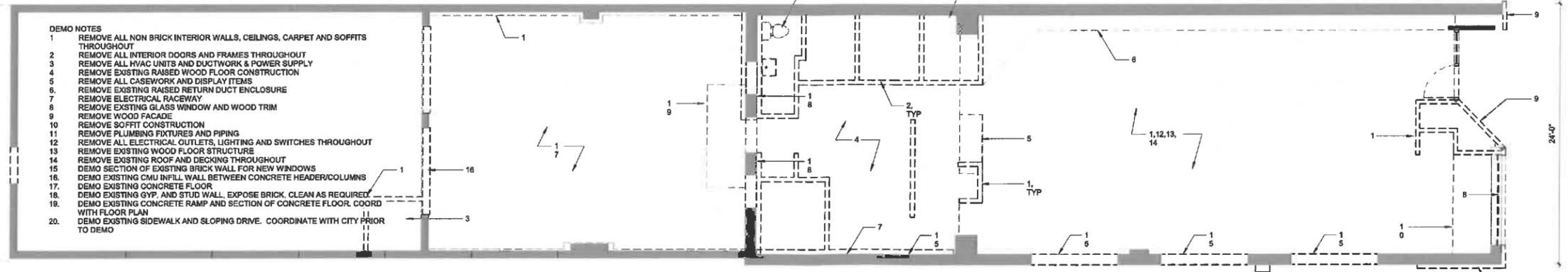
5 WINDOW C  
3/16" = 1'-0"



1 DOOR TYPES  
1/4" = 1'-0"



2 PROPOSED FLOOR PLAN  
3/16" = 1'-0"



1 EXISTING FLOOR PLAN / DEMO PLAN  
3/16" = 1'-0"

- DEMO NOTES**
- REMOVE ALL NON BRICK INTERIOR WALLS, CEILING, CARPET AND SOFFITS THROUGHOUT
  - REMOVE ALL INTERIOR DOORS AND FRAMES THROUGHOUT
  - REMOVE ALL HVAC UNITS AND DUCTWORK & POWER SUPPLY
  - REMOVE EXISTING RAISED WOOD FLOOR CONSTRUCTION
  - REMOVE ALL CASEWORK AND DISPLAY ITEMS
  - REMOVE EXISTING RAISED RETURN DUCT ENCLOSURE
  - REMOVE ELECTRICAL RACEWAY
  - REMOVE EXISTING GLASS WINDOW AND WOOD TRIM
  - REMOVE WOOD FACADE
  - REMOVE SOFFIT CONSTRUCTION
  - REMOVE PLUMBING FIXTURES AND PIPING
  - REMOVE ALL ELECTRICAL OUTLETS, LIGHTING AND SWITCHES THROUGHOUT
  - REMOVE EXISTING WOOD FLOOR STRUCTURE
  - REMOVE EXISTING ROOF AND DECKING THROUGHOUT
  - DEMO SECTION OF EXISTING BRICK WALL FOR NEW WINDOWS
  - DEMO EXISTING CMU INFILL WALL BETWEEN CONCRETE HEADER/COLUMNS
  - DEMO EXISTING CONCRETE FLOOR
  - DEMO EXISTING GYP. AND STUD WALL, EXPOSE BRICK. CLEAN AS REQUIRED
  - DEMO EXISTING CONCRETE RAMP AND SECTION OF CONCRETE FLOOR. COORD WITH FLOOR PLAN
  - DEMO EXISTING SIDEWALK AND SLOPING DRIVE. COORDINATE WITH CITY PRIOR TO DEMO

**THE SQUIERS STUDIO**  
ARCHITECTS

1st STREET SW  
MT VERNON, IOWA 52314  
319.831.8075  
wade@ss-designgroup.com

CONSULTANTS:  
**STRUCTURAL ENGINEER**  
**CIVIL ENGINEER**  
**MEP ENGINEER**

PRINTED

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.19	MINOR MOD. REVISION #1

Revision Schedule

Rev#	Description	Date
8	Revision 8	Date 8



KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION  
214 5TH STREET  
WEST DES MOINES, IOWA

FLOOR PLANS

00-000000	<b>A101</b>
DRAWN BY: WRS	
APPROVED BY:	

FOR CONSTRUCTION

C:\07The Squiers Studio\PROJECTS\Partner Office Renovation\Drawings\Partner Office Renovation\19062019 10:34:08 AM

PRINTED

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.18.9	MINOR MOD. REVISION #1

Revision Schedule

Rev#	Description	Date

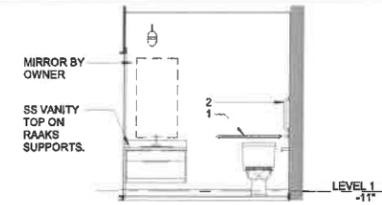


KEY PLAN

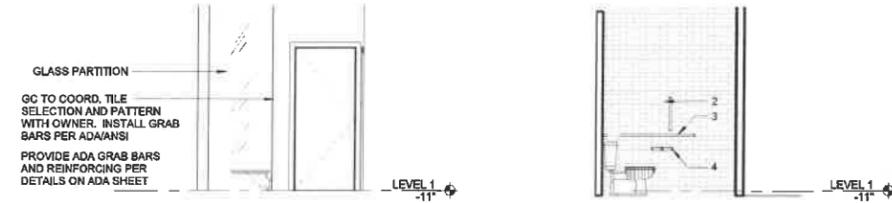
LEGACY PARTNERS OFFICE  
RENOVATION  
214 5TH STREET  
WEST DES MOINES, IOWA  
**ENLARGED PLANS & INTERIOR  
ELEVATIONS**

00-000000	<b>A102</b>
DRAWN BY: AUTHOR	APPROVED BY: [Signature]

