

CITY OF WEST DES MOINES

COUNCIL AGENDA

date: Tuesday, January 3, 2023

time: 5:30 P.M.

MAYOR RUSS TRIMBLE
COUNCILMEMBER AT LARGE RENEE HARDMAN
COUNCILMEMBER AT LARGE MATTHEW MCKINNEY
COUNCILMEMBER 1ST WARD KEVIN L. TREVILLYAN
COUNCILMEMBER 2ND WARD GREG HUDSON
COUNCILMEMBER 3RD WARD DOUG LOOTS

CITY MANAGER.....TOM HADDEN
CITY ATTORNEY.....RICHARD SCIESZINSKI
CITY CLERK.....RYAN JACOBSON
DEPUTY CITY CLERK...JULIUS ARRINGTON

West Des Moines City Hall - City Council Chambers 4200 Mills Civic Parkway

*Members of the public wishing to participate telephonically, may do so by calling:
515-207-8241, Enter Conference ID: 749 000 627#*

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 December 19, 2022 Meeting
 - b. Motion - Approval of Bill Lists
 - c. Motion - Approval of Liquor Licenses:
 1. Big Al's South, LLC d/b/a Big Al's BBQ, 1960 Grand Avenue, Suite 23 - Class C Retail Alcohol License with Catering Privileges - Renewal
 2. DBH Industries, LLC d/b/a Bix & Co., 111 5th Street - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - New
 3. Bravo Brio Restaurants, LLC d/b/a Bravo!, 120 South Jordan Creek Parkway - Class C Retail Alcohol License with Outdoor Service - Renewal
 4. Dave & Buster's of Iowa, Inc. d/b/a Dave & Busters, 190 South Jordan Creek Parkway - Class C Retail Alcohol License with Outdoor Service - New
 5. Foundry Distilling Company, LLC d/b/a Foundry Distilling Company, 111 South 11th Street, Suite 100 - Class C Retail Alcohol License with Outdoor Service - New
 6. Hy-Vee, Inc., d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway, 2nd Floor Meeting Room - Special Class C Retail Alcohol License - Renewal

- 7. J.P. Parking, Inc. d/b/a J.P Parking, 6220 Racoon River Drive - Class B Native Wine License with Outdoor Service - New
- 8. Kwik Trip, Inc. d/b/a Tobacco Outlet Plus #565, 1220 Grand Avenue, Suite 101 - Class B Retail Alcohol License - New
- 9. Thompson Hospitality, LLC d/b/a Urban Cellar, 640 South 50th Street - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - Renewal
- 10. Waterfront Seafood Market, Inc. d/b/a Waterfront Seafood Market, 2900 University Avenue - Class C Retail Alcohol License with Catering Privileges - Renewal
- d. Motion - Approval of Order for Violation of Alcohol Laws
- e. Motion - Approval of Professional Services Agreement - Financial Advisory Services
- f. Motion - Approval of Contract with Des Moines Area Regional Transit Authority - Transportation Services for ELL Students
- g. Resolution - Order Construction - 2022 Sewer Rehabilitation Program
- h. Resolution - Accept Work:
 - 1. 2021 Concrete Trail Renovations
 - 2. Crossroads Park Parking Lot and Water Quality Improvements
- i. Resolution - Approval of Professional Services Agreement - 2023 Bridge Inspection Program
- j. Resolution - Approval of Application for Surface Transportation Block Grant (STBG) Program Funding - Des Moines Area Metropolitan Planning Organization
- k. Resolution - Approval and Acceptance of Public Utility Easement - Fountain Terrace Apartments, 655 South 88th Street
- l. Resolution - Approval and Acceptance of Purchase Agreement and Conveyance of Property Interests - 329 6th Street
- m. Motion - Approval of Revised 2022-23 Committee and Other Assignments
- n. Proclamation - Martin Luther King Jr. Day - January 16, 2023

5. Old Business

- a. Jordan West, southwest corner of EP True Parkway and Jordan Creek Parkway - Amend the Specific Plan Ordinance to Modify Wall Signage Regulations for Tenant Spaces without Public Street Frontage - JDS Real Estate Investments, LLC
 - 1. Ordinance - Approval of Second, Third Readings and Final Adoption
- b. Amendment to City Code - Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks) - Clarify the Responsibility of the Property Owner which Abuts Public Right-of-Way - City Initiated
 - 1. Ordinance - Approval of Second, Third Readings and Final Adoption

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

- a. Khatib East Property, southeast corner of Mills Civic Parkway and South Grand Prairie Parkway - Amend Comprehensive Plan Land Use Map to Establish Multi-Use Low Land Use - Accurate Land Company, Inc.
 - 1. Resolution - Approval / Denial of Comprehensive Plan Amendment

- b. Glen Oaks Rowhomes, southwest corner of I-35 and Mills Civic Parkway - Amend Comprehensive Plan Land Use Map to Establish Medium Density Residential Land Use and Amend the Planned Unit Development (PUD) to Add Parcel M and Regulations Governing the Development of Medium Density Residential in Parcel M - Paramount-Destination Homes, Inc.
 - 1. Resolution - Approval of Comprehensive Plan Amendment
 - 2. Ordinance - Approval of First Reading

- c. Woodhouse Planned Unit Development, 7220 Lake Drive - Establish the Woodhouse Planned Unit Development (PUD) Ordinance to Govern Development of the PUD Parcel - Woodhouse Auto Group
 - 1. Ordinance - Approval of First Reading

- d. Amendment #6 to the Historic West Des Moines Urban Renewal Area - City Initiated
 - 1. Resolution - Approval of Urban Renewal Plan Amendment

- e. Agreement for Private Development - VAB, LLC
 - 1. Resolution - Approval of Agreement

- f. Blue Creek Stormwater Detention Facilities - City Initiated
 - 1. Resolution - Approval of Plans and Specifications
 - 2. Motion - Receive and File Report of Bids
 - 3. Resolution - Award Contract Subject to Concurrence by the Iowa Department of Transportation

- g. Public Safety Station # 22 Sewer Rehabilitation - City Initiated
 - 1. Resolution - Approval of Plans and Specifications
 - 2. Motion - Receive and File Report of Bids

7. New Business

- a. Stonewood Plat 1, northeast corner of Booneville Road and South Grand Prairie Parkway - Approval of Final Plat to Create 40 Lots for Single-Family Residential Development, Four Outlots, and Four Street Lots - Stonewood, Inc.
 - 1. Resolution - Acceptance of Surety and Approval and Release of Final Plat

8. Receive, File and/or Refer

9. Other Matters

CITY COUNCIL WORKSHOP

(immediately follows Council meeting)

1. Ashworth Road Improvements Project

2. 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.

December 19, 2022

West Des Moines City Council Proceedings
Monday, December 19, 2022

Mayor Russ Trimble 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, December 19, 2022 at 5:30 PM. Council members present were: R. Hardman, G. Hudson, D. Loots, M. McKinney, and K. Trevillyan.

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

Vote 22-615: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

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

Council member Hudson wished everyone a happy holidays and happy New Year. He also expressed a desire for the contract dispute between the Food Bank of Iowa, the Des Moines Area Religious Council (DMARC), and West Des Moines Human Services food pantry to be resolved quickly.

Council member McKinney stated he will be in attendance at a meeting tomorrow evening regarding the issues related to the West Des Moines Human Services food pantry. He reported the Development and Planning Subcommittee met and held discussion on potential commercial development near the intersection of I-80 and Ashworth Road. He also attended a meeting of the ICON Water Trails Board, where Parks and Recreation Director Sally Orgies gave an update on the City's "Five Waters" project.

Council member Hardman wished everyone a happy holidays. She also reported the City's Martin Luther King Jr. Day celebration will be held on Monday, January 16.

Council member Trevillyan stated the issues related to the West Des Moines Human Services food pantry are negatively impacting a lot of people, but the City is doing everything it can to work towards a solution.

Council member Loots congratulated Assistant Parks and Recreation Director Ryan Penning, as it was just announced that he will be promoted to Parks and Recreation Director. He provided an update on the issues related to the West Des Moines Human Services food pantry and how their food rescue program collections have plummeted in November and December. He reported the meeting tomorrow evening will be a solution-oriented meeting.

December 19, 2022

Althea Holcomb, Human Service Director, reported the West Des Moines Human Services food pantry is still open and providing food to clients.

Council member Hardman commended Council member Loots for carrying the torch for the City's efforts in seeking a solution for the West Des Moines Human Services food pantry. She also recognized State Representative-elect Mary Madison, who was in attendance at the meeting.

Council member Hudson reported high school students have until January 4th to submit nominations for the City's Martin Luther King Jr. leadership awards.

Mayor Trimble commended Council member Loots for his leadership in seeking a solution for the West Des Moines Human Services food pantry.

On Item 4. Consent Agenda.

Council members pulled Item 4(l) for discussion. It was moved by Hudson, second by Trevillyan to approve the consent agenda as amended.

- a. Approval of Minutes of December 5, 2022 Meeting
- b. Approval of Bill Lists
- c. Approval of Liquor Licenses:
 1. 7 Stone, LLC d/b/a 7 Stone, 9350 University Avenue - Class BW Permit with Sunday Sales - Renewal
 2. LLK Inc. d/b/a Funny Bone Comedy Club & Restaurant, 560 South Prairie View Drive, Suite 100 - Class LC Liquor License with Sunday Sales and Outdoor Service Privileges - Renewal
 3. Concert Glen Oaks, LLC d/b/a Glen Oaks Country Club, 1401 Glen Oaks Drive - Class LC Liquor License with Sunday Sales, Outdoor Service, and Catering Privileges - Renewal
 4. Mahajan, Inc. d/b/a Super Quick Liquor, 1800 22nd Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
 5. MAHAJAN 2, LLC d/b/a Superquick Liquor Vine, 2704 Vine Street - Class LE Liquor License with Carryout Beer, Carryout Wine, and Sunday Sales - Renewal
- d. Approval of Appointments:
 1. Human Rights Commission
 2. Revised 2022-23 Committee and Other Assignments
- e. Approval of Inventory and Structural Analysis Reimbursement Agreement - USOC of Greater Iowa, LLC
- f. Approval of Amendments to Professional Services Agreements:
 1. 8th Street Reconstruction, I-235 to Clegg Road
 2. Valley Junction Business District Pavers and Sidewalk, Phase 2
- g. Approval of Proposal - Raccoon River Stormwater Pump Station Pump Replacement

- h. Accept Work:
 - 1. Railroad Park Restrooms
 - 2. Woodland Hills Greenway, Trail Construction and Drainage Improvements
- i. Accept Public Improvements:
 - 1. Banks Landing Plat 1
 - 2. Woodland Estates Plat 1
- j. Approval of Professional Services Agreement - EP True Parkway, Wendover Lane to South Grand Prairie Parkway
- k. Approval of Amendments to Development Agreements:
 - 1. Mazur, LLC, Big Acai Corporation, and Puravida, LLC
 - 2. R&H Properties, LLC, Hannah Homes, LLC, and Olson-Larsen Galleries, LLC

Vote 22-616: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 4(l) Approval of Development Agreement (Property Improvement Fund and Regulatory Compliance Fund) - DBH Industries, LLC and 111 5th Street, LLC, 111 5th Street

Council member McKinney stated he will abstain on this item due to a potential conflict of interest.

It was moved by Hudson, second by Loots to approve Item 4(l) Approval of Development Agreement (Property Improvement Fund and Regulatory Compliance Fund) - DBH Industries, LLC and 111 5th Street, LLC, 111 5th Street.

Vote 22-617: Hardman, Hudson, Loots, Trevillyan ... 4 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 5(a) Cosgriff Property, northeast and southeast corners of South 88th Street and Stagecoach Drive - Amend the Zoning Map to Establish Neighborhood Commercial, Medium Density Residential, and High-Density Residential Land Use and Zoning, initiated by Sunset Co. L.C.

It was moved by Hudson, second by McKinney to consider the second reading of the ordinance.

Vote 22-618: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by Hudson, second by McKinney to approve the second reading of the ordinance.

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Vote 22-619: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

Vote 22-620: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 5(b) Mills Landing, 850 South 60th Street - Move Parcel from Mills Landing Specific Plan to Glen Oaks Planned Unit Development (PUD), initiated by Cameron General Contractors

It was moved by McKinney, second by Hudson to consider the second reading of the ordinance (Mills Landing Specific Plan).

Vote 22-621: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by McKinney, second by Hudson to approve the second reading of the ordinance (Mills Landing Specific Plan).

Vote 22-622: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by McKinney, second by Hudson to waive the third reading and adopt the ordinance in final form (Mills Landing Specific Plan).

Vote 22-623: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by McKinney, second by Hudson to consider the second reading of the ordinance (Glen Oaks PUD).

Vote 22-624: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

It was moved by McKinney, second by Hudson to approve the second reading of the ordinance (Glen Oaks PUD).

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Vote 22-625: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

It was moved by McKinney, second by Hudson to waive the third reading and adopt the ordinance in final form (Glen Oaks PUD).

Vote 22-626: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 5(c) Wells Fargo Solar Right of Way Vacation, generally located along the north side of Stagecoach Drive, just east and north of the intersection of Stagecoach Drive and East Wells Fargo Trail - Vacation of a Portion of Right-of-Way, initiated by Wells Fargo Bank, National Association

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

Vote 22-627: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-628: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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

Vote 22-629: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 5(d) 329 6th Street - Approval to Initiate the Purchase, initiated by the City of West Des Moines (Continued from December 5, 2022)

It was moved by Hudson, second by Loots to adopt Resolution - Approval to Initiate the Purchase of 329 6th Street.

Clyde Evans, Community and Economic Development Director, responded to questions from the council, stating the house on this property could be moved. He noted staff's intent, if the Council approves the acquisition tonight, is to offer the property through a public bidding process, and any potential buyer would be responsible for the cost of moving the house. He also stated, if

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there is no buyer, the cost for the City to demolish the house would be approximately \$20,000 to \$30,000.

Council member Hardman expressed a desire for the bidding process for this house to be fair and equitable.

Council member McKinney expressed support for the City's acquisition of this property, but he suggested a phased approach in which the construction of the parking lot would occur at such time that future development drives the need for additional parking. He also suggested that the developer of the property that creates that parking need should share the responsibility for the construction cost of the parking lot.

Council member Trevillyan noted a letter from Mark Veiock indicated Valley Junction property owners had been assessed for the other city parking lots in that area. He suggested, if that was true, the developers of the projects that create the need for additional parking should be assessed for this parking lot. He also requested that staff figure out a way to require the apartment dwellers to park their vehicles in the city parking lots, rather than the on-street parking on 5th Street.

Vote 22-630: Hardman, Hudson, Loots, McKinney ... 4 yes
Trevillyan ... 1 no

Motion carried.

On Item 6(a) Mayor Trimble 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 to Modify Wall Signage Regulations for Tenant Spaces without Public Street Frontage, initiated by JDS Real Estate Investments, LLC. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 5, 2022 in the Des Moines Register. Mayor Trimble 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 specific plan amendment.

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

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

Vote 22-631: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

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Vote 22-632: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(b) Mayor Trimble indicated this was the time and place for a public hearing to consider West Bank, 3330 Westown Parkway - Agreement for Private Development, initiated by West Bank. He asked for the date the notice was published and the City Clerk indicated the notice was published on December 9, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Hudson, second by Loots to adopt Resolution - Approval of Agreement.

Vote 22-633: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(c) Mayor Trimble indicated this was the time and place for a public hearing to consider Stagecoach Drive Right-of-Way Adjoining Lot 1, Wells Fargo Plat 1 - Conveyance of Property Interest to Wells Fargo Home Mortgage, Inc, 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 December 12, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Loots, second by Hudson to adopt Resolution - Approval of Conveyance of Property Interest.

Vote 22-634: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(d) Mayor Trimble indicated this was the time and place for a public hearing to consider 2022-23 FY Operating and Capital Budget - Amendment #2, 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 December 2, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

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

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It was moved by Loots, second by Hudson to adopt Resolution - Approval of Budget Amendment #2.

Council member Loots commended the Finance Department for their excellent work on these budget amendments, and he stated he is confident in the City's fiscal health.

Vote 22-635: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 6(e) Mayor Trimble indicated this was the time and place for a public hearing to consider Public Safety Station #17 Dumpster Enclosure, 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 December 2, 2022 in the Des Moines Register. Mayor Trimble asked if any written comments had been received. The City Clerk stated none had been received.

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

It was moved by Loots, second by Trevillyan to adopt Resolution - Approval of Plans and Specifications, Motion to Receive and File Report of Bids, and Resolution - Award Contract to Concrete Connection, LLC.

Vote 22-636: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(a) Platinum Pointe Townhomes, southwest corner of Bridgewood Boulevard and South 88th Street - Approval of Final Plat to Create 66 Footprint Lots for Attached Townhome Development, and One Outlot for Common Area, initiated by Hale Development Co., LLC

It was moved by Hudson, second by McKinney to adopt Resolution - Acceptance of Public Improvements and Approval and Release of Final Plat, subject to the applicant complying with all applicable City Code requirements.

Vote 22-637: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(b) Banks Landing Plat 2, northwest corner of South 88th Street and Booneville Road - Approval of a Preliminary Plat to Create 36 Footprint Lots for Multi-Family Residential Development and One Outlot for Common Area and Approval of a Site Plan to Allow Construction of Attached Townhomes, initiated by Black Oak Real Estate Properties, LLC

It was moved by Hardman, second by Loots to adopt Resolution - Approval of Preliminary Plat and Site Plan, subject to the applicant complying with all applicable City Code requirements and

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the conditions of approval listed in the Resolution.

Vote 22-638: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(c) Kum & Go, 5760 Raccoon River Drive - Approval of a Preliminary Plat to Create Two Lots for Commercial Development and Approval of a Site Plan to Allow Construction of a Convenience Store with Gas Pumps, initiated by Kum & Go, L.C.

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

Council member McKinney stated he will abstain on this item due to a potential conflict of interest.

Vote 22-639: Hardman, Hudson, Loots, Trevillyan ... 4 yes
McKinney ... 1 abstain due to potential conflict of interest
Motion carried.

On Item 7(d) Val Air Ballroom, 301 Ashworth Road - Approval of Minor Modification to Site Plan to Allow Building and Site Improvements and Accept Legal Documents, initiated by VAB, LLC

It was moved by Hardman, second by Hudson to adopt Resolution - Approval of Minor Modification, subject to the applicant complying with all applicable City Code requirements and the conditions of approval listed in the Resolution.

Vote 22-640: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 7(e) Plat of Survey Parcel '2022-1185', 711 and 721 South 32nd Court - Approval of Plat of Survey to Create a 0.07-acre Parcel for Transfer of Ownership, initiated by the Elizabeth A. Nelson Revocable Trust

It was moved by Hudson, second by Loots to adopt Resolution - Approval and Release of Plat of Survey, subject to the applicant complying with all applicable City Code requirements and the conditions of approval listed in the Resolution.