FOR CONSTRUCTION

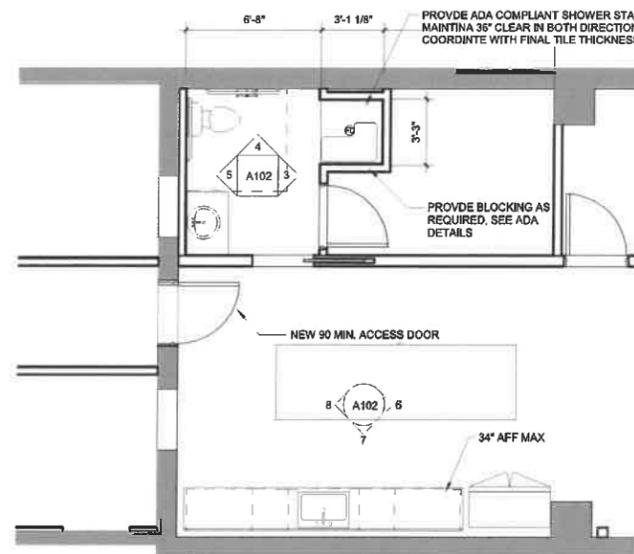


**5 RESTROOM WEST ELEV**  
1/4" = 1'-0"

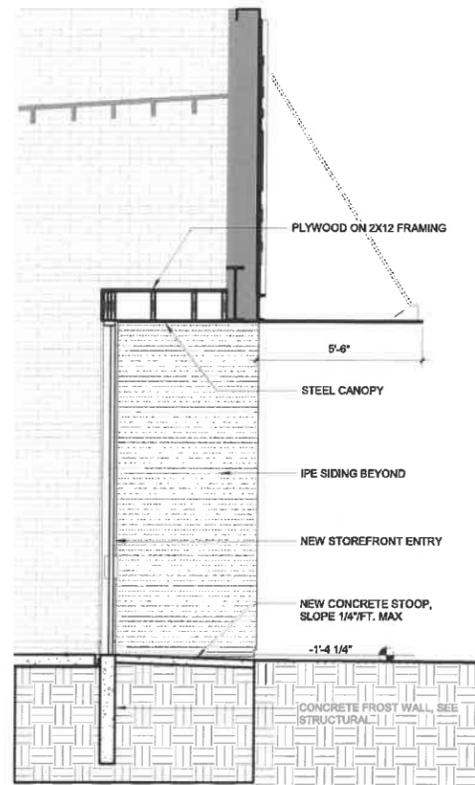


**3 RESTROOM EAST ELEV**  
1/4" = 1'-0"

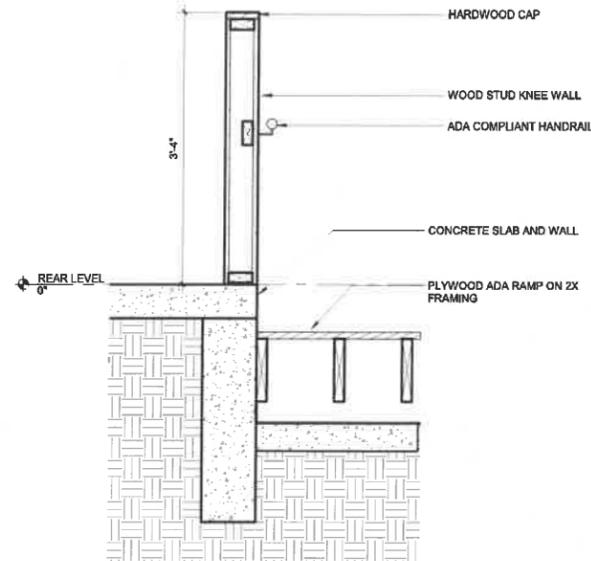
**4 RESTROOM NORTH ELEV**  
1/4" = 1'-0"



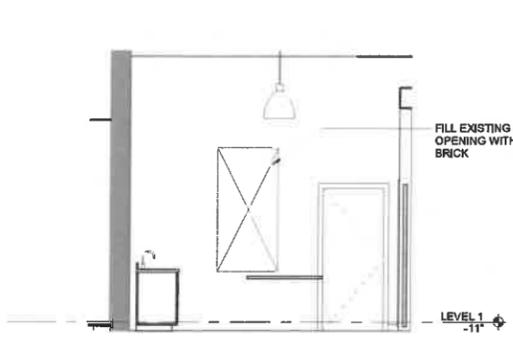
**2 ENLARGED BREAK ROOM**  
1/4" = 1'-0"



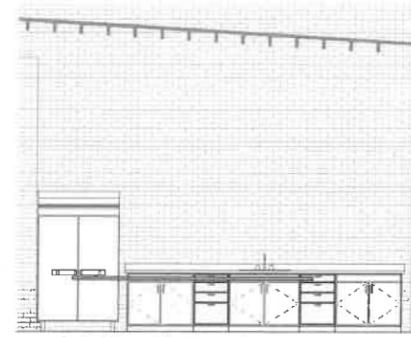
**9 WALL SECTION @ ENTRY**  
3/8" = 1'-0"



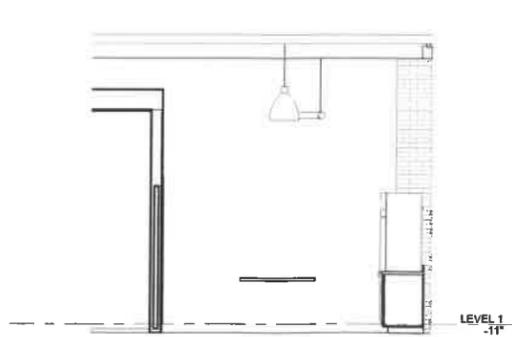
**1 ADA RAMP SECTION**  
1" = 1'-0"



**8 BREAK RM WEST**  
1/4" = 1'-0"



**7 BREAK RM SOUTH**  
1/4" = 1'-0"



**6 BREAK RM EAST**  
1/4" = 1'-0"



**THE SQUIERS STUDIO**  
ARCHITECTURE

1st STREET SW  
MT VERNON, IOWA 52314  
319.631.8075  
wsde@ss-designgroup.com

CONSULTANTS:  
**STRUCTURAL ENGINEER**

**CIVIL ENGINEER**

**MEP ENGINEER**

**PRINTED**

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.9	MINOR MOD. REVISION #1

**Revision Schedule**

Rev#	Description	Date



**KEY PLAN**

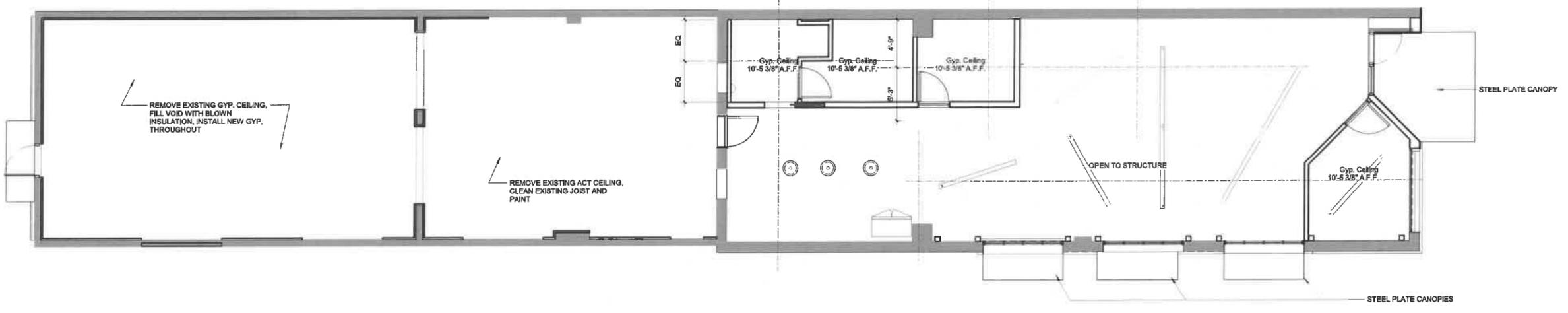
**LEGACY PARTNERS OFFICE  
RENOVATION**  
214 5TH STREET  
WEST DES MOINES, IOWA

**ROOF PLAN & RCP**

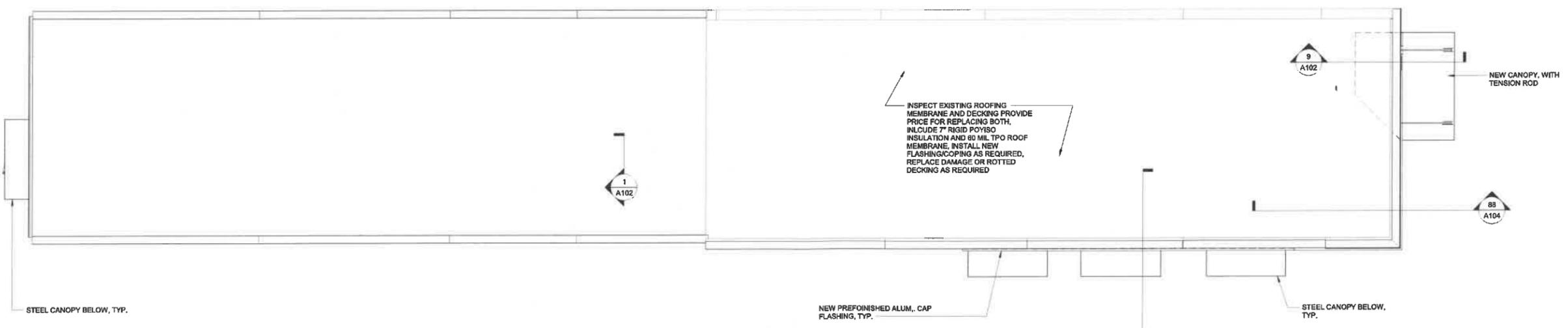
00-000000	<b>A103</b>
DRAWN BY: AUTHOR	APPROVED BY:

**FOR CONSTRUCTION**

REFER TO SHEET G102 FOR ALL  
ADA MOUNTING REQUIREMENTS



**2 REFLECTED CEILING PLAN**  
3/16" = 1'-0"



**1 ROOF PLAN**  
3/16" = 1'-0"

C:\3D\The Squiers Studio\PROJECTS\Partner Office Renovation\Drawing\Partner Office Renovation\Roof.dwg  
01/20/2019 10:24:10 AM



**THE SQUIERS STUDIO**  
ARCHITECTURE

1st STREET SW  
MT VERNON, IOWA 52314  
319.631.8075  
wsa@ss-designgroup.com

CONSULTANTS:  
**STRUCTURAL ENGINEER**

**CIVIL ENGINEER**

**MEP ENGINEER**

**PRINTED**

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.9	MINOR MOD. REVISION #1

**Revision Schedule**

Rev#	Description	Date



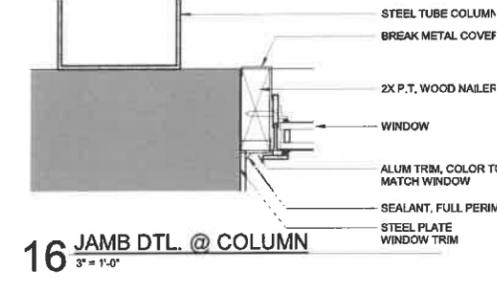
KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION  
214 5TH STREET  
WEST DES MOINES, IOWA

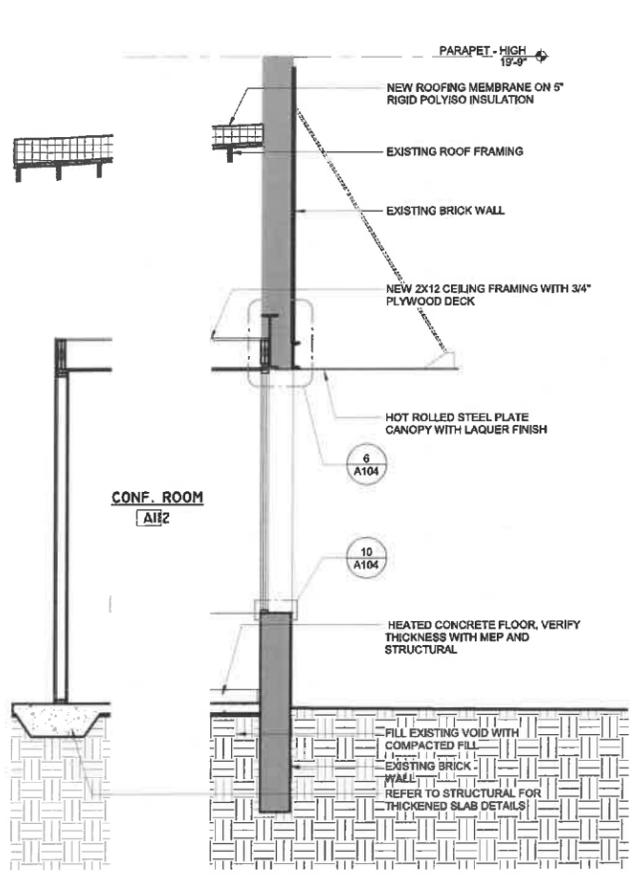
WALL SECTIONS & MISC DETAILS

00-000000	<b>A104</b>
DRAWN BY: AUTHOR	APPROVED BY:

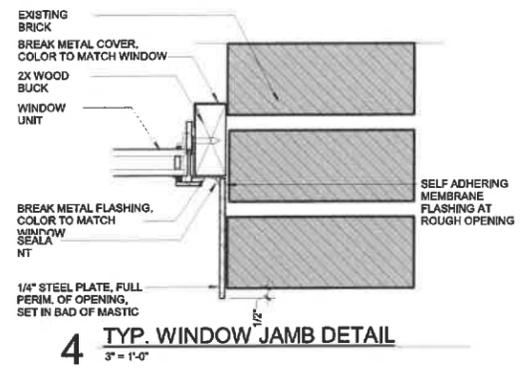
FOR CONSTRUCTION



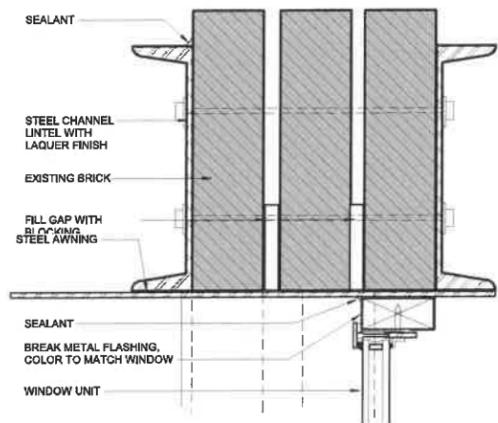
**16 JAMB DTL. @ COLUMN**  
3" = 1'-0"



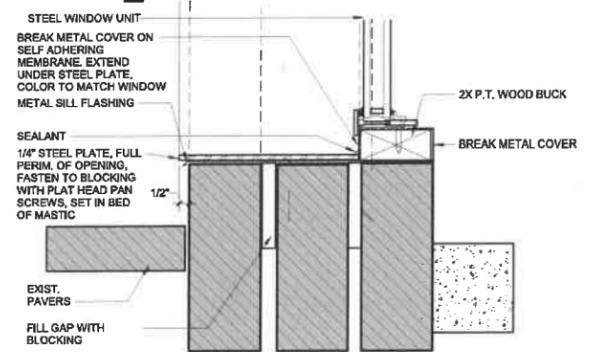
**88 WALL SECTION AT FRONT**  
3/8" = 1'-0"



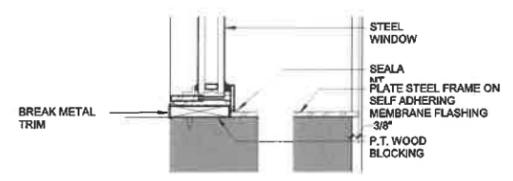
**4 TYP. WINDOW JAMB DETAIL**  
3" = 1'-0"



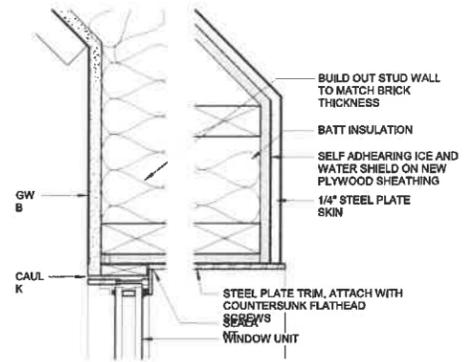
**2 TYP. WINDOW HEAD DETAIL**  
3" = 1'-0"



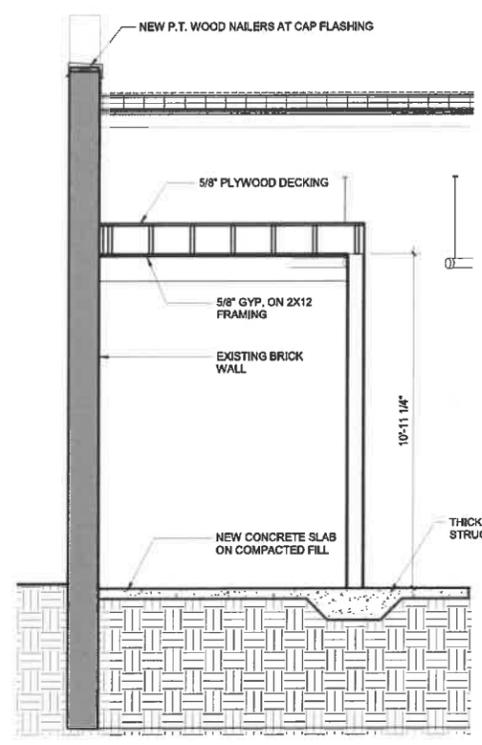
**1 TYP. WINDOW SILL DETAIL**  
3" = 1'-0"