Vote 22-641: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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On Item 7(f) Amendment to City Code - Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks) - Clarify the Responsibility of the Property Owner which Abuts Public Right-of-Way, initiated by the City of West Des Moines

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

Council member McKinney inquired about the reason for this proposed ordinance.

Council member Trevillyan responded this ordinance is in response to a dispute with a resident who believed the City should be responsible for maintaining the right-of-way abutting their property.

Vote 22-642: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

The City Clerk read the preamble to the ordinance.

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

Vote 22-643: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

On Item 8(a) West Des Moines Water Works - 2023 Budget - Received Filed

On Item 9 - Other Matters: none

The meeting was adjourned at 6:27 p.m.

It was moved by Hardman, second by Trevillyan to go into Executive Session per Chapter 21 of the Iowa Code, to discuss potential acquisition/disposition of real estate.

Vote 22-644: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

Entered Executive Session at 6:38 p.m. with the following persons present in the Teamwork Room of City Hall: Mayor Trimble, Council members Hardman, Hudson, Loots, McKinney, and Trevillyan; City Manager, City Attorney, and City Clerk.

It was moved by McKinney, second by Trevillyan to adjourn from Executive Session.

Vote 22-645: Hardman, Hudson, Loots, McKinney, Trevillyan...5 yes
Motion carried.

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Executive Session was adjourned at 7:35 p.m.

Respectfully submitted,

Ryan T. Jacobson, CMC
City Clerk

ATTEST:

Russ Trimble, Mayor

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

ITEM: Motion – Approval of Bill Lists

DATE: January 3, 2023

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	01/03/2023	\$ 1,057,036.40
EFT Claims	01/03/2023	\$ 444,421.46
Control Pay	01/03/2023	\$ 49,692.27
Microsoft Escrow Checks	01/03/2023	\$ 0.00
Microsoft Escrow EFT	01/03/2023	\$ 0.00
End of Month & Off-Cycle	12/06/2022 to 01/16/2023	\$ 156,160.05

RECOMMENDATION: Move to approve Bill Lists as presented.

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	

City of West Des Moines, IA
City Council Report
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
Bank Account: WB VENDOR DISB - WB Vendor Disbursement				
Check	01/03/2023	327510 Accounts Payable	ALWAN , MADIHA	22.50
Check	01/03/2023	327511 Accounts Payable	ALWAN , MAYADA	22.50
Check	01/03/2023	327512 Accounts Payable	ANYTIME BASEBALL SUPPLY	3,499.00
Check	01/03/2023	327513 Accounts Payable	BELLER DISTRIBUTING, LLC	526.56
Check	01/03/2023	327514 Accounts Payable	BLOMBERG , REGINA	646.00
Check	01/03/2023	327515 Accounts Payable	BMI AUDIT SERVICES LLC	1,213.00
Check	01/03/2023	327516 Accounts Payable	BOONE , DONALD	260.00
Check	01/03/2023	327517 Accounts Payable	BOUND TREE MEDICAL LLC	5,259.65
Check	01/03/2023	327518 Accounts Payable	BROWN , DON	168.00
Check	01/03/2023	327519 Accounts Payable	CAPITAL CITY FRUIT INC	45.00
Check	01/03/2023	327520 Accounts Payable	CAPPEL'S ACE HARDWARE	6.99
Check	01/03/2023	327521 Accounts Payable	CHRIS CAKES	1,304.00
Check	01/03/2023	327522 Accounts Payable	CIRQUE WONDERLAND LLC	216.00
Check	01/03/2023	327523 Accounts Payable	CONSTRUCTION & AGGREGATE PRODUCTS INC	104.00
Check	01/03/2023	327524 Accounts Payable	CUMMINS SALES AND SERVICE	628.99
Check	01/03/2023	327525 Accounts Payable	DE LAGE LANDEN	320.00
Check	01/03/2023	327526 Accounts Payable	DELINEA INC- THYCOTIC SOFTWARE	3,569.00
Check	01/03/2023	327527 Accounts Payable	DES MOINES BREAKERZ LLC	1,746.40
Check	01/03/2023	327528 Accounts Payable	EKWALL , MARIA	117.00
Check	01/03/2023	327529 Accounts Payable	EZ-LINER INDUSTRIES	138.19
Check	01/03/2023	327530 Accounts Payable	FACTORY MOTOR PARTS COMPANY	506.37
Check	01/03/2023	327531 Accounts Payable	FEDEX	4.81
Check	01/03/2023	327532 Accounts Payable	FIRE SERVICE TRAINING BUREAU	50.00
Check	01/03/2023	327533 Accounts Payable	FORKLIFTS OF DES MOINES	850.00
Check	01/03/2023	327534 Accounts Payable	FRONTLINE PUBLIC SAFETY SOLUTIONS	3,150.00
Check	01/03/2023	327535 Accounts Payable	GRAINGER INC	393.37
Check	01/03/2023	327536 Accounts Payable	HADGU , LUWAM	22.50
Check	01/03/2023	327537 Accounts Payable	HARRIS , DJ	56.00
Check	01/03/2023	327538 Accounts Payable	HARRIS , DOUGLAS	56.00
Check	01/03/2023	327539 Accounts Payable	HAWKEYE TRUCK EQUIPMENT	137.00
Check	01/03/2023	327540 Accounts Payable	HDR ENGINEERING INC	121,043.27
Check	01/03/2023	327541 Accounts Payable	HI TOUCH BUSINESS SERVICES LLC	84.88

City of West Des Moines, IA
City Council Report

Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
Check	01/03/2023	327542 Accounts Payable	HISTORY PAYS	9,800.00
Check	01/03/2023	327543 Accounts Payable	HOME DEPOT CREDIT SERVICES	111.92
Check	01/03/2023	327544 Accounts Payable	INSIGHT PUBLIC SECTOR	181.34
Check	01/03/2023	327545 Accounts Payable	IOWA ASSOCIATION OF BUILDING OFFICIALS	3,492.26
Check	01/03/2023	327546 Accounts Payable	IOWA FENCE INC	5,820.00
Check	01/03/2023	327547 Accounts Payable	IOWA NATIVE TREES LLC	7,350.00
Check	01/03/2023	327548 Accounts Payable	IOWA PRISON INDUSTRIES	54.60
Check	01/03/2023	327549 Accounts Payable	IOWA SIGNAL INC	4,624.00
Check	01/03/2023	327550 Accounts Payable	JASPER CONSTRUCTION SERVICES	21,992.50
Check	01/03/2023	327551 Accounts Payable	JERRY'S HOMES	107,502.57
Check	01/03/2023	327552 Accounts Payable	JOHNSON CONSULTING INC	40,000.00
Check	01/03/2023	327553 Accounts Payable	LINCOLN UNIVERSITY - INMAN E PAGE LIBRARY	110.00
Check	01/03/2023	327554 Accounts Payable	LINDE GAS & EQUIPMENT INC	961.32
Check	01/03/2023	327555 Accounts Payable	LINDEMAN , DEAN	215.00
Check	01/03/2023	327556 Accounts Payable	LOGOED APPAREL & PROMOTIONS	2,417.24
Check	01/03/2023	327557 Accounts Payable	LOWE'S HOME CENTER INC	974.16
Check	01/03/2023	327558 Accounts Payable	MAGNET FORENSICS USA INC	2,475.00
Check	01/03/2023	327559 Accounts Payable	MENARDS- CLIVE	456.53
Check	01/03/2023	327560 Accounts Payable	MERRITT COMPANY INC	3,295.00
Check	01/03/2023	327561 Accounts Payable	MOATS , WILLIAM	112.00
Check	01/03/2023	327562 Accounts Payable	MOTOROLA	45,578.00
Check	01/03/2023	327563 Accounts Payable	MTI DISTRIBUTING, INC.	825.13
Check	01/03/2023	327564 Accounts Payable	MUNCH , ELIJAH	101.25
Check	01/03/2023	327565 Accounts Payable	MUNICIPAL COLLECTIONS OF AMERICA INC	30.10
Check	01/03/2023	327566 Accounts Payable	MWH LAW GROUP LLP	4,040.00
Check	01/03/2023	327567 Accounts Payable	NATIONAL FIRE PROTECTION ASSN	340.70
Check	01/03/2023	327568 Accounts Payable	NATIONWIDE OFFICE CLEANERS LLC	1,666.67
Check	01/03/2023	327569 Accounts Payable	NEBRASKA GENERATOR SERVICE LLC	2,812.80
Check	01/03/2023	327570 Accounts Payable	NELLIES VENDING	153.30
Check	01/03/2023	327571 Accounts Payable	PATTON , CHRIS	112.00
Check	01/03/2023	327572 Accounts Payable	PEPSI BEVERAGES COMPANY	1,718.48
Check	01/03/2023	327573 Accounts Payable	PERBERA , GAYLE	178.00
Check	01/03/2023	327574 Accounts Payable	PLUGUGLY CUSTOMS	1,585.00

City of West Des Moines, IA
City Council Report
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
Check	01/03/2023	327575 Accounts Payable	PMA ASSET MANAGEMENT LLC	6,285.92
Check	01/03/2023	327576 Accounts Payable	POLK COUNTY RECORDER	87.00
Check	01/03/2023	327577 Accounts Payable	PROVANTAGE LLC	4,169.46
Check	01/03/2023	327578 Accounts Payable	QUICK MED CLAIMS LLC	16,714.29
Check	01/03/2023	327579 Accounts Payable	REGION XII COUNCIL OF GOVERNMENTS	10,000.00
Check	01/03/2023	327580 Accounts Payable	RELIABLE MAINTENANCE	10,000.00
Check	01/03/2023	327581 Accounts Payable	ROBERT HALF TECHNOLOGY	6,634.50
Check	01/03/2023	327582 Accounts Payable	SCHILDBERG CONSTRUCTION CO	2,895.84
Check	01/03/2023	327583 Accounts Payable	SEH INC	9,749.11
Check	01/03/2023	327584 Accounts Payable	SILO 9 LLC	26,458.88
Check	01/03/2023	327585 Accounts Payable	SOUTHWEST POLK WATER SERVICE INC	20.00
Check	01/03/2023	327586 Accounts Payable	STEW HANSEN DODGE CITY JEEP	183.75
Check	01/03/2023	327587 Accounts Payable	STREET SMART RENTALS LLC	52,738.00
Check	01/03/2023	327588 Accounts Payable	SYMMETRY ENERGY SOLUTIONS LLC	6,794.21
Check	01/03/2023	327589 Accounts Payable	TANNATT , KAY	440.00
Check	01/03/2023	327590 Accounts Payable	TEKSYSTEMS INC	1,722.25
Check	01/03/2023	327591 Accounts Payable	TOWNSEND VENTURES LLC	2,972.90
Check	01/03/2023	327592 Accounts Payable	TREES FOREVER INC	25,000.00
Check	01/03/2023	327593 Accounts Payable	TRUE VALUE & V&S VARIETY STORE	38.50
Check	01/03/2023	327594 Accounts Payable	UNIFIED CONTRACTING SERVICES	1,200.00
Check	01/03/2023	327595 Accounts Payable	UNION PACIFIC RAILROAD CO	19,940.91
Check	01/03/2023	327596 Accounts Payable	UNITYPOINT CLINIC- OCCUPATIONAL MEDICINE	168.00
Check	01/03/2023	327597 Accounts Payable	UNITYPOINT HEALTH	895.00
Check	01/03/2023	327598 Accounts Payable	VERIZON WIRELESS	5,026.04
Check	01/03/2023	327599 Accounts Payable	WD REAL ESTATE HOLDINGS INC	5,000.00
Check	01/03/2023	327600 Accounts Payable	WESLEY MERICAL AND LAURA CASTRO	492.18
Check	01/03/2023	327601 Accounts Payable	WEST DES MOINES COMM SCHOOLS - FACILITIES	109.72
Check	01/03/2023	327602 Accounts Payable	XTREME TREE	210.00
Check	01/03/2023	327603 Accounts Payable	ZOLL MEDICAL- NY	2,746.25
Check	01/03/2023	327604 Accounts Payable	MAJORS , MEREDITH	150.00
Check	01/03/2023	327605 Accounts Payable	MIDAMERICAN ENERGY - PROJECTS	374,174.00
Check	01/03/2023	327606 Accounts Payable	MIDAMERICAN ENERGY - PROJECTS	5,668.06

City of West Des Moines, IA
City Council Report
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
Check	01/03/2023	327607 Accounts Payable	CENTURYLINK	159.98
Check	01/03/2023	327608 Accounts Payable	IOWA ASSOCIATION OF BUILDING OFFICIALS	430.71
Check	01/03/2023	327609 Accounts Payable	MIDAMERICAN ENERGY	68.85
Check	01/03/2023	327610 Accounts Payable	MIDAMERICAN ENERGY	429.74
Check	01/03/2023	327611 Accounts Payable	MIDAMERICAN- DM-WDM TL	35.00
Check	01/03/2023	327612 Accounts Payable	MIDAMERICAN- DM-WDM TL	37.00
Check	01/03/2023	327613 Accounts Payable	POLK COUNTY RECORDER	350.00
Check	01/03/2023	327614 Accounts Payable	MNM CONCRETE SPECIALIST	39,586.50
EFT	01/03/2023	10052 Accounts Payable	AHLERS & COONEY PC	7,322.50
EFT	01/03/2023	10053 Accounts Payable	ALL CITY MANAGEMENT SERVICES INC	5,264.56
EFT	01/03/2023	10054 Accounts Payable	AMERICAN SECURITY LLC	931.07
EFT	01/03/2023	10055 Accounts Payable	ARNOLD MOTOR SUPPLY LLP	1,746.65
EFT	01/03/2023	10056 Accounts Payable	BAUER BUILT	1,759.40
EFT	01/03/2023	10057 Accounts Payable	BROCKWAY MECHANICAL & ROOFING	412.76
EFT	01/03/2023	10058 Accounts Payable	CARRICO AQUATIC RESOURCES INC	154.34
EFT	01/03/2023	10059 Accounts Payable	CENTRAL IOWA TOWING- ROY'S TOWING	100.00
EFT	01/03/2023	10060 Accounts Payable	CHRISTIAN EDWARDS PRINT & GRAPHICS	205.40
EFT	01/03/2023	10061 Accounts Payable	CIVIL DESIGN ADVANTAGE LLC	21,464.64
EFT	01/03/2023	10062 Accounts Payable	COMMUNICATION DATA LINK LLC	3,574.10
EFT	01/03/2023	10063 Accounts Payable	CONCRETE CONNECTION LLC	27,557.12
EFT	01/03/2023	10064 Accounts Payable	CONFLUENCE INC	1,535.65
EFT	01/03/2023	10065 Accounts Payable	CONFLUENCE INC	1,700.50
EFT	01/03/2023	10066 Accounts Payable	DILLARD , CARLOS	486.00
EFT	01/03/2023	10067 Accounts Payable	DOLL DISTRIBUTING LLC	710.20
EFT	01/03/2023	10068 Accounts Payable	EXCEL MECHANICAL INC	9,178.97
EFT	01/03/2023	10069 Accounts Payable	FISHER , TRAVIS	50.00
EFT	01/03/2023	10070 Accounts Payable	FOTH INFRASTRUCTURE & ENVIRONMENT LLC	5,848.85
EFT	01/03/2023	10071 Accounts Payable	GENUS LANDSCAPE ARCHITECTS	1,624.20
EFT	01/03/2023	10072 Accounts Payable	H2I GROUP INC	146,007.40
EFT	01/03/2023	10073 Accounts Payable	HAHN , JENNIFER	6,483.00
EFT	01/03/2023	10074 Accounts Payable	HENNING , CLAUDIA	500.00
EFT	01/03/2023	10075 Accounts Payable	HR GREEN CO	6,043.25

City of West Des Moines, IA
City Council Report
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
EFT	01/03/2023	10076 Accounts Payable	IOWA BEVERAGE SYSTEMS INC	156.00
EFT	01/03/2023	10077 Accounts Payable	IOWA DEPARTMENT OF PUBLIC SAFETY	10,284.00
EFT	01/03/2023	10078 Accounts Payable	IOWA INTERSTATE RAILROAD LTD	428.96
EFT	01/03/2023	10079 Accounts Payable	IOWA INTERSTATE RAILROAD LTD	386.10
EFT	01/03/2023	10080 Accounts Payable	JACOBSEN AUTO BODY	2,098.25
EFT	01/03/2023	10081 Accounts Payable	JOHNSON , BRYCE	197.50
EFT	01/03/2023	10082 Accounts Payable	KENNY AND GYL CO	2,520.00
EFT	01/03/2023	10083 Accounts Payable	KIESLER POLICE SUPPLY INC	656.35
EFT	01/03/2023	10084 Accounts Payable	MACQUEEN EQUIPMENT LLC	136.23
EFT	01/03/2023	10085 Accounts Payable	MARTIN BROTHERS	10,069.26
EFT	01/03/2023	10086 Accounts Payable	METRO WASTE AUTHORITY	63,671.27
EFT	01/03/2023	10087 Accounts Payable	MID-IOWA SOLID WASTE EQUIPMENT	250.70
EFT	01/03/2023	10088 Accounts Payable	MIDWEST WHEEL	258.77
EFT	01/03/2023	10089 Accounts Payable	MSTS- RED WING BUSINESS ADVANTAGE- WDM	259.23
EFT	01/03/2023	10090 Accounts Payable	NORTHLAND PRODUCTS- NORSOLV SYSTEMS	2,840.82
EFT	01/03/2023	10091 Accounts Payable	O'HALLORAN INTERNATIONAL INC	1,111.76
EFT	01/03/2023	10092 Accounts Payable	PER MAR SECURITY SERVICES	751.80
EFT	01/03/2023	10093 Accounts Payable	RAPIDS REPRODUCTIONS INC	754.36
EFT	01/03/2023	10094 Accounts Payable	RELIANT FIRE APPARATUS INC	2,653.53
EFT	01/03/2023	10095 Accounts Payable	RENEWABLE ENERGY GROUP INC	32,914.20
EFT	01/03/2023	10096 Accounts Payable	RHYTHM ENGINEERING LLC	10,160.00
EFT	01/03/2023	10097 Accounts Payable	RICHARDS , RHONDA	200.00
EFT	01/03/2023	10098 Accounts Payable	SANCHEZ , GREтна	119.00
EFT	01/03/2023	10099 Accounts Payable	SPONG , JULIE	75.00
EFT	01/03/2023	10100 Accounts Payable	SPRAYER SPECIALTIES INC	186.23
EFT	01/03/2023	10101 Accounts Payable	STIVERS FORD	1,030.55
EFT	01/03/2023	10102 Accounts Payable	SWINTON , ASHLEE	923.48
EFT	01/03/2023	10103 Accounts Payable	TELLO ITS LLC	3,407.50
EFT	01/03/2023	10104 Accounts Payable	TSCHUDIN , JODI	600.00
EFT	01/03/2023	10105 Accounts Payable	UKG- KRONOS	9,034.05
EFT	01/03/2023	10106 Accounts Payable	UNIFIRST CORPORATION	631.54
EFT	01/03/2023	10107 Accounts Payable	WAYTEK INC	87.38
EFT	01/03/2023	10108 Accounts Payable	WHKS & CO	32,082.27