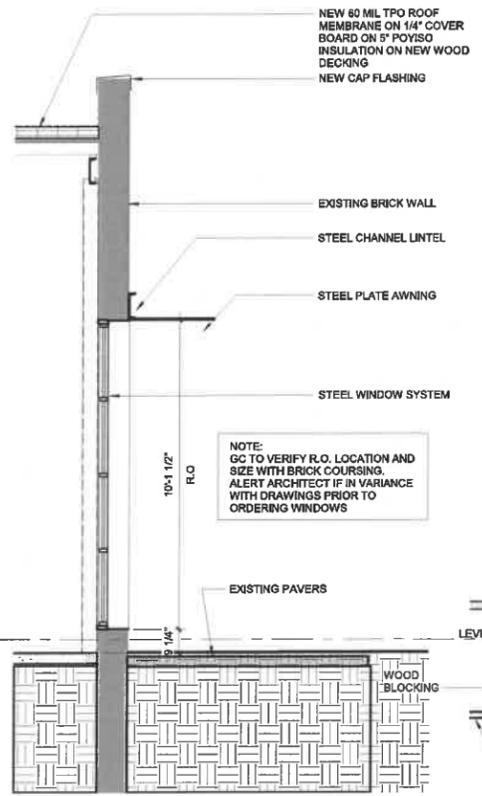
**10 FRONT WINDOW SILL**  
3" = 1'-0"



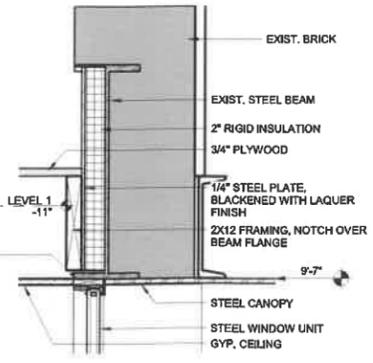
**12 FRONT WINDOW JAMB**  
3" = 1'-0"



**11 SECTION THRU CONF.**  
3/8" = 1'-0"



**9 WALL SECTION @ NEW WINDOW**  
3/8" = 1'-0"



**6 FRONT WINDOW HEAD**  
1 1/2" = 1'-0"



**77 CANOPY TENSION ROD DETAIL**  
1 1/2" = 1'-0"

C:\The Squiers Studio\PROJECTS\Partner Office Renovation\Drawings\Partner Office Renovation\Revitect.vr

9/16/2019 10:34:10 AM



THE SQUIERS STUDIO

ARCHITECTURE

1st STREET SW  
MT VERNON, IOWA 52314  
319.631.8075  
wade@ss-designgroup.com

CONSULTANTS:  
**STRUCTURAL ENGINEER**

**CIVIL ENGINEER**

**MEP ENGINEER**

PRINTED

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.19	MINOR MOD. REVISION #1

Revision Schedule

Rev#	Description	Date
8	Revision 8	Date 8



KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION

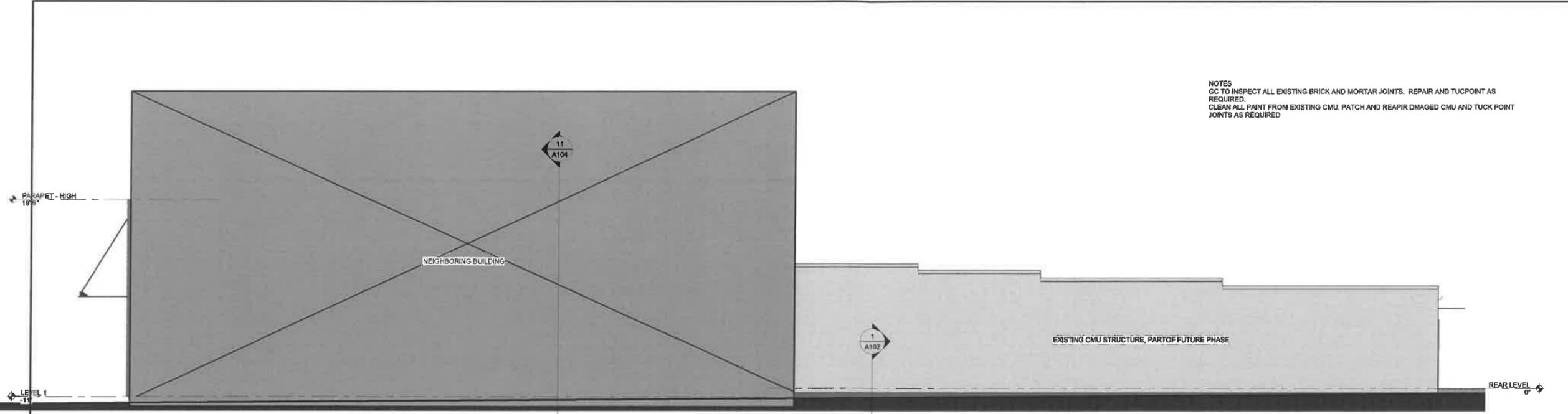
214 5TH STREET  
WEST DES MOINES, IOWA

BUILDING ELEVATIONS

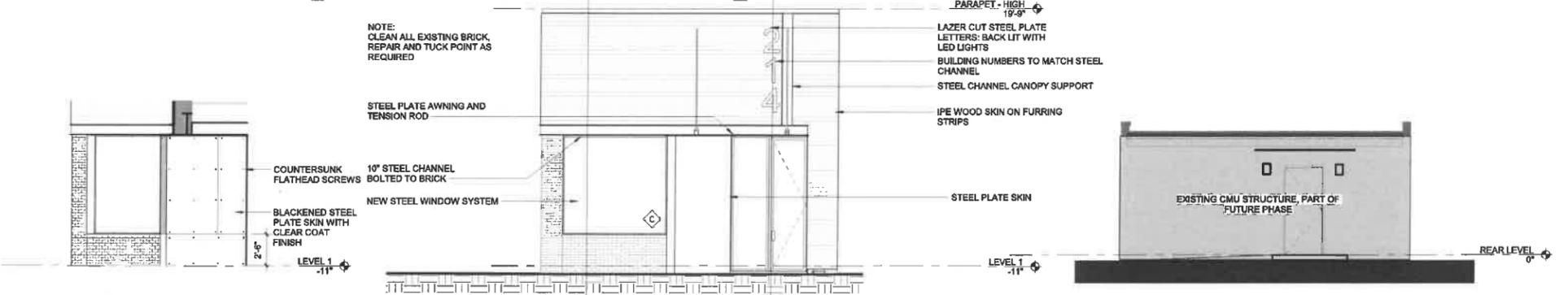
06-000000	<b>A200</b>
DRAWN BY: AUTHOR	APPROVED BY:

FOR CONSTRUCTION

NOTES  
GC TO INSPECT ALL EXISTING BRICK AND MORTAR JOINTS. REPAIR AND TUCKPOINT AS REQUIRED.  
CLEAN ALL PAINT FROM EXISTING CMU. PATCH AND REPAIR DAMAGED CMU AND TUCK POINT JOINTS AS REQUIRED



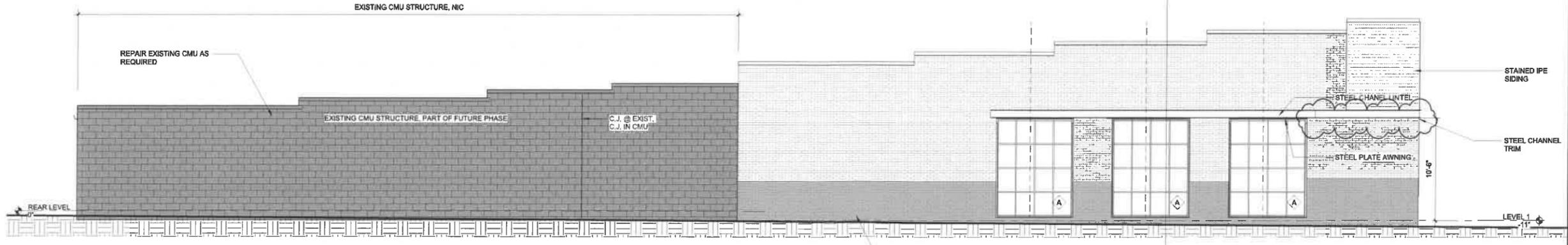
5 NORTH ELEVATION  
3/16" = 1'-0"



4 ENTRY PANEL ELEVATION  
3/16" = 1'-0"

3 EAST ELEVATION  
3/16" = 1'-0"

2 WEST ELEVATION  
3/16" = 1'-0"



1 SOUTH ELEVATION  
3/16" = 1'-0"

C:\01The Squiers Studio\PROJECTS\Legacy Partners Office Renovation\Drawings\Paper Office Renovation Revised.dwg

8/16/2019 10:34:18 AM

CONSULTANTS:  
**STRUCTURAL ENGINEER**  
**CIVIL ENGINEER**  
**MEP ENGINEER**

DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
09.16.9	MINOR MOD. REVISION #1

Rev#	Description	Date

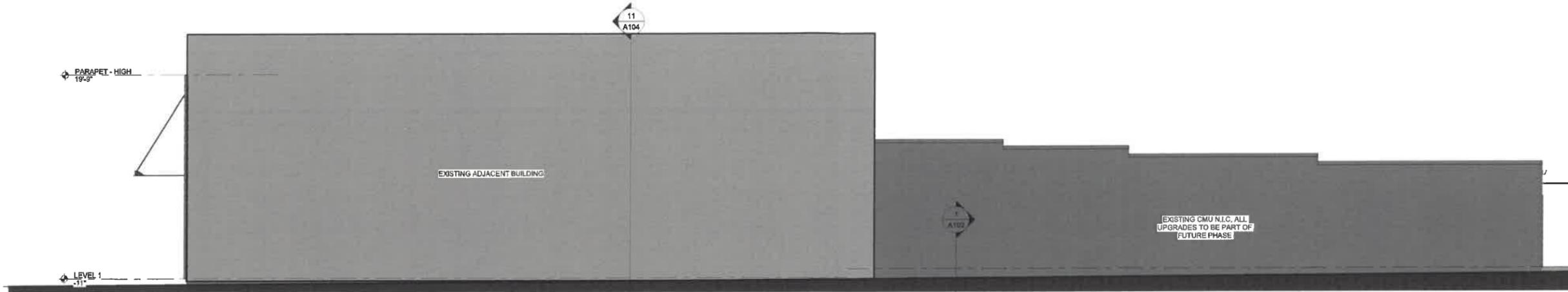


KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION  
214 6TH STREET  
WEST DES MOINES, IOWA  
RENDERED ELEVATIONS

00-000000	<b>A201</b>
DRAWN BY: AUTHOR	APPROVED BY: [Signature]

FOR CONSTRUCTION



**4 NORTH ELEVATION RENDERED**  
3/16" = 1'-0"



EXISTING EAST FACADE

EXISTING WEST FACADE

EXISTING SOUTH FACADE

**MATERIAL LEGEND**  
3/16" = 1'-0"

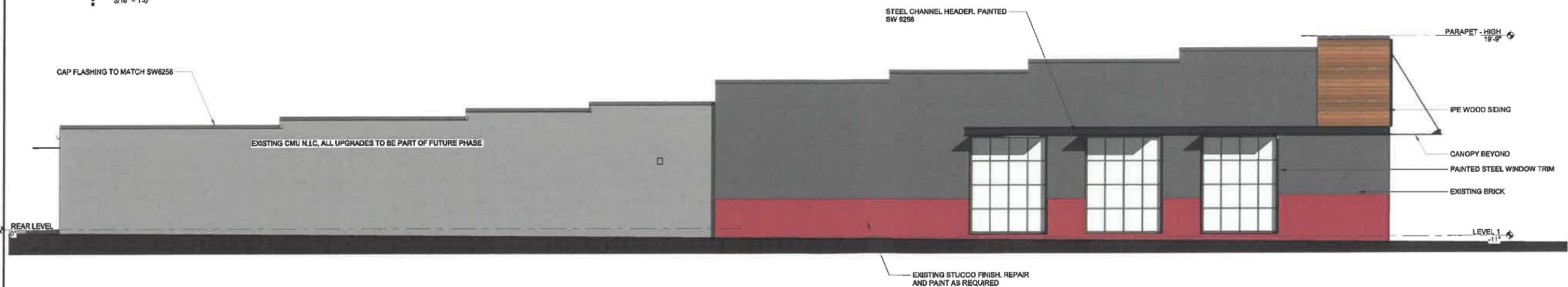
- STUCCO SW
- IPE WOOD
- BLACK STEEL SW 6258
- WINDOWS
- WINDOW PROFILE
- EXTERIOR WALL SCENCE



**3 EAST ELEVATION RENDERED**  
3/16" = 1'-0"



**2 WEST ELEVATION RENDERED**  
3/16" = 1'-0"



**1 SOUTH ELEVATION RENDERED**  
3/16" = 1'-0"

C:\C\The Squiers Studio\PROJECTS\Partner Office Renovation\Drawings\Partner Office Renovation Rendered.rvt

9/16/2019 10:34:32 AM







C:\DW\The Squieres Studio\PROJECTS\Specs\Office Renovation\Drawings\Office Renovation\Renov.dwg

8/16/2018 10:24:50 AM

### ADHERED STONE VENEER

- PART 1 - GENERAL**
  - 1.1 SECTION**
    - Includes Stone masonry adhered to cold-formed metal framing and sheathing.
  - 1.3 FIELD**
    - CA** Protection of Stone Masonry: During construction, cover projections, and sills with waterproof sheathing at end of each day's work.
    - B** Cold-Weather Requirements: Do not use frozen materials or coat with ice or frost. Do not build on frozen substrates. cold-weather construction requirements contained in ACI 600.1/ASCE 6/TMS
    - 2.1** Cold-Weather Cleaning: Use liquid cleaning methods
      - temperature is 40 deg F and above and will remain so has masonry
    - C** Hot-Weather Requirements: Comply with hot-weather requirements
      - ACI 530.1/ASCE 6/TMS
- PART 2 - MORTAR**
  - MAT** Masonry Cement: ASTM
    - B** Colored Masonry Cement Mix: Packaged blend of mortar pigments. Mix shall produce color indicated or, if not selected from manufacturer's standard colors, pigments shall percent of masonry cement by weight.
    - C** Aggregate: ASTM C 144 and as follows
      - 1 For pointing mortar, use aggregate graded with 100 No. 16 sieve
        - 2 White Aggregates: Natural white sand or ground
        - 3 Colored Aggregates: Natural-colored sand or ground or other sound stone; of color necessary to produce colored mortar
      - D** Latex Additive: Manufacturer's standard water replacement for part or all of gaging water, of type recommended by latex-additive manufacturer for use portland cement mortar bed, and not containing a retarder.
      - E** Water:
    - 2.2 EMBEDDED FLASHING**
      - MAT** Metal Flashing: Provide metal flashing, where flashing is exposed and where indicated, complying with SMACNA's Metal Manual and as follows
        - 1 **Stainless Steel:** ASTM A 240/A 240M, Type 304.
        - 2 **Flexible Flashing:** Use the following unless otherwise specified
          - a) **Butyl Rubber Flashing:** Composite, self-adhesive, consisting of a pliable, butyl rubber compound, high-density polyethylene film, aluminum foil, or polyolefin to produce an overall thickness of not less than 0.040 in.
    - 2.3 MISCELLANEOUS MASONRY**
      - ACI** Expanded Metal Lath: 3.4 lb/sq. yd., self-furring, complying with ASTM C 847, fabricated from structural (galvanized) steel sheet complying with ASTM A 653/A 653M.
    - 2.4 MASONRY**
      - CAE** Proprietary Acidic Cleaner: Manufacturer's standard - designed for removing mortar and grout stains, new construction stains from stone masonry surfaces without damaging masonry surfaces, expressly approved for intended manufacturer and stone
    - 2.5 PRODUCER**
      - FAB** Select stone to produce pieces of thickness, size, and shape indicated
      - B** Gage backs of stones for adhered veneer if more than 81
      - C** Thickness of Stone: Provide thickness as selected
      - D** Finish exposed stone faces and edges to comply with for finish and to match approved samples.
    - 2.6 MORTAR**
      - MAT** General: Do not use admixtures unless otherwise specified
        - 2 Use masonry cement mortar unless otherwise
        - 3 Mixing Pointing Mortar: Thoroughly mix cementitious materials together before adding water. Then mix again, enough water to produce a damp, unworkable mix that form when pressed into a ball. Maintain mortar in this condition for one to two hours. Add remaining water in until mortar reaches required consistency. Use minutes of final mixing; do not retemper or use mortar hardened
      - B** Mortar for Stone Masonry: Comply with ASTM C
        - on 1 Mortar for Setting Stone:
        - 2 Mortar for Pointing Stone:
      - C** Latex-Modified Portland Cement Setting Mortar: portland cement, aggregate, and latex additive to latex-additive manufacturer's written instructions.
      - D** Cement-Paste Bond Coat: Mix either neat cement and sand, and water to a consistency similar to that of thick or latex-modified, portland cement, setting-bed
        - latex admixture for part or all of water, according to manufacturer's written
      - E** Mortar for Scratch Coat over Metal Lath: 1 part portland lime, 5 parts loose damp sand, and enough water to consisten workable
      - F** Pigmented Mortar: Use colored cement
        - 1 Pigments shall not exceed 10 percent of portland
        - 2 Pigments shall not exceed 5 percent of masonry cement by weight.
    - PART 3 - SETTING STONE**
      - MAS** Perform necessary field cutting and trimming as follows
        - 1 Use power saws to cut stone that is fabricated with saw-
        - 2 Use hammer and chisel to split stone that is surfaced with split
        - 3 Finish face at field-split edges as needed to match stones field split.
      - B** Sort stone before it is placed in wall to remove stone that with requirements relating to aesthetic effects, physical fabrication, or that is otherwise unsuitable for intended use.
      - C** Arrange stones in broken-range ashlar pattern with uniform random lengths, and uniform joint widths.
      - D** Arrange stones with color and size variations uniformly evenly blended appearance.
      - E** Maintain uniform joint widths except for variations due to sizes and where minor variations are required to maintain any. Lay walls with joints not less than 1/4 inch at narrowest than 1 inch at widest points.
      - F** Provide sealant joints of widths and at locations
        - in c/a Keep sealant joints free of mortar and other rigid
        - 2 Sealant joints is specified in Section 073200 Joint
      - G** Install embedded flashing at shelf angles, lintels, ledges, to downward flow of water in wall, and where indicated.
        - 1 At stud-framed walls, extend flashing through stone sheathing face at least 8 inches, and allow for barrier specified in another
        - 2 At concrete and CMU backing, extend flashing masonry, turned up a minimum of 8 inches, and Reglets are specified in Section 076200 Sheet Metal Trimming and
        - 3 Extend sheet metal flashing 1/2 inch beyond exterior, and turn flashing down to form a drip.
        - 4 Install metal drip edges beneath flexible flashing at
          - Stop flexible flashing 1/2 inch back from exterior wall flexible flashing to top of metal drip edge.
          - 5 Install metal flashing termination beneath flexible wall face. Stop flexible flashing 1/2 inch back from and adhere flexible flashing to top of metal flashing
          - 6 Cut flexible flashing flush with wall face after wall pleting masonry
      - H** Place weep holes in joints where moisture may accumulate, shelf angles and at flashing
        - 1 Use wicking material to form
        - 2 Space weep holes 24
        - 3 Trim wicking material used in weep holes flush with after mortar has set.