City of West Des Moines, IA
City Council Report
 Bank Account: WB VENDOR DISB - WB Vendor Disbursement
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
EFT	01/03/2023	10109 Accounts Payable	ZIEGLER INC	2,824.81
WB VENDOR DISB WB Vendor Disbursement Totals:			Transactions: 163	\$1,501,457.86
	Checks:	105	\$1,057,036.40	
	EFTs:	58	\$444,421.46	

City of West Des Moines, IA
City Council Report
 Bank Account: WB CONTROLPAY - WB ControlPay
 Batch Date: 01/03/2023

Type	Date	Number Source	Payee Name	Transaction Amount
Bank Account: WB CONTROLPAY - WB ControlPay				
EFT	01/03/2023	7683 Accounts Payable	CAPITAL SANITARY SUPPLY CO INC	4,187.97
EFT	01/03/2023	7684 Accounts Payable	CLIVE POWER EQUIPMENT	260.06
EFT	01/03/2023	7685 Accounts Payable	COMPETITIVE EDGE	499.35
EFT	01/03/2023	7686 Accounts Payable	CORN STATES METAL FABRICATORS INC	340.00
EFT	01/03/2023	7687 Accounts Payable	FISHER & PAYKEL HEALTHCARE INC	2,061.02
EFT	01/03/2023	7688 Accounts Payable	GALLS LLC	1,146.43
EFT	01/03/2023	7689 Accounts Payable	INTERSTATE POWER SYSTEMS	62.08
EFT	01/03/2023	7690 Accounts Payable	O'REILLY AUTOMOTIVE INC	18.98
EFT	01/03/2023	7691 Accounts Payable	PRIORITY DISPATCH	21,600.00
EFT	01/03/2023	7692 Accounts Payable	STETSON BUILDING PRODUCTS LLC	11.63
EFT	01/03/2023	7693 Accounts Payable	TEAM SERVICES	12,699.48
EFT	01/03/2023	7694 Accounts Payable	ULINE INC	1,196.78
EFT	01/03/2023	7695 Accounts Payable	VAISALA INC	1,000.00
EFT	01/03/2023	7696 Accounts Payable	WASTE MANAGEMENT OF IOWA	136.15
EFT	01/03/2023	7697 Accounts Payable	WRIGHT OUTDOOR SOLUTIONS	4,472.34
WB CONTROLPAY WB ControlPay Totals:			Transactions: 15	\$49,692.27
EFTs:		15	\$49,692.27	

City of West Des Moines

Payment Register

From Payment Date: 12/06/2022 - To Payment Date: 01/16/2023

Number	Date	Payee Name	Transaction Amount
352	12/08/2022	VOYA BENEFITS COMPANY LLC	\$6,659.75
353	12/06/2022	VOYA BENEFITS COMPANY LLC	\$261.25
354	12/15/2022	VOYA BENEFITS COMPANY LLC	\$8,859.52
10048	12/15/2022	IOWA DEPARTMENT OF REVENUE & FINANCE	\$15,729.24
10050	12/12/2022	DELTA DENTAL OF IOWA	\$7,835.70
10051	12/20/2022	WELLMARK BLUE CROSS	\$114,251.57
200723	12/16/2022	COUNTRY CLUB INVESTMENTS- PARK WEST APARTMENTS	\$500.00
200724	12/16/2022	COUNTRY CLUB INVESTMENTS- PARK WEST APARTMENTS	\$365.00
200725	12/16/2022	EVI WESTLAKE APARTMENTS LLC	\$500.00
200726	12/16/2022	FLATS ON 56TH	\$350.00
200727	12/16/2022	FLATS ON 56TH	\$348.02
200728	12/16/2022	NETTELAND, STEPHEN	\$500.00
			\$156,160.05

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

ITEM: Approval of Liquor Licenses

DATE: January 3, 2023

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. Big Al's South, LLC d/b/a Big Al's BBQ, 1960 Grand Avenue, Suite 23 - Class C Retail Alcohol License with Catering Privileges - Renewal
2. DBH Industries, LLC d/b/a Bix & Co., 111 5th Street - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - New
3. Bravo Brio Restaurants, LLC d/b/a Bravo!, 120 South Jordan Creek Parkway - Class C Retail Alcohol License with Outdoor Service - Renewal
4. Dave & Buster's of Iowa, Inc. d/b/a Dave & Busters, 190 South Jordan Creek Parkway - Class C Retail Alcohol License with Outdoor Service - New
5. Foundry Distilling Company, LLC d/b/a Foundry Distilling Company, 111 South 11th Street, Suite 100 - Class C Retail Alcohol License with Outdoor Service - New
6. Hy-Vee, Inc., d/b/a Hy-Vee Meeting Room, 1725 Jordan Creek Parkway, 2nd Floor Meeting Room - Special Class C Retail Alcohol License - Renewal
7. J.P. Parking, Inc. d/b/a J.P Parking, 6220 Raccoon River Drive - Class B Native Wine License with Outdoor Service - New
8. Kwik Trip, Inc. d/b/a Tobacco Outlet Plus #565, 1220 Grand Avenue, Suite 101 - Class B Retail Alcohol License - New
9. Thompson Hospitality, LLC d/b/a Urban Cellar, 640 South 50th Street - Class C Retail Alcohol License with Outdoor Service and Catering Privileges - Renewal
10. Waterfront Seafood Market, Inc. d/b/a Waterfront Seafood Market, 2900 University Avenue - Class C Retail Alcohol License with Catering Privileges - Renewal

OUTSTANDING ISSUES (if any): None

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

Lead Staff Member: Ryan T. Jacobson, City Clerk 

STAFF REVIEWS

Department Director	Ryan T. Jacobson, City Clerk
Appropriations/Finance	
Legal	
Agenda Acceptance	

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

DATE: January 3, 2023

ITEM: Motion – Approval of Order for violation of alcohol laws

FINANCIAL IMPACT: \$500.00 (positive impact to City)

BACKGROUND:

Pursuant to state law, a municipality is entitled to assess a \$500.00 fine for a first violation against alcohol permittees who have been found in violation of providing alcoholic beverages to persons under 21 years of age at their respective places of business. Failure to pay the civil penalty as ordered shall result in automatic suspension of the license or permit for a period of 14 days.

On or about the date referenced on attached Exhibit “A”, employee of the permittee, also referenced on Exhibit “A”, was cited for providing alcoholic beverages to a person under 21 years of age. The City of West Des Moines Legal Department sent a notice of the violation to the permittee. Since that time, said permittee acknowledged the order and returned payment of the fine for its alcohol violation.

OUTSTANDING ISSUES (if any): None.

RECOMMENDATION:

It is recommended that the City Council approve the Order and accept payment of the fine regarding the alcohol violation of the permittee as referenced on the attached Exhibit “A”.

Lead Staff Member: Jessica Grove, Assistant City Attorney JDG

STAFF REVIEWS

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

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	
Date Reviewed	
Recommendation	

EXHIBIT "A"

<u>Licensee</u>	<u>D/B/A</u>	<u>Date of Violation</u>	<u>#Violation</u>
Pool IV TRS, LLC 12735 Morris Road Ext., Suite 400 Alpharetta, GA 30004	Sheraton West Des Moines 1800 50 th Street, Route 10 West Des Moines, IA 50265	06/09/22	1st (minors)

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

ITEM: Motion Approving Professional Services Agreement
Financial Advisory Services
PFM Financial Advisors, LLC

DATE: January 3, 2023

FINANCIAL IMPACT: The estimated expenditure required to retain the services will be \$25,000 per year. Of the total, \$15,000 is payable from the general fund, \$5,000 is payable from the stormwater enterprise fund, and \$5,000 is payable from the sewer enterprise fund. In addition to the retainer, fees directly associated with bond issuances continued will be payable from bond proceeds as appropriate. Under the previous agreement, a retainer of \$10,000 was required but that did not include all of the services proposed with the new agreement.

BACKGROUND: PFM Financial Advisors, LLC ("PFM") was originally selected as the successful proposer of a Request for Proposal process conducted in 2004 and is currently serving the city under an agreement approved by Council on July 27, 2015, and later supplemented on August 22, 2016.

This proposed Engagement Letter continues to define the scope of services PFM will provide as well as articulating the rates and charges for such services.

The annual retainer fee shown in Exhibit B is related to PFM's continued annual preparation of several key financial planning documents including (1) an analysis of the City's debt service levy and bond capacity, (2) cash flow models for each Urban Renewal Area, and (3) cash flow models for the Sewer and Stormwater Enterprise funds. Being added to the scope of services at this time, at staff's request, is the creation and annual update of a Tax Increment Financing (TIF) Executive Summary document which can be used for education and planning purposes.

The Bond Issuance fees shown in Exhibit B (Transaction Fees) are unchanged from the previous agreement. PFM performs a myriad of services in related to the City's bond issuances including ensuring compliance, updating annual continuing disclosures, developing Official Bond Statements, assisting staff in the preparation and delivery of presentations to Credit Rating Agencies, coordinating the receipt of bond bids, negotiating sales details with successful bidders, and providing general direction related to bond sales.

OUTSTANDING ISSUES: None

RECOMMENDATION: Approve the Financial Advisory Services Agreement with PFM.

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



December 27, 2022

Tim Stiles
Finance Director
City of West Des Moines, Iowa
4200 Mills Civic Parkway
West Des Moines, IA 50265

Dear Tim -

The purpose of this letter (this "Engagement Letter") is to confirm our agreement that PFM Financial Advisors LLC ("PFM") will act as financial advisor to the City of West Des Moines, Iowa (the "Client") for ongoing financial planning services. This Engagement Letter will supersede the Client's prior agreement, dated July 27, 2015, and supplemented on August 22, 2016. PFM will provide, upon request of the Client, financial planning services, development of planning models and debt transaction implementation services, as applicable and set forth in Exhibit A to this Engagement Letter. Most tasks requested by Client will not require all services provided for in Exhibit A and as such the specific scope of services for such task shall be limited to just those services required to complete the task.

pfm

801 Grand
Suite 3300
Des Moines, IA 50309
515.243.2600

pfm.com

PFM is a registered municipal advisor with the Securities and Exchange Commission (the "SEC") and the Municipal Securities Rulemaking Board (the "MSRB"), pursuant to the Securities Exchange Act of 1934 Rule 15Ba1-2. As of the date of this letter, Client has not designated PFM as its independent registered municipal advisor ("IRMA") for purposes of SEC Rule 15Ba1-1(d)(3)(vi) (the "IRMA exemption"). Client agrees not to represent that PFM is Client's IRMA with respect to any aspect of a municipal securities issuance or municipal financial product, without PFM's prior written consent.

MSRB Rule G-42 requires that municipal advisors make written disclosures to its Clients of all material conflicts of interest and certain legal or disciplinary events. Such disclosures are provided in PFM's Disclosure Statement delivered to Client together with this agreement.

PFM's services will commence as soon as practicable after the receipt of this Engagement Letter by the Client and a request by the Client for such service. Any material changes in or additions to the scope of services described in Exhibit A shall be promptly reflected in a written supplement or amendment to this Engagement Letter. Services provided by PFM which are not included in the scope of services set forth in Exhibit A of this agreement shall be completed as agreed in writing in advance between the Client and PFM. Upon request of Client, PFM or an affiliate of PFM may agree to additional services to be provided by PFM or an affiliate of PFM, by a separate agreement between the Client and PFM or its respective affiliate.

For the services described in Exhibit A, PFM's professional fees will be paid as provided in Exhibit B. In addition to fees for services, PFM will be reimbursed for necessary, reasonable, and documented out-of-pocket expenses, as outlined in Exhibit B, which are incurred by PFM. Upon request of Client, documentation of such expenses will be provided.

This Engagement Letter shall remain in effect unless canceled in writing by either party upon thirty (30) days written notice to the other party. PFM shall not assign any interest in this Engagement Letter or subcontract any of the work performed under this Engagement Letter without the prior written consent of the Client; provided that upon notice to Client, PFM may assign this Engagement Letter or any interests hereunder to a municipal advisor entity registered with the SEC that directly or indirectly controls, is controlled by, or is under common control with, PFM.

All information, data, reports, and records ("Data") in the possession of the Client or any third party necessary for carrying out any services to be performed under this Engagement Letter shall be furnished to PFM and the Client shall, and shall cause its agent(s) to, cooperate with PFM in its conduct of reasonable due diligence in performing the services. To the extent Client requests that PFM provide advice with regard to any recommendation made by a third party, Client will provide to PFM written direction to do so as well as any



Data it has received from such third party relating to its recommendation. Client acknowledges and agrees that while PFM is relying on the Data in connection with its provision of the services under this agreement, PFM makes no representation with respect to and shall not be responsible for the accuracy or completeness of such Data.

All notices given under this Engagement Letter will be in writing, sent by email or registered United States mail, with return receipt requested, addressed to the party for whom it is intended, at the addresses on the first page of this Engagement Letter.

All materials, except functioning or dynamic financial models, prepared by PFM pursuant exclusively to this Engagement Letter will be the property of the Client. Subject to the preceding exception, upon termination of this Engagement Letter, PFM will deliver to the Client copies of any and all material pertaining to this Engagement Letter.

The Des Moines office of PFM will provide the services set forth in this Engagement Letter. PFM may, from time to time, supplement or otherwise amend team members. The Client has the right to request, for any reason, PFM to replace any member of the advisory staff. Should the Client make such a request, PFM will promptly suggest a substitute for approval by the Client.

PFM will maintain insurance coverage with policy limits not less than as stated in Exhibit C. Except to the extent caused by willful misconduct, bad faith, gross negligence or reckless disregard of obligations or duties under this Engagement Letter on the part of PFM or any of its associated persons, neither PFM nor any of its associated persons shall have liability to any person for any act or omission in connection with performance of its services hereunder, or for any error of judgment or mistake of law, or for any loss arising out of any issuance of municipal securities, any municipal financial product or any other financial product or investment, or for any financial or other damages resulting from Client's election to act or not to act, as the case may be, contrary to or, absent negligence on the part of PFM or any of its associated persons, upon any advice or recommendation provided by PFM to Client.

PFM, its employees, officers and representatives at all times will be independent contractors and will not be deemed to be employees, agents, partners, servants and/or joint venturers of Client by virtue of this Engagement Letter or any actions or services rendered under this Engagement Letter.

This Engagement Letter represents the entire agreement between Client and PFM and may not be amended or modified except in writing signed by PFM.

Please have an authorized official of the Client acknowledge receipt of this Engagement Letter and respond to us to acknowledge the terms of this engagement.

Sincerely,

PFM FINANCIAL ADVISORS LLC

Jon Burmeister
Managing Director

Susanne Gerlach
Director



EXHIBIT A
SCOPE OF SERVICES

PFM shall provide, upon request of the Client, municipal advisory services related to financial planning and cashflow modeling, valuation analyses and services related to debt issuance, examples of which, not intended to be exclusive, are set forth as follows.

1. Services related to the Financial Planning and Development of Planning Models completed upon the request of the Client:
 - Review of Client's audited financial statements.
 - Review current and projected financial status and capacity of the client.
 - Identification and determination of Client's existing taxable valuation.
 - Review current debt structure, identifying strengths and weaknesses of structure so that future debt issues can be designed to optimize ability to finance future capital needs.
 - This will include, but is not limited to, reviewing existing debt for the possibility of refunding that debt to provide the Client with savings.
 - Based on 100% valuation, estimate the Client's taxable valuation using PFM's Valuation Model and the effect that this will have on the Debt Service Levy, G.O. Capacity and all TIF areas. Work with Client staff to determine whether or not increment will be released in that specific year.
 - Review capital improvement plan and review funding sources for the capital projects.
 - Development and preparation of several financial and capital planning models:
 - Debt Service Levy and Debt Service Fund Capital Planning Model
 - Valuation Analyses and Estimated TIF Increment Release
 - Individual Tax Increment Urban Renewal Plan cashflow models
 - Composite Tax Increment Urban Renewal Plan cashflow model (where applicable)
 - Sewer Enterprise Fund financial and capital planning model
 - Storm Water Enterprise Fund financial and capital planning model
 - Capital funding analysis (including Debt Sizing and Debt Service Determination for future bond issues based off the Client's Capital Improvement Fund)
 - TIF Executive Summary
 - Develop financial options analyses (using financial and capital planning models listed above):
 - Analysis of the existing financial arrangements
 - Analyze debt capacity
 - Identify & analyze financing alternatives and debt structuring options
 - Develop scenarios
 - Analyze and compare to objectives/constraints
 - Evaluation of alternative security structures
 - Evaluation of alternative funding and financing approaches
 - Sensitivity analysis
 - Develop preliminary financial plan objectives:
 - Review and revise with staff
 - Presentation and review with City Council
 - Assist with financial plan review and approval (as appropriate)
 - Assist Client staff with annual TIF Certification.
 - Develop, draft and update at least annually a TIF Executive Summary.
 - Provide financial cashflow analyses for new developer proposals.
 - Review the reports of accountants, independent engineers and other project feasibility consultants to ensure that such studies adequately address technical, economic, and financial risk factors affecting the marketability of any proposed revenue debt issues; provide bond market assumptions necessary for financial projections included in these studies; attend all relevant working sessions regarding the preparations, review and



completion of such independent studies; and provide written comments and recommendations regarding assumptions, analytic methods, and conclusions contained therein.

- Attend meetings with Client's staff, consultants and other professionals and the Client.
- Attend meetings as requested to provide financial updates to staff and elected officials.
- Review underwriter's proposals and submit a written analysis of same to the Client.
- Assist with the development and periodic review of written financial policies.
- Undertake any and all other financial planning and policy development assignments made by the Client regarding bond and other financings, and financial policy including budget, tax, cash management issues and related fiscal policy and programs.
- Assist the Client in preparing financial presentations for public hearings and/ or referendums.
- Other special projects as requested by the Client.

2. Services Related to Debt Transaction Implementation (including short term financings, notes, loans, letters of credit, lines of credit and bonds) completed upon the request of the Client:
 - Develop/update the financial models directly associated with the type of bond issue being sold (G.O. Capacity, Tax Analysis, TIF Cashflow, etc.) to make sure that the financing is in place prior to issuance.
 - Develop/oversee financing schedule
 - Articulate final terms and conditions
 - Identify key bond covenant features and advise as to the financial consequences of provisions to be included in bond resolutions regarding security, creation of reserve funds, flow of funds, redemption provisions, additional parity debt tests, etc.; review and comment on successive drafts of bond resolutions.
 - Assist the Client in the selection/procurement of other services relating to debt issuance such as paying agent, registrar, verification agent, escrow agent, printing, etc.
 - Coordinate with the other finance team members
 - Analyze cost/benefit if using credit enhancement, including bond insurance (as appropriate)
 - Develop and implement credit review and credit strategy (as appropriate)
 - Schedule the credit call with the appropriate individuals
 - Develop and update the credit presentation to use during the credit call
 - Assist Client during the credit call
 - Analyze, negotiate and review legal documents and offering memorandum/Official Statement
 - Analyze and review legal documents
 - Compile a request for information from Client for the Official Statement
 - Prepare the Official Statement
 - Send the Official Statement to the appropriate individuals for review
 - Analyze and assist in development of final debt structure, terms and conditions
 - Assist and coordinate marketing of Bonds
 - Timing of sale
 - Target potential underwriters
 - Marketing information
 - Disclosure documents
 - Calls to underwriters
 - Attend City Council/meetings with staff; make presentations, (as requested)
 - Provide regular updates of tax-exempt bond market conditions and advise the Client as to the most advantageous timing for issuing its debt.