- 3.2 CONSTRUCTION**
  - VA** Variation from Plumb: For vertical lines and surfaces, do not
    - in 10 feet, 3/8 inch in 20 feet, or 1/2 inch in 40 feet or more, corners, expansion joints, control joints, and other
    - exceed 1/4 inch in 20 feet or 1/2 inch in 40 feet or more.
  - B** Variation from Level: For lines of exposed lintels, sills, grooves, and other conspicuous lines, do not exceed 1/4 1/2 inch in 40 feet or more.
  - C** Variation of Linear Building Line: For position shown in plan, 1/2 inch in 20 feet or 3/4 inch in 40 feet or more.
- 3.3 INSTALLATION OF ADHERED STONE**
  - MAS** Install flashing over sheathing and behind weather-paper by fastening through sheathing into framing.
  - B** Install lath over weather-resistant sheathing paper by sheathing into framing to comply with ASTM C 1063.
  - C** Install lath over unit masonry and concrete to comply with
  - D** Install scratch coat over metal lath 3/8 inch thick to comply 92h ASTM C
  - E** Coat backs of stone units and face of scratch coat with coat, then butter both surfaces with setting mortar. Use mortar so a slight excess will be forced out the edges of stone are set. Tap units into place, completely filling space scratch units and
  - F** Rake out joints for pointing with mortar to depth of not less before setting mortar has hardened. Rake joints to square bottoms and clean
- 3.4 SIDES**
  - PAIN** Prepare stone-joint surfaces for pointing with mortar by mortar particles. Where setting mortar was removed to surrounding areas, apply pointing mortar in layers not more deep until a uniform depth is formed.
  - B** Point stone joints by placing and compacting pointing mortar more than 3/8 inch deep. Compact each layer thoroughly become thumbprint hard before applying next layer.
  - C** Tool joints, when pointing mortar is thumbprint hard, with a tool to produce the following joint profiles:
    - 1 Joint Profile: Smooth, flat face recessed 1/4 inch stone (raked joint).
- 3.5 ADJUSTING AND**
  - CAS** In-Progress Cleaning: Clean stone masonry as work
    - mortar fins and smears before tooling joints.
    - B** Final Cleaning: After mortar is thoroughly set and cured, masonry as follows
      - 1 Remove large mortar particles by hand with wooden nonmetallic scrape hoses or
      - 2 Test cleaning methods on mockup; leave one-half for comparison purposes. Obtain Architect's cleaning before cleaning stone masonry.
      - 3 Protect adjacent stone and nonmasonry surfaces from cleaner by covering them with liquid strippable polyethylene film, or waterproof masking tape.
      - 4 Wet wall surfaces with water before applying cleaner; promptly by rinsing thoroughly with
      - 5 Clean stone masonry by bucket and brush hand-described in BIA Technical Note No. 20, Revised II, detergent solution.

END OF SECTION



1st STREET SW  
MT VERNON, IOWA 52314  
319.631.6075  
wade@s-sdesigngroup.com

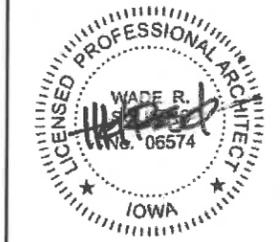
CONSULTANTS:  
**STRUCTURAL ENGINEER**

**CIVIL ENGINEER**

**MEP ENGINEER**

PRINTED	
DATE	REMARKS
01/18/19	MINOR MOD. APPLICATION
05/24/19	MINOR MOD. APPLICATION #2
08.13.19	PERMIT ISSUE
08.16.9	MINOR MOD. REVISION #1

Revision Schedule		
Rev#	Description	Date



KEY PLAN

LEGACY PARTNERS OFFICE  
RENOVATION  
214.5TH STREET  
WEST DES MOINES, IOWA  
SPEC

00-000000	<b>R104</b>
DRAWN BY:	AUTHOR:
APPROVED BY:	

FOR CONSTRUCTION

Prepared by: J.B. Munford, 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  
Address Tax Statement to: Not applicable

**HOLD HARMLESS AGREEMENT**

This Agreement is made and entered into this 24<sup>th</sup> day of July 2019, by and between Legacy Capital Partners, Inc., an Iowa corporation ("Tenant"), ComPort LLC, an Iowa limited liability company ("Owner"), and the City of West Des Moines, Iowa, an Iowa municipal corporation ("City").

**WITNESSETH:**

**WHEREAS**, the Owner, owns a building leased by Tenant located in West Des Moines, Iowa, on property legally described as:

THE NORTH HALF OF LOT 6, BLOCK 10, EXCEPT THE WEST 6 FEET OF SAID LOT, VALLEY JUNCTION, AN OFFICIAL PLAT,  
ALL IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA

**WHEREAS**, the Tenant and Owner have requested approval to install four (4) canopies ("Improvements") on a building located on the above legally-described property, locally known as 214 5th Street, West Des Moines, Iowa; and

**WHEREAS**, a portion of the Improvements will encroach upon the right of way of 5th Street and a City owned park (the "Park") located on property legally described as:

THE SOUTH HALF OF LOT 6, BLOCK 10, VALLEY JUNCTION, AN OFFICIAL PLAT,  
ALL IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA

which are owned and controlled by the City; and

**WHEREAS**, the West Des Moines City Code prohibits private property improvements within the area comprising the right-of-way or City owned property without approval of the City; and

**WHEREAS**, in exchange for approval by the City to allow installation of the Improvements, the Owner and Tenant have agreed to enter into this Agreement.

**NOW, THEREFORE**, in consideration of the premises, the mutual covenants contained herein and for other good and valuable consideration, the receipt and sufficiency of which is expressly acknowledged by the City the Owner, and the Tenant, hereby agree as follows:

1. Indemnification and Hold Harmless. Owner and Tenant each agree to indemnify, hold harmless,

and defend the City, its officials, employees, agents, contractors, and assigns, from any and all claims, demands, causes of action, liability, loss, damage, or injury, both to person and property, arising out of, related to, or connected with any activity or placement of the Improvements above and within the City's property by the Owner or Tenant. This indemnification applies to and includes, but is not limited to, the payment of all penalties, fines, judgments, awards, decrees, attorney's fees, expert witness fees, investigation fees, settlements, related costs or expenses, interest, and any reimbursements incurred by or assessed to the City, its officials, employees, agents, contractors and assigns. The Owner and Tenant shall provide the City with prompt notice of any such claim, demand, or action so that the City may, at its sole option, defend or settle such claim, demand, or action. The Owner and Tenant shall be jointly and severally liable for the costs of indemnification and defense.

Owner and Tenant understand and agree that neither shall have a right of coverage under any existing or future insurance policies owned by the City. The Owner and Tenant shall obtain and maintain insurance coverage, naming the City as an additional insured, in a commercially reasonable amount sufficient to protect the City. The Owner and Tenant also acknowledge that the City has no responsibility for any damage caused to the Owner or Tenant's property by any source. The Owner and Tenant agree the encroachment above and within the City's property is at the Owner and Tenant's own volition and assume all known or unknown risks associated with the encroachment.

This Indemnification and Hold Harmless provision is effective upon execution and shall be of indefinite duration and shall survive the termination of this Agreement.

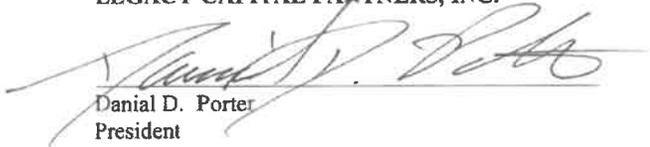
2. Placement and Removal of Improvements. Owner and Tenant shall have the right to place the Improvements in the areas identified as the 5<sup>th</sup> Street right of way or the Park on the property legally-described above, subject to all rules and regulations of the City of West Des Moines. If, as solely determined by City, removal of the Improvements becomes necessary, Owner and Tenant agree to remove the Improvements and any appurtenant structures at Owner and Tenant's expense and without compensation from the City. Owner and Tenant shall remove the aforementioned within sixty (60) days of written notice from the City.
3. Maintenance. The Owner and Tenant acknowledge and agree that each shall be responsible and liable at all times for the maintenance, repair, removal, replacement or relocation of the Improvements and that the Owner and Tenant expressly acknowledge and agree that the City shall not have any responsibility or liability for the repair, removal, replacement or relocation of the Improvements or any appurtenant structures or devices.
4. Running of Benefits and Burdens. The terms and conditions of this Agreement are binding upon the Owner and Tenant including, but not limited to, future owners, future tenants, developers, successors-in-interest, assigns, heirs, lessees, and occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the assigns, successors-in-interest, heirs, and personal representatives of the parties hereto.
5. Representations and Warranties. The Owner and Tenant covenant with the City that each has good, right, and lawful authority to make and execute this Agreement. The Owner and Tenant warrant that each will defend this Agreement against the lawful claims of all persons.
6. Jurisdiction and Venue. The Owner and Tenant agree that the district court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Agreement. The parties consent to the district court in and for Polk County, Iowa as proper venue.
7. Words and Phrases. 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.
8. Parties. The term "City" as used herein shall refer to the City of West Des Moines, Iowa, its elected

officials, agents, employees, officers, and contractors. The term "Tenant" shall refer to Legacy Capital Partners, Inc., successors-in-interest, assigns, heirs, lessees, and occupants if any. The term "Owner" shall refer to ComPort LLC, successors-in-interest, assigns, heirs, lessees, and occupants if any.

- 9. Paragraph Headings. The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with the interpretation of this Agreement.
- 10. Integration/Construction. This Agreement shall constitute the entire agreement between the parties regarding the subject matter hereof, and no amendments or additions to this Agreement shall be binding unless in writing and executed by the Owner, Tenant, and the City. This Agreement has been fully negotiated at arms-length between the signatories hereto, and after advice by counsel and other representatives chosen by such signatories, such signatories are fully informed with respect thereto; no such signatory shall be deemed the scrivener of this Agreement; and, based on the foregoing, the provisions of this Agreement and the Exhibits hereto shall be construed as a whole according to their common meaning and not strictly for or against any party.
- 11. Recording. This Agreement shall be recorded in the Office of the Polk County Recorder. Cost of recording shall be the responsibility of the Owner and Tenant.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

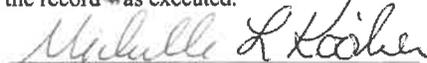
**LEGACY CAPITAL PARTNERS, INC.**

  
Daniel D. Porter  
President

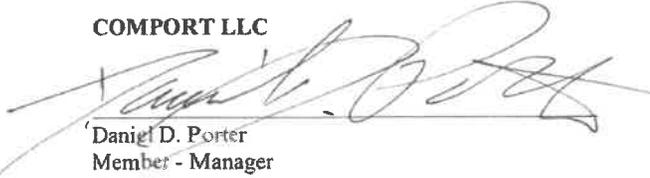


STATE OF IOWA                    )  
  ) SS:  
COUNTY OF Polk                )

This record was acknowledged before me on this 24<sup>th</sup> day of July, 2019, by Daniel Porter as President of Legacy Capital Partners, Inc., on behalf of whom the record was executed.

  
Michelle L. Kooiker  
Notary Public in and for the State of Iowa

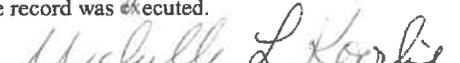
**COMPORT LLC**

  
Daniel D. Porter  
Member - Manager



STATE OF IOWA                    )  
  ) SS:  
COUNTY OF Polk                )

This record was acknowledged before me on this 24<sup>th</sup> day of July, 2019, by Daniel D. Porter as Member - Manager of ComPort LLC, on behalf of whom the record was executed.

  
Michelle L. Kooiker  
Notary Public in and for the State of Iowa

**CITY OF WEST DES MOINES, IOWA**

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

Attest:

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

STATE OF IOWA        )  
                                  ) ss:  
COUNTY OF POLK     )

On this \_\_\_\_ day of \_\_\_\_\_, 2019, before me a Notary Public in and for said County, 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 Municipal Corporation, created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing record is the seal of said Municipal Corporation, and that said record was signed and sealed on behalf of said Municipal Corporation by authority and resolution of its City Council as contained in the Resolution adopted under Roll Call No. 19-\_\_\_\_\_, and said Mayor and City Clerk acknowledged said record to be the free act and deed of said Municipal Corporation by it voluntarily executed.