- Prepare sale details and conduct pre-pricing monitoring analysis
 - Review comparable issues (market indices)
 - Review calendar of economic events
 - Target pricing analysis
 - Assess sale calendar
- Advise the Client on the condition of the bond market at the time of sale, including volume, timing considerations, competing offerings, and general economic considerations.
- Coordinate receipt of competitive underwriter bids
 - Calculate and verify true interest cost calculations
 - Conduct final debt sizing schedule
 - Obtain and coordinate good faith deposit
 - Provide recommendation on final offer to purchase
- Prepare and review final financing documents
- Assist with investment of bond proceeds (upon request under a separate engagement and for a separate fee)
- Assist with arbitrage compliance (upon request under a separate engagement and for a separate fee)
- Arrange, coordinate and execute transaction closing
- Verify current compliance with continuing disclosure undertakings and assist with ongoing financial reporting (under a separate engagement and for a separate fee)

If the transaction is negotiated or issued via private placement, the services of the municipal advisor will be modified to reflect that process.



EXHIBIT B
COMPENSATION FOR SERVICES

1. Transaction Fees

For services related to the issuance of Bonds, PFM will be paid a Municipal Advisory fee as shown below at closing of transaction:

Par Amount of Issue	Proposed Fee
Under \$1.0 Million	Greater of \$5,000 or 1% of Par
\$1.0 to \$4.99 Million	\$15,000
\$5.0 to \$14.99 Million	\$18,000
\$15.0 to \$19.99 Million	\$20,000
\$20.0 to \$24.99 Million	\$25,000
Over \$25.0 Million	To be negotiated
G.O. Refunding Bonds	Same as GO Bonds
TIF Revenue Bonds	125% of GO Bond Fee
Revenue Bonds	125% of GO Bond Fee
SRF Loans	65% of Revenue Bond Fee

2. Annual Retainer Fee

For financial planning services and development of planning models, PFM shall receive an annual fee in the amount of \$25,000 ("Retainer"), as detailed below, payable upon invoice. The Retainer assumes the scope of services outlined in [Exhibit A](#) can be completed within 150 hours. The Retainer shall be reviewed and revised upon mutual agreement.

<u>Planning Model</u>	<u>Not to Exceed</u>
Debt Levy/G.O. Capacity/Valuation Analysis	\$5,000
Sewer Enterprise	\$5,000
Stormwater Enterprise	\$5,000
TIF Cashflows & Executive Summary	\$10,000

For the development and drafting of a new annual report, the TIF Executive Summary, PFM shall receive a one-time implementation fee in the amount of \$5,000 ("Implementation Fee"), payable upon invoice.

3. Hourly Special Project Fees (Non-Transaction Related)

In the event the Client requests that PFM perform significant special projects, fees will be negotiated in advance of the project. Fees will be generally based upon the following hourly rates for the indicated levels of experience or their equivalents.

<u>Experience Level</u>	<u>Hourly Rate</u>
Managing Director	\$250.00
Director	\$225.00
Senior Managing Consultant	\$200.00
Senior Analyst	\$180.00
Analyst	\$150.00
Associate	\$125.00

4. Reimbursable Expenses

In addition to fees for services, PFM will be reimbursed for necessary, reasonable, and documented out-of-pocket expenses incurred, including travel, meals, lodging, printing, telephone, postage and other ordinary costs which are incurred by PFM. Appropriate documentation can be provided.



EXHIBIT C
INSURANCE STATEMENT

PFM has a complete insurance program, including property, casualty, general liability, automobile liability and workers compensation. PFM maintains professional liability and fidelity bond coverages which total \$5 million and \$5 million single loss/ \$10 million aggregate, respectively. PFM also carries a \$5 million cyber liability policy.

Our Professional Liability policy is a "claims made" policy and our General Liability policy claims would be made by occurrence.

1. Deductibles/SIR:

Automobile \$100 comprehensive & \$1,000 collision
Cyber Liability \$100,000
General Liability \$0
Professional Liability (E&O) \$200,000
Financial Institution Bond \$50,000

2. Insurance Company & AM Best Rating:

Professional Liability (E&O) Lloyds of London; (A; Stable)
..... AXIS Surplus Insurance Company; (A; Stable)
Financial Institution Bond Berkley Regional Insurance Company; (A+; Stable)
Cyber Liability Greenwich Insurance Company (A+; Stable)
General Liability Valley Forge Insurance Company; (A; Stable)
Automobile Liability Continental Insurance Company; (A; Stable)
Excess/Umbrella Liability Continental Insurance Company; (A; Stable)
Workers Compensation &
Employers Liability Continental Insurance Company; (A; Stable)

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

ITEM: Contract with DART for Transportation
Of West Des Moines ELL Students

DATE: January 3, 2022

FINANCIAL IMPACT:

\$3,600 per session x no more than 5 sessions/yr. This service is paid through Human Services' discretionary funds.

BACKGROUND:

Continuing the use of DART to transport those West Des Moines residents enrolled in our English Language Learners classes.

OUTSTANDING ISSUES (if any):

Communication is a barrier and we have been working with DART to make sure our students understand pick up times and locations.

RECOMMENDATION:

Approve the contract

Lead Staff Member: Althea Holcomb

STAFF REVIEWS

Department Director	
Appropriations/Finance	
Legal	
Agenda Acceptance	AD

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee			
Date Reviewed			
Recommendation	Yes	No	Split

CONTRACT FOR TRANSPORTATION SERVICES

THIS AGREEMENT is between the City of West Des Moines, Iowa through its Department of Human Services and the Des Moines Area Regional Transit Authority (DART) for Transportation Services to qualified residents of the City of West Des Moines.

DEFINITIONS. The terms listed below will be referred to throughout this agreement.

City of West Des Moines, Department of Human Services. Refers to the department within the City of West Des Moines, Iowa and the administrative entity responsible for this Service Agreement, (hereinafter "Human Services").

Des Moines Area Regional Transit Authority. Refers to an entity organized under the authority of Chapter 28E of the Code of Iowa (hereinafter "Provider").

SERVICES.

Provider shall:

1. Supply transportation services, either on the Provider's fixed route bus or on the Provider's on-call/paratransit bus, to clients designated by Human Services. The services will pick up clients at locations provided by Human Services and transport them to the City of West Des Moines Human Services at 139 6th Street, West Des Moines, Iowa 50265 to attend English as a Second Language (ESL) classes. Service assumptions are as follows:
 - a. Up to five (5) class sessions per year
 - b. Each class session is eight (8) weeks in length
 - c. Transportation will be provided on Tuesday and Thursday of every week from 10:00 AM to 12:00 PM local time for every week that class is in session.
2. Supply an ADA equipped vehicle for clients identified as needing mobility assistance.

Human Services shall:

3. Compensate the Provider for the service at the rate specified in the Compensation section of this Agreement.
4. Notify the Provider of any changes in schedule or in number of clients/passengers.
5. Determine eligibility of each of its clients referred to the Provider for transportation services.

CONSIDERATION.

Invoices. The Provider shall submit an invoice to Human Services after each session, unless otherwise agreed to by the parties. All approved Provider invoices shall be paid within thirty (30) days of receipt by Human Services. Human Services shall remit all payments to:

**Des Moines Regional Transit Authority Attn:
Accounts Receivable
620 Cherry St.
Des Moines, IA 50309**

COMPENSATION. Effective as of January 1, 2023.

SERVICES	UNIT	COST PER UNIT	ANNUAL COST
Group Transportation to ESL Class	Per Session	\$3,600	Up to \$18,000

RECORD KEEPING AND DOCUMENTATION.

- 1. Compliance.** The Provider shall keep, and make available to Human Services, such client, financial, statistical, administrative, and personnel records as are necessary for Human Services to monitor the Provider's compliance with the terms of this Agreement and to evaluate the overall effectiveness of the Provider's program, including cost effectiveness. The Provider shall permit such on-site service monitoring by Human Services representatives as may be reasonably requested.
- 2. Distribution.** When documents are generated by either the Provider or Human Services for distribution to any third party, individual client names and other personal information shall not be used, or if used, shall be removed prior to distribution.
- 3. Requests.** From time to time, it will be necessary, for administrative or planning purposes, for either or both parties to request unscheduled reports or documentation from the other. Both parties shall be expected to cooperate in the preparation of such reports in a reasonable and timely manner given the constraints of any third-party demands.
- 4. Retention.** Records shall be kept for a period of (3) years. Storage and disposal of such records shall be accomplished in such a way as to ensure the continuous confidentiality of all client information.

BENEFITS. This is not a contract for employment. As an independent agency, the Provider shall be solely responsible for the designation and supervision of, personnel and for the employment of subcontractors, if any. The Provider shall hire, train, assign, schedule, supervise, and evaluate drivers and other personnel and shall have the sole right to control the performance of all such workers. The Provider shall comply with all workers' compensation, employer's liability, payroll tax and withholding and other Federal, State and local laws, ordinances, rules and regulations applicable to an employer. A portion of the Provider's duties may be subcontracted to qualified organizations with prior notice to and consultation with Human Services, but the Provider shall be fully responsible for the performance and actions of any such subcontractor.

CONFIDENTIALITY. The Provider and Human Services shall treat all information about individuals receiving services pursuant to this Agreement as confidential in accordance with applicable state and federal statutes, laws and regulations. The Provider and Human Services shall use appropriate safeguards to maintain the security and privacy of any Personally Identifiable Information (PII) or Protected Health Information, as defined by the U.S. Department of Health and Human Services in its final regulations - pursuant to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), and shall establish policies and procedures for ensuring the rights granted to consumers by HIPAA. The Provider shall report to Human Services any unauthorized use or disclosures of PII or Protected Health Information within five (5) days from the date the Provider becomes aware of the violation, as well as any sanctions or remedial actions taken with regard to the unauthorized use or disclosure. The parties agree to cooperate with each other in mitigating any harmful effects of such use or disclosure.

SERVICE OPEN TO THE PUBLIC. As a provision of providing public transportation service, the service rendered under this agreement shall be open to the general public. Human Services shall not incur any financial responsibility for ridership by the general public.

LICENSES AND COMPLIANCE. The Provider shall apply for, and maintain, all necessary and applicable licenses, certifications, and inspections relevant to current health, fire, safety, vehicle and professional standards. Any deficiencies or violations must be corrected immediately or immediate action taken to seek variances. All relevant reports, citations, complaints, corrective actions, or variances applied for, rejected, or granted, must be documented. The Provider shall ensure that its employees have all licenses and certifications necessary for the performance of their duties.

INDEMNIFICATION AND INSURANCE. To the fullest extent permitted by law, Human Services shall indemnify, defend and hold harmless each of the "Indemnitees" (as defined below) from and against any and all "Charges" (as defined below) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings arising from any act of negligence or willful misconduct by Human Services or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence . resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible. For the purposes of this Section: {a) the term "Indemnitees" means DART and each of the DART officers, board members, officials, employees, agents and independent contractors (excluding Human Services); and {b) the term "Charges" means any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts).

Additionally, to the extent allowed by law, DART shall defend, indemnify and hold harmless Human Services and its trustees, officers, employees, and agents **from and against any and all losses, damages, costs, expenses (including reasonable attorneys' fees), obligations, duties, fines, penalties, royalties, interest charges and other liabilities (including settlement amounts) paid or incurred by any of them as a result of any claims, demands, lawsuits, actions, or proceedings arising from any act of negligence or willful misconduct by DART or any of its agents, employees or subcontractors relating to this Agreement, including but not limited to any liability caused by an accident or other occurrence resulting in bodily injury, death, sickness or disease to any person(s) or damage or destruction to any property, real or personal, tangible or intangible**, provided that Human Services shall promptly notify DART of any claim or action brought which may result in a claim for indemnification under this Section.

The Provider shall acquire and retain throughout the term of this Agreement suitable and sufficient insurance, and where applicable, fidelity bonding, so as to protect the Provider, its entire staff, including contract employees, its volunteers, clients, Human Services, and the general public against any loss, injury, damage, or other liability arising from any negligent act or omission in connection with responsibilities assumed by the Provider under the terms of this Agreement. This insurance shall cover all space owned, leased, rented, or used gratis; all vehicles, both moving and standing; and all employees and volunteers of the Provider; and shall be in such amount and with such carrier as shall be approved by Human Services, except that a self-insurance program acceptable to Human Services may be substituted for coverage required by this paragraph.

NON-EXCLUSIVE. This Agreement is not exclusive. Human Services reserves the right to select other contractors to provide services/deliverables similar or identical to those described in this agreement during the entire term of the agreement, which includes any extensions or renewals thereof.

NON-DISCRIMINATION. The Provider shall not deny, restrict access to, or provide inferior services to any client or potential client, or deny or restrict employment opportunities, including promotional opportunities, to any applicant or current employee, solely upon the basis of race, color, creed, gender, age, physical or mental disability, sexual orientation, gender identity, religion, or national origin.

The Provider shall establish, maintain, and periodically update an Equal Employment Opportunity Plan for recruitment, hiring, training, education, and promotion of members of the protected classes.

CONFLICT RESOLUTION. In the event that Human Services, in its monitoring of the Provider's performance under this Agreement, alleges a deficiency in direct services, or a violation of the terms of this Agreement, Human Services shall notify the Provider in writing of the alleged deficiency or violation and of Human Services' recommended corrective action. If the Provider does not agree with the recommendation, Human Services and the Provider shall meet within five (5) working days following issuance of such notice. At such meeting, it shall be determined whether appropriate corrective action can be negotiated, or whether there is cause for Human Services to give notice to the Provider of termination of this Agreement.

TERM AND TERMINATION. This Agreement shall be effective for the period January 1, 2023 through December 31, 2023, but may be earlier terminated at any time by either party upon ninety (90) days prior written notice. In addition to the initial term, there shall be four (4) individual one (1) year options to renew.

NOTICES. Notices under this agreement shall be in writing and delivered to the representatives of the party to receive notice as it appears below:

City of West Des Moines:

Althea Holcomb
Director, Human Services
139 – 6th Street, P.O. Box 65320, West Des
Moines, IA 50265
515/273-0633
althea.holcomb@wdm.iowa.gov

DART:

Attn: Partnerships Department
620 Cherry St. Des Moines, IA 50309
515-283-8100
partnerships@ridedart.com

[REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK. SIGNATURE PAGE TO FOLLOW.]

CITY OF WEST DES MOINES:

By: _____

Name: _____

Title: _____

DART:

By: _____

Name: _____

Title: _____

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

4(g)

DATE: January 3, 2023

ITEM:

Resolution - Ordering Construction
2022 Sewer Rehabilitation Program

FINANCIAL IMPACT:

The Engineering Estimate of Construction Cost for the 2022 Sewer Rehabilitation Program is \$550,490.00. Payments will be made from account no. 640.000.000.5250.490 with the ultimate funding intended to come from Sanitary Sewer Fee Revenue.

BACKGROUND:

A Bid Letting should be scheduled for 2:00 p.m. on Wednesday, January 25, 2023 and a Public Hearing on the project should be scheduled for 5:35 p.m. on Monday, February 6, 2023. The contract would be awarded on Monday, February 6, 2023 and work will begin shortly thereafter.

This is an ongoing maintenance program to rehabilitate existing portions of the City's sanitary sewer system. Previous inspections of these sanitary sewers revealed defects at several locations. The project is anticipated to be completed by September 29, 2023.

OUTSTANDING ISSUES:

None.

RECOMMENDATION:

City Council Adopt:

- Resolution Ordering Construction of the 2022 Sewer Rehabilitation Program.
- Fixing 2:00 p.m. on Wednesday, January 25, 2023 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

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		
Date Reviewed	December 12, 2022		
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:

**2022 Sewer Rehabilitation Program
Project No. 0510-007-2022**

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, February 6, 2023, 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, January 25, 2023.

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, January 25, 2023 and the results of said bids shall be considered at a meeting of this Council on Monday, February 6, 2023 at 5:35 p.m. and acted upon at said time, or such time as may then be fixed.

PASSED AND APPROVED on this **3rd** day of **January, 2023**.

Russ Trimble, Mayor

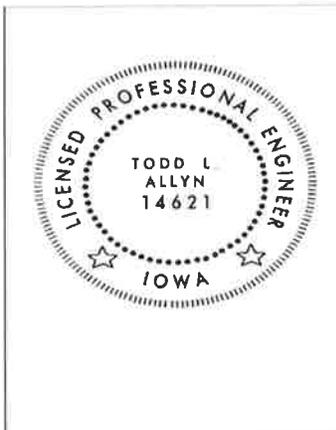
ATTEST:

Ryan T. Jacobson, City Clerk

**Engineer's Estimate of Probable Construction Cost
 2022 Sewer Rehabilitation Program
 Project No. 0510-007-2022
 City of West Des Moines
 West Des Moines, Iowa
 AECOM Project No: 60689645
 December 16, 2022**



Item	Description	Unit	Estimated Quantity	Unit Price	Extended Price
1.1	18" CIPP SEWER LINING	LF	101	\$ 100.00	\$ 10,100.00
1.2	36" CIPP SEWER LINING - MIN 18.0MM THICK LINER	LF	2,067	\$ 245.00	\$ 506,415.00
1.3	36" CIPP SEWER LINING - MIN 24.0MM THICK LINER	LF	130	\$ 260.00	\$ 33,800.00
1.4	SERVICE RECONNECTION	EA	1	\$ 175.00	\$ 175.00
TOTAL ESTIMATE					\$ 550,490.00



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.