\_\_\_\_\_  
Notary Public in and for the State of Iowa

Prepared by: J.B. Munford, 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  
Address Tax Statement to: Not applicable

**TEMPORARY SETBACK NO BUILD EASEMENT AGREEMENT**

**KNOW TO ALL MEN BY THESE PRESENTS:**

1. Grant of Easement.

The City of West Des Moines, Iowa, a municipal corporation ("Grantor"), owner of the South Half Of Lot 6, Block 10, Valley Junction, an official plat in and forming a part of the City of West Des Moines, Polk County, Iowa, in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby sell, grant, and convey to ComPort LLC, an Iowa limited liability company ("Grantee"), a temporary setback easement ("Easement") upon, over, under, through, and across the real property legally described as:

**THE NORTH FIFTEEN FEET OF THE SOUTH HALF OF LOT 6, BLOCK 10, VALLEY JUNCTION, AN  
OFFICIAL PLAT,  
ALL IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA**

2. Use and Purpose of Easement.

This Easement shall be granted for the limited purpose of maintaining separation between buildings, more specifically any structures existing or to be constructed on the South Half of Lot 6, Block 10, Valley Junction. It has been determined that said separation does effectively provide the minimum distance between structures to allow non-fire rated construction outlined in the 2015 International Building Code, as adopted by the City of West Des Moines. It has been further determined that said property also provides desirable open space which benefits the surrounding neighborhood area from an aesthetic and land use transition viewpoint. Said Easement shall be subject to the following terms and conditions:

- a) The Grantee shall have no right to use the Easement area for any other purpose other than the maintenance of separation between buildings.
- b) This Easement may be terminated by Grantor for any reason by written notice to Grantee at least one hundred eighty (180) days prior to termination of the Easement.
- c) The Grantor shall be responsible for the routine maintenance of the Easement area.

3. Hold Harmless.

The Grantee agrees to indemnify, defend, and hold harmless the City, its elected officials, employees, officers, agents, representatives, contractors, and attorneys from and against any and all claims or demands for liability, loss, damage, costs, expenses, or attorney's fees of any kind for actions or omissions of the Grantee arising out of or in connection with any undertaking arising out of or otherwise related to this Easement.

4. Running of Benefits and Burdens.

The terms and conditions of this Easement are binding upon the parties including, but not limited to, future owners, assigns, developers, lessees and occupants. All provisions of this instrument, including benefits and burdens, run with the land and are binding upon and inure to the heirs, assigns, successors, lessees, and personal representatives of the parties hereto.

5. Jurisdiction and Venue.

The parties agree that the District Court in and for the State of Iowa shall have exclusive jurisdiction over the subject matter and enforcement of the terms and conditions of this Easement and said parties shall consent to the jurisdiction of Polk County, Iowa.

6. Words and Phrases.

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.

7. Parties.

The term "Grantor" as used herein shall refer to the City of West Des Moines, Iowa, its elected officials, agents, employees, officers, and contractors. The term "Grantee" shall refer to ComPort LLC, an Iowa limited liability company ("Owner"), their heirs, assigns, successors-in-interest, or lessees, if any.

8. Integration.

This Agreement shall constitute the entire agreement between the parties and no amendments or additions to this Agreement shall be binding unless in writing and signed by both parties.

9. Paragraph Headings.

The paragraph headings in this Agreement are included solely for convenience and shall not affect or be used in connection with, the interpretation of this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

COMPORT LLC

*[Handwritten Signature]*  
Daniel D. Porter  
Member - Manager

STATE OF IOWA )  
 ) SS:  
COUNTY OF Polk )



This record was acknowledged before me on this 24<sup>th</sup> day of July, 2019, by Danial Porter, Member-Manager of ComPort LLC, on behalf of whom this record was executed.

  
Notary Public in and for the State of Iowa

**CITY OF WEST DES MOINES, IOWA**

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

Attest:

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

J. B. Munford, 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 A MINOR MODIFICATION LEVEL 2 SITE PLAN FOR 214 5TH STREET (MML2-004345-2019) TO ALLOW THE REMODELING OF AN EXISTING BUILDING FOR AN OFFICE USE**

**WHEREAS**, pursuant to the provisions of Title 9, Zoning, Chapter 1 et seq, of the West Des Moines Municipal Code, the applicant Legacy Capital Partners, Inc. have requested approval of modifications to allow the remodeling of an existing commercial building for an office use on property located at 214 5th Street (MML2-004345-2019);

**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 October 14, 2019, the Plan and Zoning Commission did recommend to the City Council approval of the Minor Modification Level 2 Site Plan for the remodeling of an existing commercial building for an office use on property located at 214 5th Street (MML2-004345-2019);

**WHEREAS**, on, October 21, 2019, this City Council held a duly-noticed meeting to consider the application for Minor Modification for the remodeling of an existing commercial building for an office use on property located at 214 5th Street (MML2-004345-2019);

**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 21, 2019, or as amended orally at the City Council meeting of October 21, 2019, are adopted.

**SECTION 2.** Minor Modification Level 2 Site Plan for 214 5th Street (MML2-004345-2019) to the remodeling of an existing commercial building for an office use is approved, subject to compliance with all the conditions in the staff report, dated October 21, 2019, including conditions added at the meeting, 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.

**PASSED AND ADOPTED** on October 21, 2019.

---

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 21, 2019, by the following vote:

ATTEST:

---

Ryan T. Jacobson  
City Clerk

**Exhibit A  
Conditions of Approval**

1. The City Council approving and accepting the Hold Harmless and Temporary Setback No Build Agreements.

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

**ITEM:** Mark Hillenbrand - Resignation from  
Human Rights Commission - Receive and File

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:** Mark Hillenbrand has submitted a letter of resignation from the Human Rights Commission. The Mayor and City Council appreciate the time he has devoted to the commission.

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

**RECOMMENDATION:**

Receive and File Letter of Resignation.

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

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	RTJ

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	

**From:** mark hillenbrand [mailto:markhillenbrand@hotmail.com]

**Sent:** Thursday, October 3, 2019 12:15 PM

**To:** Pradhan, Sanjita <spradhan@dsmpartnership.com>; Reveles, Laura <laura.reveles@wdm.iowa.gov>

**Subject:** [EXT] Hillenbrand Update

Please note that I have accepted a position in Vancouver, Canada. I have a start date in Vancouver on October 15, 2019. I have been hired by the British Columbia College (US equivalent of Board) of Social Work for the position of Registrar/CEO.

I would like to resign my commission on the West Des Moines Human Rights Commission. Please advise me further communication I should make to the City.

I do plan to attend the meeting on Thursday, October 10th.

Mark

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

**ITEM:** Chris Aldinger - Resignation from  
Human Services Advisory Board - Receive and File

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:** Chris Aldinger has submitted a letter of resignation from the Human Services Advisory Board, effective immediately. The Mayor and City Council appreciate the time he has devoted to the board.

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

**RECOMMENDATION:**

Receive and File Letter of Resignation.

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

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	<i>RTJ</i>

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW** (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	

October 15, 2019

**Chris Aldinger Resignation**

Mayor Gear and All,

I need to inform you that I am stepping down as a board member for the West Des Moines Human Services effective immediately. I had nothing but good intentions to serve in this capacity, however unforeseen circumstances prevent me from being able fulfill my commitment to this board seat at this time.

Thank you for your understanding and I apologize for not being able to serve at this time. I wish you all the best of success in your work with the West Des Moines community

My Best Regards,



Chris Aldinger

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

**ITEM:** Jered Rogers - Resignation from  
Human Services Advisory Board - Receive and File

**DATE:** October 21, 2019

**FINANCIAL IMPACT:** None

**BACKGROUND:** Jered Rogers has submitted a letter of resignation from the Human Services Advisory Board, effective immediately. The Mayor and City Council appreciate the time he has devoted to the board.

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

**RECOMMENDATION:**

Receive and File Letter of Resignation.

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

**STAFF REVIEWS**

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	RTJ

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

Published In	
Dates(s) Published	

**SUBCOMMITTEE REVIEW (if applicable)**

Committee			
Date Reviewed			
Recommendation	Yes	No	

From: Jered Rogers <[jereddrogers@gmail.com](mailto:jereddrogers@gmail.com)>  
Sent: Tuesday, October 15, 2019 3:27 PM  
To: Holcomb, Althea <[Althea.Holcomb@wdm.iowa.gov](mailto:Althea.Holcomb@wdm.iowa.gov)>  
Subject: [EXT] Tonight and board resignation

Hey Althea,

I unfortunately have a last minute conflict and will be unable to make the board meeting tonight.

I have also reflected on my ability to serve in the future. Although I have greatly appreciated the time on the board, With all my kids activities I do not feel I can give it the time it needs. I would like to step down from the board. I am not sure if there is a formal process for this.

I love what West Des Moines Human Services does for the community and want to stay involved in other capacities.

Thank you so much!

Jered Rogers