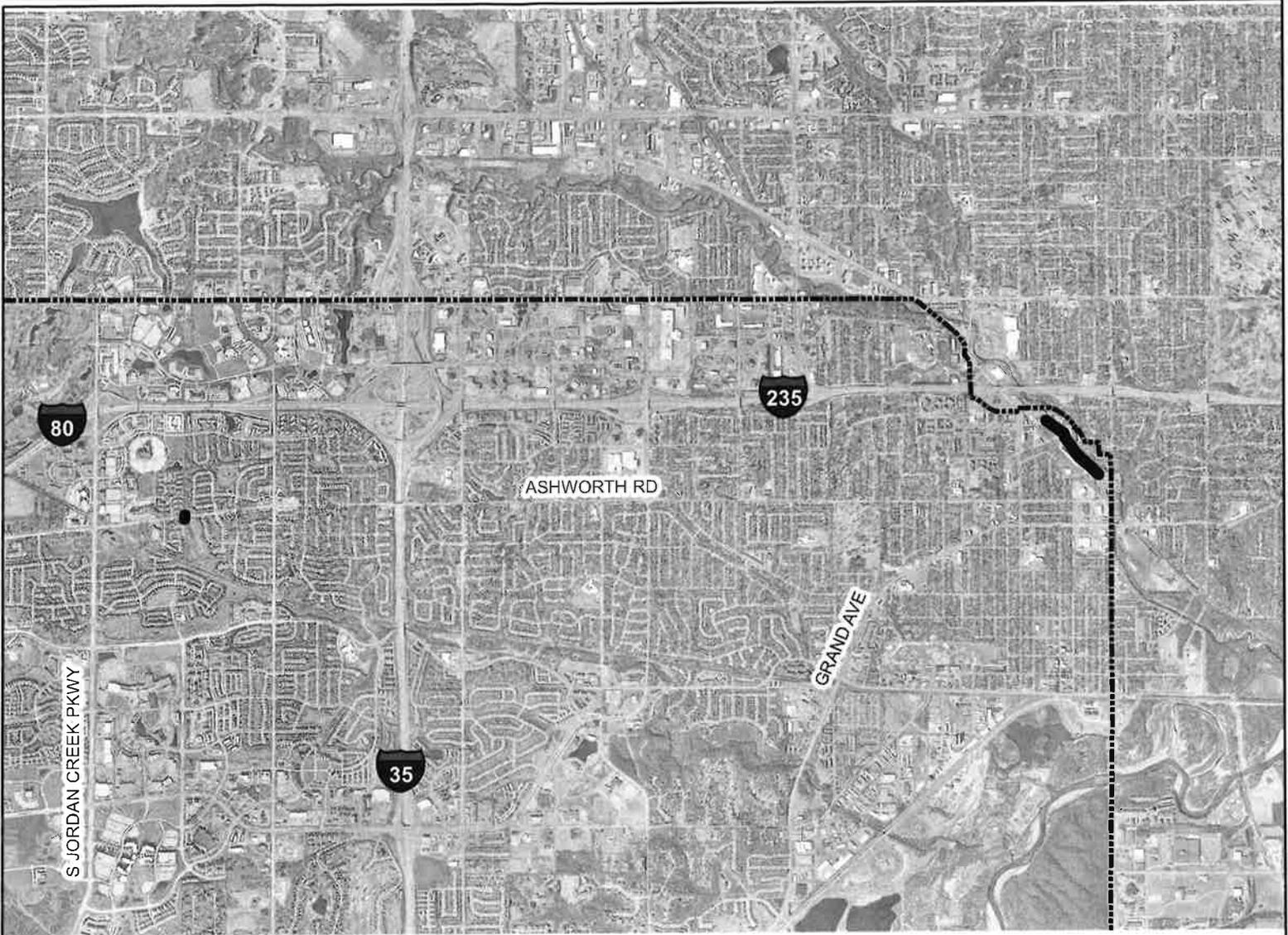
Todd L. Allyn 12/16/2022
 TODD L. ALLYN, PE Date

License No. 14621

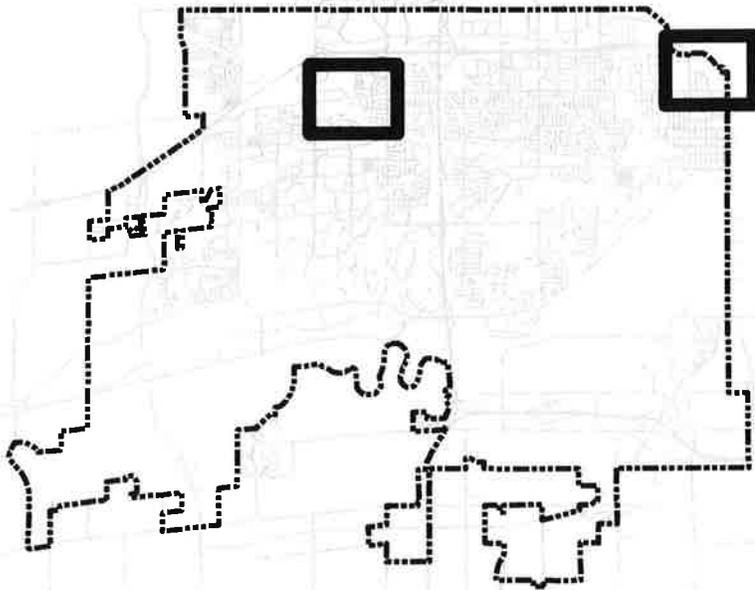
My license renewal date is December 31, 2022.

Pages or sheets covered by this seal:
Engineer's Estimate

Date Issued: _____



VICINITY MAP



LEGEND

PROJECT LOCATION



PROJECT:

2022 Sewer Rehabilitation Program

LOCATION:

Exhibit 'A'

DRAWN BY: JPM

DATE: 12/22/2022

PROJECT NUMBER/NAME: 0510-007-2022

SHT. 1 of 1

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

DATE: January 3, 2023

ITEM: Resolution – Accept Work – 2021 Concrete Trail Renovations

FINANCIAL IMPACT: The total construction cost of this project is \$263,440.00. Costs of the project have been paid from budgeted CIP funds from G/L Acct 500.000.000.5250.490. Funding was covered out of available funds in the 2021 Trail Renovation C.I.P. account (Project No. 0510 027 2020). There were two change orders on the project for a total of \$30,890.00.

BACKGROUND: MNM Concrete Specialist of Des Moines, Iowa is working under an agreement dated April 18, 2022 for construction services related to the 2021 Concrete Trail Renovations. Work is substantially complete. This action accepts the improvements and authorizes staff to pay retainage. Retainage will not be paid in less than 30 days.

This project involved the repair and replacement of portions of existing concrete trail located primarily at street crossings to bring them into compliance with ADA. The project also included the replacement of a segment of trail along 60th Street between Vista Drive and the I-80 bridge, as well as a segment of trail along Ashworth Road on the NW corner of 60th Street and Ashworth Rd. The areas being addressed were identified as a higher priority following the 2021 inspection of the entire trail system by City staff. The majority of defects in the existing trails involve spalling and cracking of the concrete trail surface. Defective areas of the trail are being replaced with 6” thick reinforced concrete to help prevent future problems. This will further extend the life of the new trail.

OUTSTANDING ISSUES: None

RECOMMENDATION: That the City Council approve the Resolution.

Lead Staff Member: David Sadler, Superintendent of Parks 

STAFF REVIEWS

Department Director	Sally Ortgies, Director of Parks and Recreation 
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		
Date Reviewed	December 27, 2022		
Recommendation	Yes	No	Split

Resolution Accepting Work

WHEREAS, on April 18, 2022 the City Council entered into a contract with MNM Concrete Specialist of Des Moines, Iowa for the following described public improvement:

2021 Concrete Trail Renovations

and,

WHEREAS, said contractor has completed the construction of said improvement in accordance with plans and specifications as shown by the Council Communication filed with the City Clerk on January 3, 2023.

Therefore,

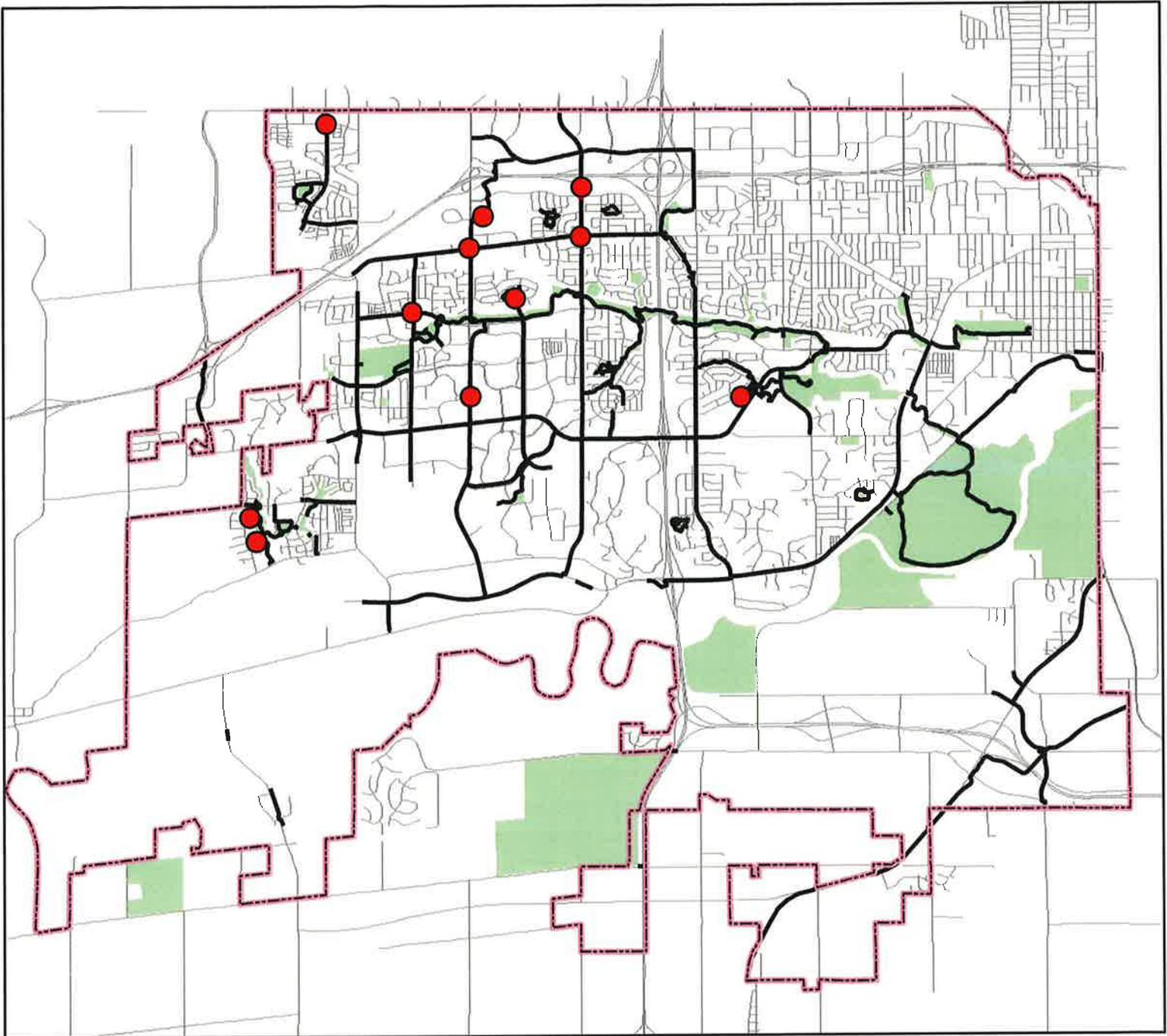
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, that said report of the Superintendent of Parks be approved and said public improvement is accepted as having been completed in accordance with plans and specifications and the total final construction cost of said improvement is \$263,440.00 as shown in said report.

PASSED AND APPROVED, this 3rd day of January, 2023.

Russ Trimble, Mayor

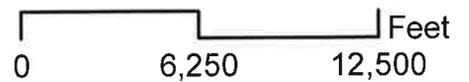
ATTEST:

Ryan T. Jacobson, City Clerk



 Park & Greenway

 Existing Multi-Use Trail



PROJECT:

2021 CONCRETE TRAIL RENOVATION

LOCATION:

CITY WIDE

DRAWN BY: **MAA**

DATE: **3/11/2022**

PROJECT NO.:

SHT. **1 of 1**

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

DATE: January 3, 2023

ITEM: Resolution – Accept Work – Crossroads Park Parking Lot and Water Quality Improvements

FINANCIAL IMPACT: The total construction cost of this project is \$921,869.45. Costs of the project have been paid from budgeted CIP funds from G/L Acct 500.000.000.5250.490. Funding was covered out of available funds in the FY 20-21 CIP budget for the Crossroads Park – Parking Lot Renovation, Creek Stabilization and Creek Crossing project (Project No. 0525 023.0510 053 2020) and Concrete Renovations in Parks (0510 029 2020). There was \$900,000 available for this project including \$700,000 in the Crossroads Park budget, \$100,000 in Water Quality Initiative grant received from IDALS, and \$100,000 available in Concrete Renovations. In addition, a portion of this project (Division 2 at \$38,694.60) will be reimbursed by IDOT due to some improvements needed on the IDOT right of way. There were ten change orders on the project for a total of \$110,407.20.

BACKGROUND: Concrete Connection of Johnston, Iowa is working under an agreement dated Sept. 20, 2021 for construction services related to the Crossroads Park Parking Lot and Water Quality Improvements. Work is substantially complete. This action accepts the improvements and authorizes staff to pay retainage. Retainage will not be paid in less than 30 days.

This project included improvements to the park including the parking lot, stabilization of the creek, a new creek crossing to the north ballfield, and a variety of water quality improvements. The parking lot improvements included adding parking spaces, ADA improvements to adjacent sidewalks, replacement of degrading asphalt curbing with concrete curb, and overlay of existing asphalt drive/parking. In addition, the project incorporated multiple water quality components including a series of bioretention areas for stormwater treatment, regenerative creek channel improvements, and soil quality restoration on the adjacent field areas.

OUTSTANDING ISSUES: None

RECOMMENDATION: That the City Council approve the Resolution.

Lead Staff Member: David Sadler, Superintendent of Parks 

STAFF REVIEWS

Department Director	Sally Orgies, Director of Parks and Recreation 
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		
Date Reviewed	December 27, 2022		
Recommendation	Yes	No	Split

Resolution Accepting Work

WHEREAS, on September 20, 2021 the City Council entered into a contract with Concrete Connection of Johnston, Iowa for the following described public improvement:

Crossroads Park Parking Lot and Water Quality Improvements

and,

WHEREAS, said contractor has completed the construction of said improvement in accordance with plans and specifications as shown by the Council Communication filed with the City Clerk on January 3, 2023.

Therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, that said report of the Superintendent of Parks be approved and said public improvement is accepted as having been completed in accordance with plans and specifications and the total final construction cost of said improvement is \$921,869.45 as shown in said report.

PASSED AND APPROVED, this 3rd day of January, 2023.

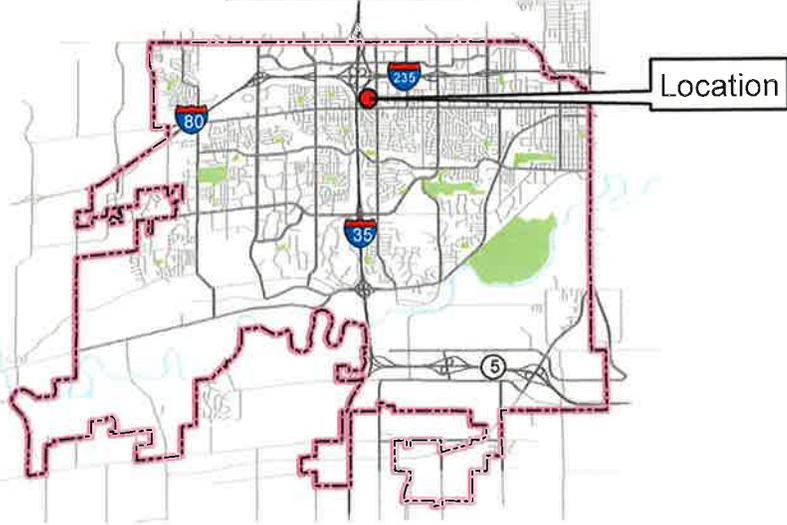
Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

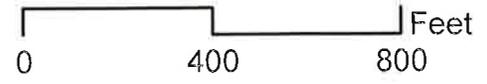


VICINITY MAP



LEGEND

 Park Boundary



PROJECT:	CROSSROADS PARK PARKING LOT & WATER QUALITY IMPROVEMENTS		
LOCATION:	5205 ASHWORTH ROAD		
DRAWN BY: MAA	DATE: 9/14/2021	PROJECT NO.:	SHT. 1 of 1

CITY OF WEST DES MOINES
CITY COUNCIL MEETING COMMUNICATION

DATE: January 3, 2023

ITEM:

Resolution - Approving Professional Services Agreement
2023 Bridge Inspection Program

FINANCIAL IMPACT:

The cost of the Professional Services Agreement associated with this project is anticipated not to exceed \$18,165.00 for Basic Services of the Consultant. 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. 100.250.700.5250.422 with the ultimate funding intended to come from General Fund.

BACKGROUND:

Approval of this action authorizes Shuck-Britson, Inc. to perform the structural engineering services necessary to complete inspections of bridges in accordance with State and Federal requirements. These inspections are required on a bi-annual basis. Fifty-nine (59) structures will be inspected as part of this agreement.

The Engineering Services Department retains professional consultants based on their past work experience, qualifications of their staff, familiarity with the project, staffing 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.

OUTSTANDING ISSUES: None.

RECOMMENDATION:

City Council Adopt:

- Resolution Approving Professional Services Agreement for the 2023 Bridge Inspection Program.

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		
Date Reviewed	December 12, 2022		
Recommendation	Yes	No	Split

RESOLUTION APPROVING PROFESSIONAL SERVICES AGREEMENT

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

**2023 Bridge Inspection Program
Project No. 0290-004-2023**

and,

WHEREAS, Federal law requires inspections of municipal bridge structures on a bi-annual basis; and

WHEREAS, Engineering Services Department staff have recommended bridge inspections be completed by Shuck-Britson, Inc.; and

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

Basic Services of the Consultant	\$18,165.00
Resident Consultant Services	<u>\$ 0.00</u>
Total	\$18,165.00

therefore,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, that Shuck-Britson, Inc. is hereby directed to complete bridge inspections for the above named project.

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

PASSED AND APPROVED on this **3rd** day of **January, 2023**.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

AGREEMENT FOR PROFESSIONAL CONSULTING SERVICES

This Agreement is made and entered into this 3rd day of January, 2023, by and between the CITY OF WEST DES MOINES, a municipal corporation, hereinafter referred to as "City", and Shuck-Britson, Inc., (Fed. I.D. # 42-1067607), 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 2023 Bridge Inspection Program (Project No. 0290-004-2023) 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	\$18,165.00
II. Resident Consultant Services	\$0
Total	\$18,165.00

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.

5. 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: Shuck-Britson, Inc.
Attn: Timothy J. Monson
Address: 400 East Court Ave Suite 140
City, State: Des Moines, IA

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 age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, 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 age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, 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

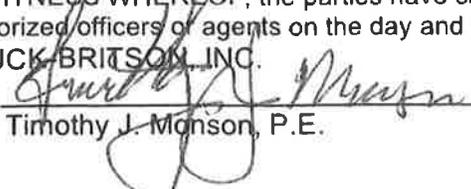
Each party hereby agrees to execute and deliver such additional instruments and documents and to take all such other action as the other party may reasonably request from time to time in order to effect the provisions and purposes of this Agreement.

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.

SHUCK-BRITSON, INC.

BY:  _____
Timothy J. Monson, P.E.

CITY OF WEST DES MOINES

BY: _____
Ryan T. Jacobson, City Clerk

ATTACHMENT 1
SCOPE OF SERVICES

CITY OF WEST DES MOINES - 2023 BRIDGE INSPECTION SCOPE OF WORK

CITY BRIDGE NO.	FHWA NO.	TYPE OF BRIDGE	Perform Routine Inspection	Upload Photos on SIIMS	Input Field Data Info. on SIIMS	Complete Load Rating Evaluation Form on SIIMS	Perform Fracture Critical Inspection	Complete FC Sheet (I.M. 2.120 Attachment K or L) & Upload on SIIMS	Critical Findings	Approved on SIIMS	Scour			Unknown Fnds				Channel X-Sections		Plans			Other Items		
											Perform Scour Evaluation	Upload brdg stability wrkshst - Ivl A eval on SIIMS	Upload intermediate scour assessment flowchart - Ivl B eval on SIIMS	Plan of Action (POA)	Risk Assessment wrkshst - Ivl A eval	Assessment Flowchart - Ivl B Eval	Risk Based (POA)	Field Measure Channel Cross Section	Input Channel Cross Section on SIIMS	Upload Design Plans on SIIMS	Upload Repair Plans on SIIMS	Input SI&A on SIIMS		Complete Form 107	Summary Complete
1	012431	Arch - Deck																(5)	(5)						
2	012420	Slab																(5)	(5)						
3	503780	Culvert																							
4	501330	Culvert																							
5	501341	Culvert																							
6	504195	Culvert																							
7	501041	Culvert																							
8	0	Culvert																							
9	504200	Culvert																							
10	0	Culvert																							
11	504120	Culvert																							
12	504125	Culvert																							
13	0	Culvert																							
14		Stringer/Multi-beam or Girder																							
15	0	Culvert																							
16	504190	Culvert																							
17	504155	Culvert																							
18	0	Culvert																							
19	0	Culvert																							
20	504245	Culvert																							
21	504250	Culvert																							
22	0	Culvert																							
23	504370	Culvert																							
24	0	Culvert																							
25	22091	Culvert																							

- Notes**
- 1 I.M. 7.020
 - 2 0 snooper inspections
 - 3 City will provide SBI with copies of past field reports, SI&A, load ratings, load postings, repair plans and bridge plans as applicable.
 - 4 Scour work above assumes city will provide SBI with a copy of bridge plans that is adequate to complete the scour work above
 - 5 Cross sections due 2027

Legend

- SBI to complete
- City to complete
- Work assumed to be completed prior to 2023 inspections (not needed this cycle)
- Work not required for this bridge type
- Not an NBIS Struct. (not on SIIMS), SBI will complete a SBI Field Report

Blank = Not Due in 2023

CITY OF WEST DES MOINES - 2023 BRIDGE INSPECTION SCOPE OF WORK

CITY BRIDGE NO.	FHWA NO.	TYPE OF BRIDGE	Perform Routine Inspection	Upload Photos on SIIMS	Input Field Data Info. on SIIMS	Complete Load Rating Evaluation Form on SIIMS	Perform Fracture Critical Inspection	Complete FC Sheet (I.M. 2.120 Attachment K or L) & Upload on SIIMS	Critical Findings	Approved on SIIMS	Scour			Unknown Fnds			Channel X-Sections		Plans			Other Itx			
											Perform Scour Evaluation	Upload brdg stability wrkshst - Ivl A eval on SIIMS	Upload intermediate scour assessment flowchart - Ivl B eval on SIIMS	Plan of Action (POA)	Risk Assessment wrkshst - Ivl A eval	Assessment Flowchart - Ivl B Eval	Risk Based (POA)	Field Measure Channel Cross Section	Input Channel Cross Section on SIIMS	Upload Design Plans on SIIMS	Upload Repair Plans on SIIMS		Input SI&A on SIIMS	Complete Form 107	
27	504880	Culvert																							
28		Culvert																							
29		Culvert																							
30		Culvert																							
31	504870	Culvert																							
32	504875	Culvert																							
33		Culvert																							
34	504865	Culvert																							
35		Culvert																							
36	504860	Culvert																							
37	504855	Culvert																							
39		Culvert																							
40	505420	Culvert																							
41	505440	Culvert																							
42		Culvert																							
43	22080	Stringer/Multi-beam or Girder																(5)	(5)						
44	022071	Stringer/Multi-beam or Girder																(5)	(5)						
46	022060	Stringer/Multi-beam or Girder																(5)	(5)						
47	505425	Culvert																							
48	131162	Continuous Concrete Slab																	(5)	(5)					
49		Stringer/Multi-beam or Girder																							
50	505435	Culvert																							
51	505545	Culvert																							
52	505445	Slab																	(5)	(5)					
53	505550																		(5)	(5)					
54	0	Pedestrian Tunnel																							
55	505555	PPCB																	(5)	(5)					
56	505640	Culvert																							
57	505645	Culvert																							
58	TBD	PPCB																							
59	TBD	PPCB																							
60	TBD	PPCB																							
61	TBD	PPCB																							
62	TBD	PPCB																							

Notes

- 1 I.M. 7.020
- 2 0 snooper inspections
- 3 City will provide SBI with copies of past field reports, SI&A, load ratings, load postings, repair plans and bridge plans as applicable.
- 4 Scour work above assumes city will provide SBI with a copy of bridge plans that is adequate to complete the scour work above
- 5 Cross Sections Due 2031

Legend

-  SBI to complete
-  City to complete
-  Work assumed to be completed prior to 2023 inspections (not needed this cycle)
-  Work not required for this bridge type
-  Not an NBIS Struct. (not on SIIMS), SBI will complete a SBI Field Report

Blank = Not Due in 2023

ATTACHMENT 2

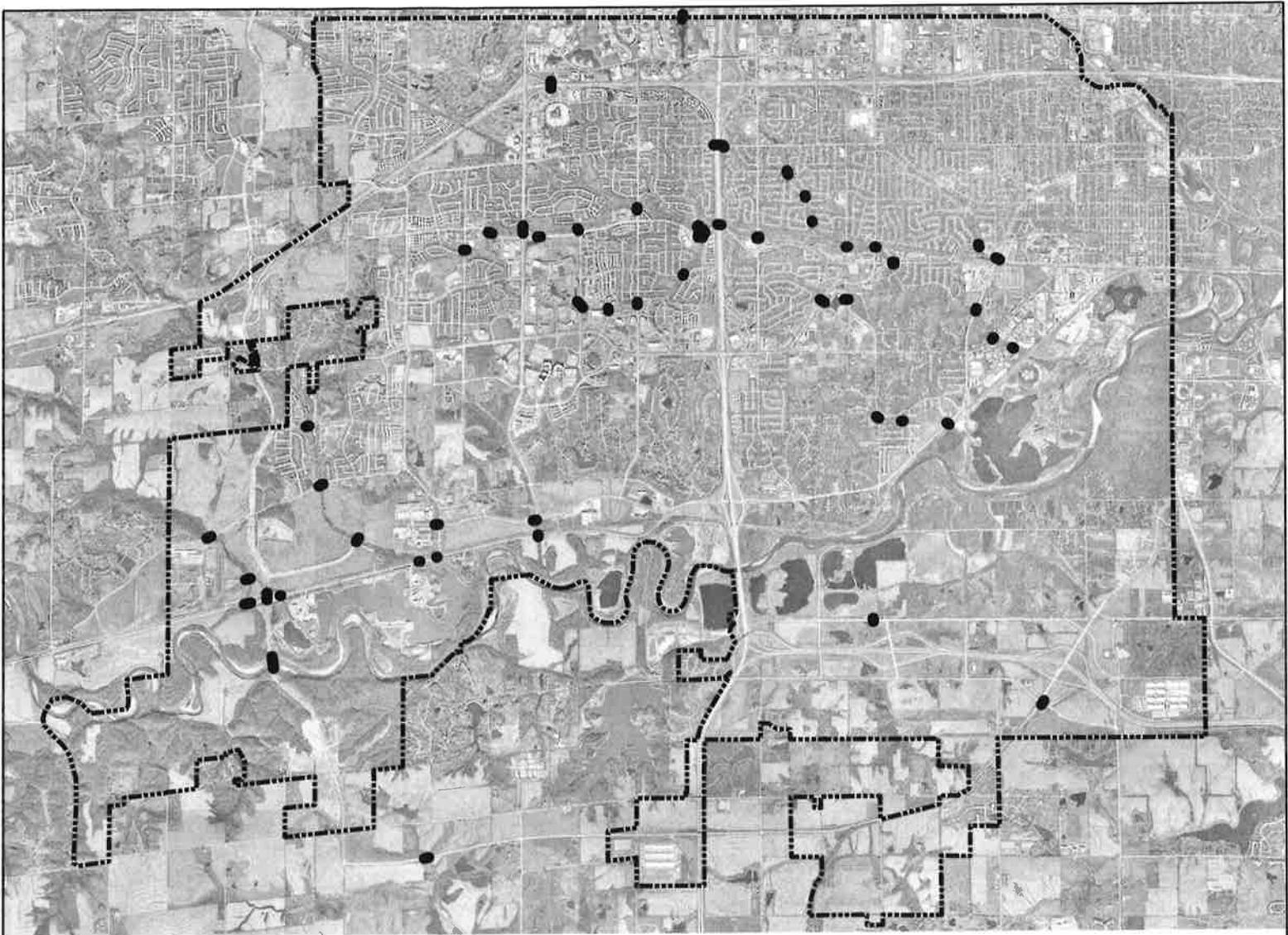
PROJECT SCHEDULE

Complete field inspections in June & October 2023. Iowa DOT SIIMS data will be entered within 90 days of field inspection dates. The report work, inspection summary and any necessary calculations will be completed and delivered in winter 2023.

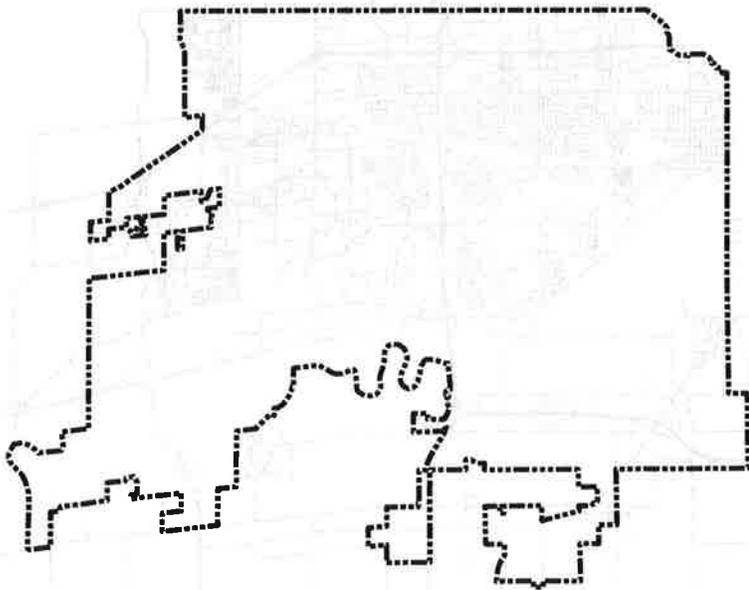
ATTACHMENT 3
SCHEDULE OF FEES

SHUCK-BRITSON, INC.
2022-2023
STANDARD HOURLY BILLING RATE

Billing Classification/Level	Billing Rate	
Professional		
<i>Engineer, Structural Engineer, Landscape Architect, Land Surveyor, GIS, Environmental Scientist, Project Manager, Planner, Right-of-Way Agent, Graphic Designer</i>		
Principal II	\$229.00	/hour
Principal I	\$217.00	/hour
Senior	\$198.00	/hour
VIII	\$181.00	/hour
VII	\$172.00	/hour
VI	\$163.00	/hour
V	\$152.00	/hour
IV	\$141.00	/hour
III	\$129.00	/hour
II	\$116.00	/hour
I	\$103.00	/hour
Technical		
<i>Technicians--CADD, Survey, Construction Observation</i>		
Lead	\$138.00	/hour
Senior I	\$132.00	/hour
VIII	\$123.00	/hour
VII	\$113.00	/hour
VI	\$102.00	/hour
V	\$92.00	/hour
IV	\$83.00	/hour
III	\$75.00	/hour
II	\$69.00	/hour
I	\$60.00	/hour
Administrative		
<i>Clerical</i>		
II	\$71.00	/hour
I	\$58.00	/hour
Reimbursables		
<i>Mileage</i>	<i>current IRS standard rate</i>	
<i>Outside Services</i>	<i>As Invoiced</i>	



VICINITY MAP



LEGEND

PROJECT LOCATION 



PROJECT:

2023 Bridge Inspection Program

LOCATION:

Exhibit 'A'

DRAWN BY: JPM

DATE: 12/20/2022

PROJECT NUMBER/NAME: 0290-004-2023

SHT. 1 of 1

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

DATE: January 3, 2023

ITEM: Resolution – Authorizing Application for Surface Transportation Block Grant (STBG) Program Funding – Des Moines Area Metropolitan Planning Organization

FINANCIAL IMPACT: Potentially up to \$8,000,000 in Federal Grant Revenue.

BACKGROUND: The Des Moines Area Metropolitan Planning Organization (MPO) is accepting Surface Transportation Block Grant (STBG) funding applications from member governments, the Iowa Department of Transportation, and the Des Moines Metropolitan Transit Authority. Applications are due January 6, 2023. The MPO will evaluate applications from January through March 2023. The STBG funds will then be awarded to successful projects for Federal Fiscal Year 2027.

Application(s) are planned to be submitted for the future reconstruction of Ashworth Road. Extent of the project is still being discussed, but the project is generally from 1st Street to 50th Street and may include reconstruction and reconfiguration of the roadway.

The STBG program requires the recipient of the funds to commit non-federal matching funds equal to at least 20% of the total project cost. The application currently indicates the City would commit 80% of the funds to the Ashworth Road project, although the City may continue to apply for Federal funds (including additional STBG funding in future years) to reduce the City’s share to closer to 20%.

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

RECOMMENDATION: Staff recommends that the City Council authorize staff to file an application for the project listed in Exhibit A and that the Council authorize the Mayor and the City Manager to act on the City's behalf in filing the applications, approve the indicated priority and match amounts for the projects, and agree to maintain the completed projects for at least twenty years, as indicated in the proposed resolution.

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	
Agenda Acceptance	

PUBLICATION(S) (if applicable)	
Published in	
Date(s) Published	

SUBCOMMITTEE REVIEW			
Committee	Public Services		
Date Reviewed			
Recommendation	Yes	No	Split

Attachments: Attachment A - Resolution
Exhibit A - Project Recommendations

Attachment A

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA, AUTHORIZING THE CITY TO SUBMIT AN APPLICATION TO THE DES MOINES METROPOLITAN PLANNING ORGANIZATION FOR FEDERAL SURFACE TRANSPORTATION BLOCK GRANT PROGRAM FUNDING AND PLEDGING THAT THE CITY WILL PROVIDE MATCHING FUNDS FOR FEDERAL FUNDS RECEIVED

WHEREAS, the City of West Des Moines is a full member of the Des Moines Area Metropolitan Planning Organization; and

WHEREAS, the Federal Surface Transportation Block Grant Program provides funding to local jurisdictions for the construction of eligible projects; and

WHEREAS, the program is administered by the Des Moines Area Metropolitan Planning Organization which prioritizes and ranks all project applications; and

WHEREAS, the City Council of the City of West Des Moines on January 3, 2023, directed staff to file applications for Surface Transportation Block Grant (STBG) program funding;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF WEST DES MOINES HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The City Council authorizes the City Manager and the Mayor to sign the applications to the Des Moines Metropolitan Planning Organization and sign all pertinent papers on behalf of the City as they relate to these applications.

SECTION 2. The City of West Des Moines supports and approves the applications for Federal Surface Transportation Block Grants or the projects identified in Exhibit A.

SECTION 3. The City of West Des Moines pledges matching funds for federal funds received, as required by the Federal Surface Transportation Block Grant Program.

SECTION 4. The City of West Des Moines accepts and agrees to maintain improvements partially funded by the Federal Surface Transportation Block Grant Program for a minimum of twenty (20) years upon completion of the project.

PASSED AND ADOPTED this 3rd day of January, 2023.

Russ Trimble, Mayor

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the City Council of the City of West Des Moines, Iowa, at a regular meeting held on January 3, 2023, by the following vote:

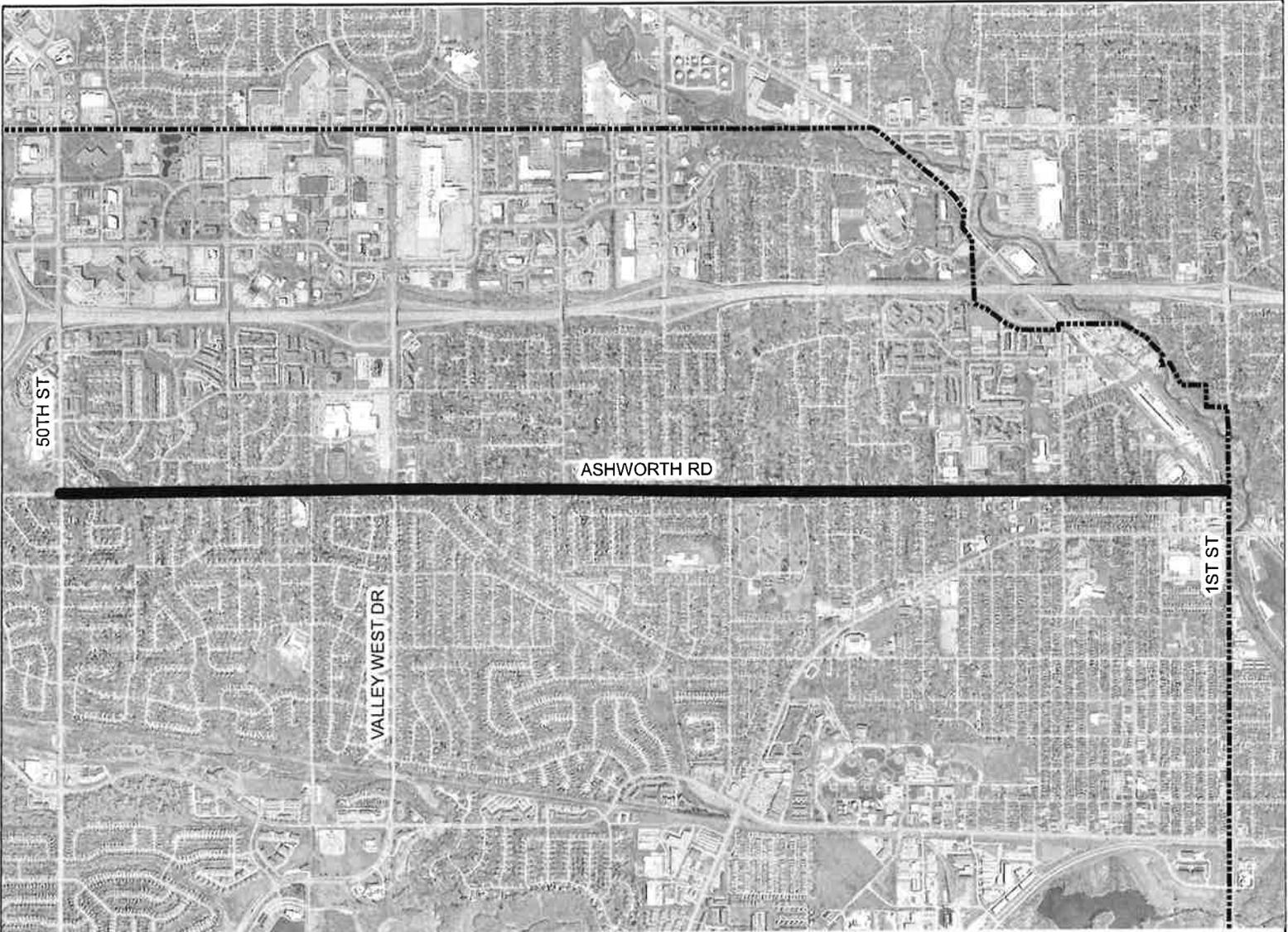
ATTEST:

Ryan Jacobson, City Clerk

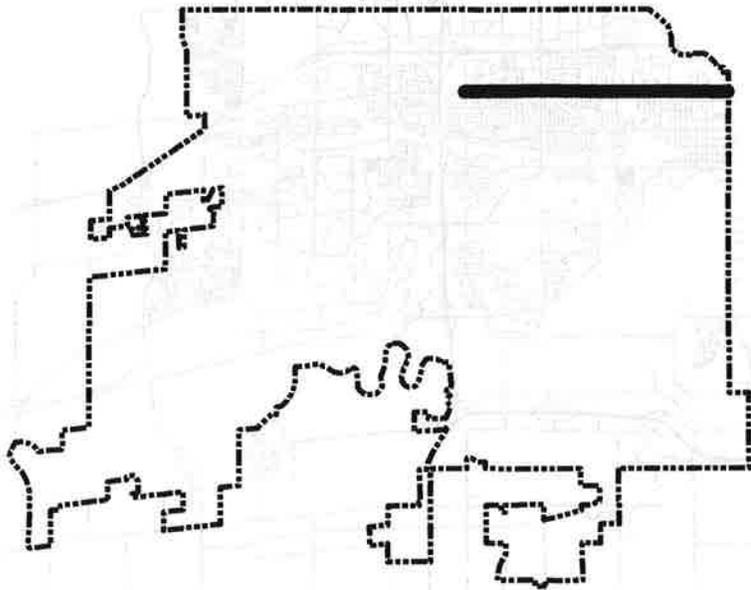
Exhibit A

**City of West Des Moines
Surface Transportation Block Grant Program Applications
January 2023**

Surface Transportation Program	Total Est. Cost	STP/STBG Funds Already Awarded	STP/STBG Funds Request	Other Grants Already Awarded	City Match	Match Percent
Ashworth Road – 1 st Street to 50 th Street	\$10,000,000	\$0	\$2,000,000	\$0	\$8,000,000	80%



VICINITY MAP



LEGEND

PROJECT LOCATION 



PROJECT:

Surface Transportation Block Grant Program

LOCATION:

Ashworth Road - 1st Street to 50th Street

DRAWN BY: JPM

DATE: 12/15/2022

PROJECT NAME: STBGP

SHT. 1 of 1

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: January 3, 2023

ITEM: Fountain Terrace Apartments, 655 S. 88th Street – Approval and Acceptance of Public Utility Easement – Fountain Terrace Apartments L.L.C. – SP-004903-2020

Resolution: Approval and Acceptance of Public Utility Easement

Background: On June 20, 2022, the City Council approved the Fountain Terrace Apartments Site Plan allowing the construction of a 146-unit apartment complex on property located at 655 S. 88th Street. The developer has been working with MidAmerican on the placement of utilities to serve the development. The developer and MidAmerican have identified a location for electrical equipment that does not interfere with a Des Moines Water Works water main that is located on the west side of 88th/S. 88th Street. The subject Public Utility Easement reflects this location and establishes typical rights and obligations.

Staff Review & Comment: The requirement to provide the document(s) indicated above was reviewed by the City’s Legal Department and found to be necessary based on the proposed impacts of the project. For policy and title purposes, formal acceptance by the City Council is required.

Outstanding Issues: There are no outstanding issues.

Recommendation: Approve and Accept Public Utility Easement.

Lead Staff Member: Lynne Twedt

Approval Meeting Dates:

Plan and Zoning Commission	n/a
City Council	January 3, 2023

Staff Report Reviews:

City Council	<input checked="" type="checkbox"/> Director	<input checked="" type="checkbox"/> Legal Department
	<input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Agenda Acceptance <i>AD</i>

Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a
Date(s) of Mailed Notices	n/a

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning			
Date Reviewed	n/a			
Recommendation	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input type="checkbox"/>

Prepared by: Lynne Twedt, City of West Des Moines Development Services Dept., PO Box 65320, West Des Moines, Iowa
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 PUBLIC UTILITY EASEMENT

WHEREAS, it is the policy of the City of West Des Moines, Iowa to approve and accept all Easements, Agreements and other Legal Documents entered into with the City; and

WHEREAS, the following document(s) has been presented to the City Council for approval;

A Public Utility Easement from Fountain Terrace Apartments, L.L.C. for property legally described on the associated documents; and

WHEREAS, it is in the best interests of the citizens of the City to approve and accept the above-described document(s).

NOW, THEREFORE, the City Council does approve and accept the document(s) described above. Said document(s) shall be filed with the county recorder as appropriate.

PASSED AND ADOPTED on January 3, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan 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 January 3, 2023, by the indicated vote.

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

DATE: January 3, 2023

ITEM: Resolution - Approval and Acceptance of Purchase Agreement and Conveyance of Property Interests for 329 6th Street, West Des Moines

FINANCIAL IMPACT: \$198,000.00 purchase price and additional carrying costs

SYNOPSIS: On December 19, 2022 the City Council directed staff to initiate the purchase by the City of 329 6th Street, West Des Moines, with the intent to move the house and eventually construct a public parking lot on the property. The City and Seller have negotiated a purchase price of \$198,000.00. Subsequent to taking possession, the City will also be responsible for utilities, insurance and maintenance costs until the house is either moved or demolished. Demolition costs are estimated to be \$30,000.00.

Because the City recently became aware of the opportunity to purchase the property, costs to do so were not previously budgeted, requiring a budget amendment to be made.

The attached Resolution approves the Purchase Agreement and conveyance of the property to the City.

OUTSTANDING ISSUES (if any): None.

RECOMMENDATION: Adopt Resolution Approving and Accepting the Purchase Agreement for 329 6th Street and conveyance of property interests to the City of West Des Moines.

Lead Staff Member: Clyde Evans, Community and Economic Development Director

STAFF REVIEWS

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

PUBLICATION(S) (if applicable)

Published In	
Dates(s) Published	

SUBCOMMITTEE REVIEW (if applicable)

Committee	Finance and Administration	
Date Reviewed	November 9 & 23, 2022	
Recommendation	Yes	

RESOLUTION NO. _____

RESOLUTION AUTHORIZING APPROVAL AND ACCEPTANCE OF PURCHASE AGREEMENT AND CONVEYANCE OF PROPERTY INTERESTS FOR 329 6th STREET, WEST DES MOINES

WHEREAS, on December 19, 2022 the City Council of the City of West Des Moines directed City staff to initiate the purchase of 329 6th Street, West Des Moines; and

WHEREAS, the attached Purchase Agreement sets forth the terms and conditions of the purchase of the property by the City; and

WHEREAS, documents conveying the property necessary to complete the transaction have been prepared; and

WHEREAS, it is in the best interest of the City of West Des Moines to approve and accept the Purchase Agreement and conveyance documents.

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

1. The Purchase Agreement and conveyance documents for the property located at 329 6th Street, West Des Moines, Iowa are hereby approved and accepted.
2. The Mayor is authorized to sign all necessary documents for the purchase and conveyance of the property and the City Clerk is directed to attest to the Mayor's signature.
3. The City Attorney is authorized to take all steps necessary and consistent with the Purchase Agreement to acquire the property interests and the Finance Director is authorized to make payment pursuant to the terms and conditions of the Purchase Agreement.
4. The documents shall be filed with the county recorder as appropriate.

PASSED AND ADOPTED this 3rd day of January, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson
City Clerk

Prepared by: R. J. Scieszinski, City Attorney, PO Box 65320, West Des Moines, IA 50265; (515) 222-3614
Return to/Tax Statements: City of West Des Moines City Clerk, PO Box 65320, West Des Moines, IA 50265 (515) 222-3603

TOTAL PURCHASE AGREEMENT

PARCEL NO. 320/04604-000-000
PROJECT NO. _____

COUNTY Polk
PROJECT 6th Street Parking Lots

SELLER: David L. Smuck and Faith Smuck, husband and wife

THIS AGREEMENT is made and entered into this 20th day of December, 2022, by and between SELLER and the City of West Des Moines, Iowa, BUYER.

1. SELLER AGREES to sell and furnish to BUYER a Warranty Deed on form(s) furnished by BUYER and BUYER agrees to buy the following real estate, hereinafter referred to as the premises:

**LOT 17 BLK 19 1ST ADD TO VALLEY JUNCTION, an Official Plat, locally known as
329 6th Street, now included in and forming a part of the
City of West Des Moines, Polk County, Iowa.**

The premises also includes all estates, rights, title and interests, including all easements, and all advertising devices and the right to erect such devices as are located thereon. SELLER ACKNOWLEDGES full settlement and payment from BUYER for all claims per the terms of this agreement and discharges BUYER from liability because of this agreement and the construction of this public improvement project.

2. Possession of the premises is the essence of this agreement and BUYER may enter and assume full use and enjoyment of the premises per the terms of this agreement. SELLER GRANTS BUYER the immediate right to enter the premises for the purpose of gathering survey and soil data.
3. BUYER agrees to pay and SELLER AGREES to grant the right of possession, convey title and surrender physical possession of the premises as shown on or before the dates listed below.

<u>PAYMENT AMOUNT</u>	<u>AGREED PERFORMANCE</u>	<u>DATE OF PERFORMANCE</u>
\$ _____ 0.00	on or after	_____
\$ _____ 0.00	on conveyance of title	_____
\$ _____ 0.00	on surrender of possession	_____
\$ _____ 198,000.00	on possession and conveyance	<u>Within 30 Days of BUYER approval paid at time of closing or as otherwise mutually agreed by the Parties.</u>

TOTAL LUMP SUM: \$198,000.00

DISTRIBUTION: ONE COPY RETURNED TO BUYER AND ONE COPY TO SELLER

4. SELLER WARRANTS that there are no tenants on the premises holding under lease except: _____
5. This agreement shall apply to and bind the legal successors in interest of the SELLER and SELLER AGREES to pay all liens and assessments against the premises, including all taxes and special assessments payable until surrender of possession as required by the Code of Iowa, and agrees to warrant good and sufficient title.
6. BUYER may include mortgagees, lienholders, encumbrancers and taxing authorities as payees on warrants issued in payment of this agreement. SELLER WILL deliver to the BUYER an abstract of title to the premises. SELLER agrees to pay the cost of abstract continuation. SELLER AGREES to provide such documents as may be required by Iowa Land Title Standards to convey merchantable title to the BUYER. SELLER ALSO AGREES to obtain court approval of this agreement, if requested by BUYER, in the event title to the premises becomes an asset of any estate, trust, conservatorship or guardianship. BUYER agrees to pay court approval costs and all other costs necessary to transfer the premises to BUYER, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or signed bills.
7. If SELLER holds title to the premises in joint tenancy with full rights of survivorship and not as tenants in common at the time of this agreement, BUYER will pay any remaining proceeds to the survivor of that joint tenancy and will accept title solely from that survivor, provided the joint tenancy has not been destroyed by operation of law or acts of SELLER.
- 7a. SELLER agrees to execute all conveyance documents prior to closing, which shall be held in escrow pending closing, at which time the documents shall be provided to BUYER.
8. This written agreement constitutes the entire agreement between BUYER and SELLER and there is no agreement to do or not to do any act or deed except as specifically provided for herein.
9. SELLER states and warrants that, to the best of SELLER'S knowledge, there is no burial site, well, solid waste disposal site, hazardous substance or underground storage tank on the premises described and sought herein except: _____
_____.
10. SELLER shall coordinate with BUYER to transfer all utilities to BUYER following closing.

SELLER'S SIGNATURE AND CLAIMANT'S CERTIFICATION Upon due approval and execution by the BUYER, we the undersigned claimants certify the Total Lump Sum payment shown herein is just and unpaid.

X David L. Smuck
David L. Smuck

X _____
Faith Smuck

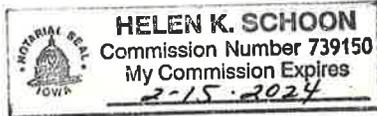
ALL PURPOSE ACKNOWLEDGMENT

STATE OF Iowa }
COUNTY OF Polk } ss:

On this 20th day of December, A.D. 2022, before me, the undersigned, a Notary Public in and for said State, personally appeared David L. Smuck, or to me personally known proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within record and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the record the person(s), or the entity upon behalf of which the person(s) acted, executed the record.

(NOTARY SEAL) Helen K. Schoon (Sign in Ink)
Helen K. Schoon (Print/Type Name)
Notary Public in and for the State of Iowa



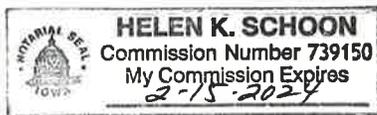
BUYER'S APPROVAL

Clyde Evans Signed By: Clyde Evans, Community and Economic Development Director 12/20/22 (Date)

BUYER'S ACKNOWLEDGMENT

STATE OF IOWA }
COUNTY OF POLK } ss:

On this 20th day of December, 2022, before me, the undersigned, personally appeared Clyde Evans known to me to be an agent of the City of West Des Moines, Iowa and who did say that said record was signed on behalf of City by its authority duly recorded in its minutes, and said agent acknowledged the execution of said record, which signature appears hereon, to be the voluntary act and deed of the City and by it voluntarily executed.



Helen K. Schoon
Notary Public in and for the State of Iowa

CAPACITY CLAIMED BY SIGNER:

INDIVIDUAL
 CORPORATE
Title(s) of Corporate Officer(s):

 Corporate Seal is affixed
 No Corporate Seal procured
 PARTNER(s): Limited Partnership
 General Partnership
 ATTORNEY-IN-FACT
 EXECUTOR(s) or TRUSTEE(s)
 GUARDIAN(s) or
 CONSERVATOR(s)
 OTHER: _____
SIGNER IS REPRESENTING:
List name(s) of person(s) or entity(ies)
Rasmussen & Sons Bicycle Shop, Inc.

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

ITEM: Approval of a Revised Committee Assignment

DATE: January 3, 2023

FINANCIAL IMPACT: None

BACKGROUND:

Mayor Trimble requests the highlighted individual be approved for appointment to a metro/regional committee.

METRO/REGIONAL COMMITTEES	Member(s)	Alternate(s)
WRA Technical Committee	Brian Hemesath	Nick Rentel

OUTSTANDING ISSUES (if any): None

RECOMMENDATION: Approval of a revised committee assignment

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
2022 – 2023 MAYOR/COUNCIL/STAFF COMMITTEE ASSIGNMENTS
(Presented at January 3, 2023 City Council meeting)

	Member(s)	Alternate(s)
Mayor Pro-Tem	Matthew McKinney (2023)	
COUNCIL SUBCOMMITTEES		
Community Compliance Subcommittee	Doug Loots, Chair Kevin Trevillyan	Greg Hudson
Finance & Administration Subcommittee	Greg Hudson, Chair Doug Loots	Matthew McKinney
Planning and Development Subcommittee	Matthew McKinney, Chair Renee Hardman	Kevin Trevillyan
Public Safety Subcommittee	Renee Hardman, Chair Greg Hudson	Doug Loots
Public Services Subcommittee	Kevin Trevillyan, Chair Matthew McKinney	Renee Hardman
LIAISONS		
Bicycle Advisory Commission	Matthew McKinney	Greg Hudson
Human Rights Commission	Renee Hardman	Doug Loots
Human Services Advisory Board	Doug Loots	Kevin Trevillyan
Library Board of Trustees	Renee Hardman	Greg Hudson
Parks & Recreation Advisory Board	Greg Hudson	Matthew McKinney
Public Arts Advisory Commission	Kevin Trevillyan	Doug Loots
WDM Water Works Board of Trustees	Tom Hadden	Matthew McKinney
ADMINISTRATIVE/OTHER COMMITTEES		
City/School Advisory Committee	Greg Hudson Renee Hardman	Russ Trimble
Iowa EMS Alliance Advisory Board	Tom Hadden Tim Stiles Fr. Michael Hess	Russ Trimble
Legislative Committee (including Metro Advisory Council Legislative Action Committee)	Kevin Trevillyan Matthew McKinney	Russ Trimble
Valley Junction Events Advisory Committee	Kevin Trevillyan, Chair Renee Hardman	Citizens: Nicole Engler-Selser, Isa O'Hara and Victoria Veiock: HVJF; Pamela Young, Ken Raush, Bobbie Bishop, Renae Johanningmeier
Valley Junction Foundation	Renee Hardman Vacant	Kevin Trevillyan
WDM Chamber Board	Renee Hardman	Greg Hudson

	Member(s)	Alternate(s)
METRO/REGIONAL COMMITTEES		
BRAVO	Matthew McKinney	Doug Loots
Central Iowa Regional Housing Authority	Renee Hardman	Christine Gordon
Convention & Visitors Bureau	Greg Hudson	Kevin Trevillyan
Dallas County Local Housing Trust Fund	Clyde Evans	Russ Trimble
Dallas County E911 Service Board	Rob Dehnert	Dave Edgar
DART Board	Russ Trimble	Tom Hadden
Greater Dallas County Development Alliance	Clyde Evans	Russ Trimble
Homeless Coordinating Council	Russ Trimble Greg Hudson	Renee Hardman
Madison County Emergency Management Commission	Russ Trimble Craig Leu	Mayor Pro-Tem Dave Edgar
Metro Advisory Council	Russ Trimble Matthew McKinney	Renee Hardman Greg Hudson
Metro Waste Authority	Doug Loots	Bret Hodne
Metropolitan Coalition	Russ Trimble Tom Hadden	Mayor Pro-Tem Tim Stiles
Mid-Iowa Planning Alliance for Community Development	Clyde Evans	N/A
MPO Bicycle-Pedestrian Roundtable	Marco Alvarez	
MPO Policy Committee	Matthew McKinney Tom Hadden	Jamie Letzring Laura Reveles
MPO Technical Committee	Karen Marren Eric Petersen	Kara Tragesser Brian Hemesath
MPO Traffic Management Advisory Committee	Jody Hayes Aubyn Giampolo Craig Leu Eric Petersen	Jim Dickinson Clyde Evans
MPO Transportation Advisory Group	Eric Petersen	
Polk County E911 Service Board	Rob Dehnert	Darin Riney Chris Scott
Polk and Dallas County Emergency Management Commissions	Russ Trimble Craig Leu	Mayor Pro-Tem Ryan Hall
Polk County Emergency Management Commission Executive Committee	Chris Scott	Jody Hayes
R. E. A. P.	Marco Alvarez	Vacant
Warren County E911 Service Board	Greg Jones	Rob Dehnert
Warren County Economic Develop. Corp.	Brad Munford	Clyde Evans
Warren County Emergency Management Commission	Russ Trimble Craig Leu	Mayor Pro-Tem Greg Jones
WRA Board	Tom Hadden Jody E. Smith	Kevin Trevillyan Tim Stiles
WRA Technical Committee	Brian Hemesath	Nick Rentel

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

ITEM: Approval of Proclamation
Martin Luther King Jr. Day
January 16, 2023

DATE: January 3, 2023

FINANCIAL IMPACT: None

BACKGROUND:

Dr. Martin Luther King Jr. devoted his life to advancing equality, social justice, and opportunity for all, and challenged all Americans to participate in the never-ending work of building a more perfect union.

The West Des Moines Human Rights Commission has requested the City adopt a proclamation to recognize Martin Luther King Jr. Day, which will be presented during the Martin Luther King Jr. Day events hosted by the commission on Monday, January 16th.

OUTSTANDING ISSUES (if any): None

RECOMMENDATION:

Approval of Proclamation recognizing Martin Luther King Jr. Day

Lead Staff Member: Ryan T. Jacobson, City Clerk

STAFF REVIEWS

Department Director	Ryan T. Jacobson, City Clerk
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

Proclamation
Martin Luther King Jr. Day
January 16, 2023

Whereas, Dr. Martin Luther King Jr. devoted his life to advancing equity, social justice, and opportunity for all, and challenged all to participate in the never-ending work of building a more perfect union; and

Whereas, Dr. King's teachings can continue to guide and inspire us in addressing challenges in our communities; and

Whereas, we are forever indebted to him for his sacrifice and therefore it is proper and fitting to highlight the life of a man who has had such a profound impact on changing not just the nation but our entire world; and

Whereas, the King Holiday and Service Act, enacted in 1994, designated the King Holiday as a National Day of Volunteer Service; and

Whereas, since 1994 millions of Americans have been inspired by the life and work of Dr. Martin Luther King Jr. to serve their neighbors and communities; and

Whereas, serving on the King Holiday is an appropriate way to honor Dr. King, meet local and national needs, bring our residents together, and strengthen our community and nation; and

Whereas, the King Day of Service is the only federal holiday commemorated as a National Day of Service, and offers an opportunity for individuals to give back to their communities throughout the year; and

Whereas, each of us can and must contribute to making our communities better with increased access and opportunity for all our resident; and

Whereas, the residents of West Des Moines, Iowa have the opportunity to make it a day on, not a day off, by volunteering with Meals from the Heartland to help feed our most food insecure residents.

NOW, THEREFORE, I, Russ Trimble, Mayor of the City of West Des Moines, Iowa, do hereby proclaim January 16, 2023

Martin Luther King Jr. Day

as a Day of Service in West Des Moines, and call upon the people of the community to pay tribute to the life and works of Dr. Martin Luther King Jr. today and throughout the year.

Signed this 3rd day of January, 2023.

ATTEST:

Russ Trimble, Mayor

Ryan T. Jacobson, City Clerk

No Change from Previous Reading**CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION**Meeting Date: January 3, 2023

ITEM: Jordan West, Southwest corner of EP True Parkway and Jordan Creek Parkway - Amend the Jordan West Specific Plan Ordinance to modify wall signage regulations for tenant spaces without public street frontage – JDS Real Estate Investments, L.L.C. – ZC-005862-2022

ORDINANCE: Approval of Second Reading, Waive Third Reading and adopt Amendment to Specific Plan

Background: Alan VanGundy with Simonson & Associates Architects, on behalf of the applicant and property owner, JDS Real Estate Investments, L.L.C., requests approval of an amendment to the Jordan West Specific Plan (ZCSP), governing development of that ground generally located at the southwest corner of EP True Parkway and Jordan Creek Parkway. The applicant would like to modify the regulation of wall signage within the Specific Plan Ordinance to permit any individual tenant space within a multi-tenant building the right to wall signage regardless of whether their physical space has public street frontage.

Staff Review & Comment:

- *Financial Impact:* No financial impact to the City from this request.
- *Change to the Originally Intended Development:* This proposed amendment to the wall signage regulations within the Specific Plan Ordinance is intended to permit any individual tenant space the right to wall signage regardless of whether its physical space has public street frontage. The Jordan West PUD is currently written such that this wouldn't be allowed. This modification will allow tenants to have wall signage even if they don't have store frontage onto a public street. This amendment is being triggered by the leasing of a tenant space that has no public street frontage onto Jordan Creek Parkway. The adjacent tenant space is 'L' shaped and occupies the rear of the tenant space along Jordan Creek Parkway thus negating any street frontage. This is an unusual division of interior tenant space but was done so by the building owner to accommodate a tenant that needed more space than one space offered but not as much as taking two tenant spaces.
- *History:* The original Jordan West Specific Plan Ordinance was adopted in May of 2007, with an amendment in 2015 to change from an office development to multi-family residential and commercial development. And in 2019, the southern portion of PUD Parcel 7 was changed from Support Commercial (SC) to Regional Commercial (RC) to allow for construction of an indoor family entertainment venue (Spare Time).
- *Traffic Analysis Findings:* No traffic study was completed for this request.

Outstanding Issues: There are no outstanding issues.

Planning and Zoning Commission Action:

Date: December 12, 2022

Vote: 6-0 for approval, with Commissioner Conlin absent
 Recommendation: Approve the amendment to the Jordan West Specific Plan (ZCSP)

City Council First Reading:

Date: December 19, 2022
 Vote: 5-0 for approval

Recommendation: Approve the amendment to the Jordan West Specific Plan (ZCSP), subject to the applicant meeting all City Code requirements.

Lead Staff Member: Brian Portz

Approval Meeting Dates:

Planning and Zoning Commission	December 12, 2022
City Council: First Reading	December 19, 2022
City Council: Second Reading, Waive Third Reading & Adopt	January 3, 2023

Staff Report Reviews:

Planning & Zoning Commission	<input type="checkbox"/> Development Coordinator (or) <input checked="" type="checkbox"/> Director	<input checked="" type="checkbox"/> Legal Department
City Council	<input type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Legal Department <input checked="" type="checkbox"/> Agenda Acceptance <i>AP</i>

Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	12/5/22
Date(s) of Mailed Notices	12/1/22

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning
Date Reviewed	12/5/22
Recommendation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Split

Location Map



A RESOLUTION OF THE PLANNING AND ZONING COMMISSION
NO. PZC-22-112

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant and property owner, JDS Real Estate Investments, L.L.C., requests approval of a Rezoning request to amend the Jordan West Specific Plan (ZCSP) Ordinance to modify wall signage regulations for tenant spaces without public street frontage on property as indicated on the Location Map that is included in the staff report; and

WHEREAS, the rezoning request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

NOW, THEREFORE, the Planning and Zoning Commission of the City of West Des Moines recommends that City Council approve the Rezoning Request to amend the Jordan West Specific Plan (ZCSP) Ordinance (ZC-005862-2022), subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

PASSED AND ADOPTED on December 12, 2022.


Jennifer Drake, Chair
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 12, 2022, by the following vote:

AYES: Costa, Crowley, Davis, Drake, Hatfield, Shaw

NAYS:

ABSTENTIONS:

ABSENT: Conlin

ATTEST: 
Recording Secretary

Prepared by: Brian Portz, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 50265-0320 515-222-3620

When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, AND ORDINANCES #1749, #2097 AND #2384 PERTAINING TO PLANNED UNIT DEVELOPMENT (PUD) #87: JORDAN WEST, DISTRICT REGULATIONS AND GUIDELINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. Amendment. Ordinances #1749, #2097, and #2384, pertaining to the Jordan West Specific Plan (ZCSP), Section 087-06, *Signage*, Subsection B, *Wall Signage*, is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted portion of code not reflected below shall remain as is.

B. Wall Signage: The regulations and provisions set forth in title 9, chapter 18, "Signs", of the city code for the designated zoning classification for the respective parcel shall govern sign design and placement with the exception of the following: Parcels 5 and 6 ***and any individual tenant space within Parcel 4 that does not have public street frontage*** shall be allowed one square foot of wall signage per linear foot of tenant frontage which contains the building's primary public entrance. No wall signage shall be allowed on any wall facing single-family residential properties. ~~Wall signage for a tenant in a multi-tenant building shall be located on the wall area of the tenant's location within the building.~~ ***Tenant signage shall generally be placed on the wall area of the tenant's location within the building, however, the management of a multi-tenant building may allow a tenant to place a sign on another wall area of the building so long as the sign allocations for that wall will not be exceeded and the total allowed sign area for the building based upon the earned sign formula contained within will not be exceeded (i.e. 1 sf per linear foot for the building frontage facing the public street and 1/2 sf per linear foot of building frontage containing the majority of the primary public entrances).***

SECTION 2. Repealer. All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. Savings Clause. If any section, provision, sentence, clause, phrase or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the

validity of the Ordinance as a whole or any provision, section, subsection, sentence, clause, phrase or part hereof not adjudged invalid or unconstitutional.

SECTION 4. 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.

SECTION 5. Other Remedies. In addition to the provisions set out in 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 and approved by the City Council on January 3, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the City Council for the City of West Des Moines, Iowa, on _____, 2023, and was published in the Des Moines Register on _____, 2023.

NO CHANGE FROM PREVIOUS READING

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

Date: January 3, 2023

ITEM: Amendment to City Code – Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks), Subsection A (Responsibility of Property Owner) to clarify the responsibility of the property owner which abuts public right-of-way.

Ordinance: Approval of Second Reading, Waiver Third Reading and Adopt Ordinance Amendment

FINANCIAL IMPACT: Undetermined.

BACKGROUND: Currently, the City Code defines responsibilities of the abutting property owner to maintain all parking terrace and sidewalks. Staff is initiating an amendment to the chapter and section identified below in Title 7 (Public Ways and Property) to clarify the responsibility of the property owner which abuts public right-of-way.

Specifically, the following changes are proposed with this request:

- Title 7: *Public Ways and Property*
 - Chapter 1: *Streets, Sidewalks and Alleys*, Section 6 *Maintenance of Parking Terrace and Sidewalks*, Subsection A *Responsibility of Property Owner* to clarify the responsibility of the property owner which abuts public right-of-way.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: City Staff recommends the City Council approve the second reading, waive the third reading, and adopt the amendment to City Code, Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks), Subsection A (Responsibility of Property Owner).

Lead Staff Member: Jessica D. Grove, Assistant City Attorney

STAFF REVIEWS:

Department Director	Richard Scieszinski, City Attorney
Appropriations/Finance	Tim Stiles, Finance Director
Legal	Richard Scieszinski, City Attorney
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	
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"/>

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, BY AMENDING TITLE 7, (PUBLIC WAYS AND PROPERTY), CHAPTER 1, (STREETS, SIDEWALKS AND ALLEYS).

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Title 7 (Public Ways and Property), Chapter 1 (Streets, Sidewalks and Alleys), Section 6 (Maintenance of Parking Terrace and Sidewalks), Subsection A (Responsibility of Property Owner) is hereby amended by deleting the highlighted strike-through text and inserting the text in bold italics. All other items in current adopted portion of code not reflected below shall remain as is.

A. Responsibility Of Property Owner: It shall be the responsibility of the ~~abutting~~ property owner *which abuts public right-of-way, regardless of the number of parcels which make up the right-of-way*, to maintain all property outside the lot and property lines and inside the curb lines upon the public streets, except that the abutting property owner shall not be required to remove diseased trees or dead wood on the publicly owned property or right of way.

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 _____, 2023, and approved this _____ day of _____, 2023.

Russ Trimble, 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 _____, 2023, and was published in the Des Moines Register on _____, 2023.

Ryan T. Jacobson, City Clerk

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: January 3, 2023

ITEM: Khatib East Property, Southeast corner of Mills Civic Parkway (335th Street) and S. Grand Prairie Parkway – Amend Comprehensive Plan Land Use Map to establish Multi-Use Low land use – Accurate Land Company, Inc. – CPA-005795-2022

RESOLUTION: Approval / Denial of Comprehensive Plan Land Use Map Amendment

Background: Dean Roghair, Civil Design Advantage, on behalf of the applicant, Accurate Land Company, Inc., with permission from the property owners, Jamal and Tamara Khatib, requests approval of a Comprehensive Plan Land Use Map Amendment on ground generally located at the southeast corner of Mills Civic Parkway (335th Street) and S. Grand Prairie Parkway. This property is outside of, but immediately adjacent to, the corporate limits and is undeveloped.

Specifically, the following Land Use changes are proposed with this request:

- Amend the Comprehensive Plan Land Use Map for approximately 7.8 acres to change from Mixed Residential (MR) to Multi-Use Low (MUL) land use.

Staff Review & Comment:

- **Anticipated Development:** The requested action would allow a neighborhood commercial-like development on the property if it were to be annexed into the City. The Pre-Application for the property indicated that the balance of the property being considered by Accurate Land Company would be developed with 139 footprint lots for detached townhomes.
- **Current Land Use designation:** The recently adopted Comprehensive Plan for undeveloped areas identifies all of the property bordered by Mills Civic Parkway, S. Grand Prairie Parkway, Stagecoach Drive, and the property adjacent to the east as Mixed Residential.
- **Proposed Land Use designation:** The applicant requests that approximately 7.8 acres of property in the northwest corner of the parcel described above be changed to Neighborhood Commercial (Land Use Classification from 2010 Comprehensive Plan). After talking with the applicant, staff determined that the uses discussed, such as a convenience store, service-oriented and other retail uses, offices, and restaurants, were conducive to the Neighborhood Center Place Type. This place type is allowed in the Multi-Use Low land use classification (recently adopted Undeveloped Areas Land Use Classifications). *Staff recommends denial of the land use change for the reasons as noted in the Staff Rationale for Denying the Land Use Change Request.*
- **Development & Planning Subcommittee:**
 - **September 6, 2022, Meeting Discussion:** Staff explained that the concept for commercial development is not supported by staff due to sufficient planned multi-use (commercial) areas in close proximity: at the NE corner of Mills Civic and S. Grand Prairie Parkway, as well as to the north by I-80 (approximately 1,200 feet from subject property) and across from the southwest corner of this proposed commercial area to the south at the northwest corner of Stagecoach Drive and S.

Grand Prairie. The already planned commercial areas provide for the walkability component that is a key element of the new comprehensive plan. Staff also pointed out that although at the intersection of two major arterial roadways, access to a commercial use at this corner is a concern due to the significant changes in topography of the area and necessary full access spacing from the Mills Civic and S. Grand Prairie Parkway intersection placing the full access at the south end of the development immediately adjacent to the residential which could encourage commercial traffic through the surrounding residential neighborhoods.

The Applicant stated that they felt it was an appropriate location for commercial development rather than residential as it was located against two major arterials with increasingly heavy traffic. They also believe the proposed commercial uses would support the residential area to be developed nearby and noted that the higher revenue generated by the commercial development would offset the higher cost anticipated for grading and working with topography in the area.

Staff noted that residential land uses are able to accommodate existing topography easier and the cost of the grading might not need to be offset with a residential land use. Also, Staff does not recommend putting commercial use on every corner. The City needs to be able to provide all land uses, and there are other commercial areas on both ends of this property. At a certain point the City needs to make good decisions on how much area is allocated for each use.

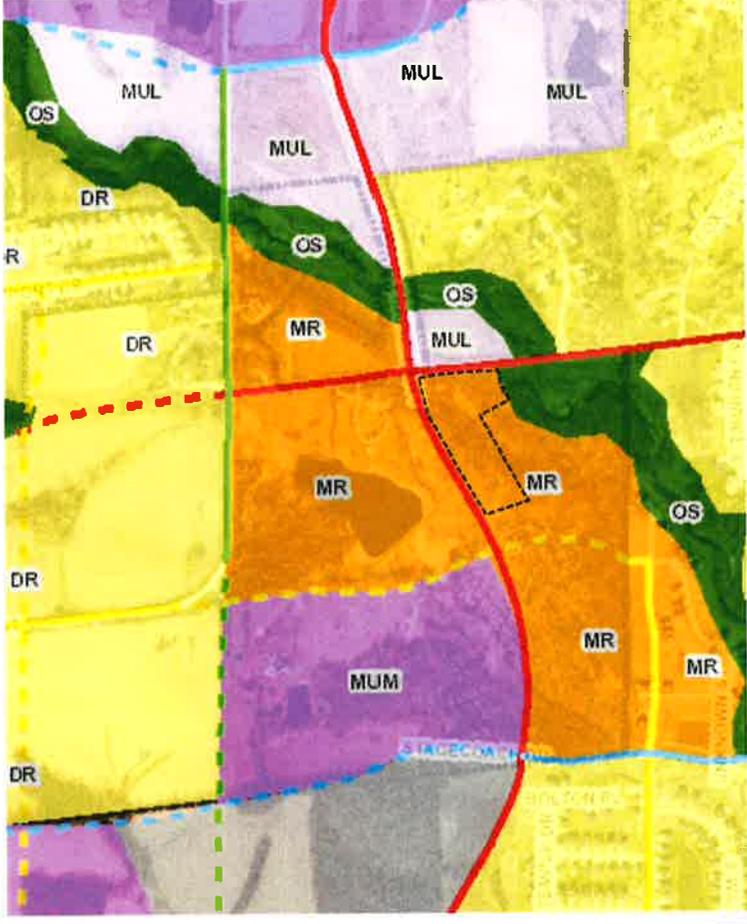
After further discussion, the Council Subcommittee Members indicated they were supportive of commercial land use proposed for this location.

- Traffic Analysis Findings: With the proposed commercial and residential land uses, the site is expected to generate more traffic than previously estimated. The following discussion of access is excerpted from the traffic study and referenced locations shown on the Applicant's Concept of Land Use and Access included below in the staff report.
 - Site access – Mills Civic Parkway: a conceptual access is shown on Mills Civic Parkway approximately 480' east of S. Grand Prairie Parkway and approximately 500' west of Waterbury Circle. This spacing is adequate, as it must not be located no closer than 475' from S. Grand Prairie Parkway and no closer than 350' from Waterbury Circle. This access may be able to operate as a full access in the interim, but it will ultimately need to be modified to a right-in/right-out (RI/RO) access.
 - Site access – S. Grand Prairie Parkway North Access: Two conceptual accesses are shown on S. Grand Prairie Parkway. The northern access is shown approximately 500' south of Mills Civic Parkway and approximately 600' north of the proposed East/West Minor Collector Street which connects to the Courtyards at King's Landing development. This spacing is adequate, but it must not shift any closer than 500' to Mills Civic Parkway. Sliding the access south is possible, but no closer than 350' from the East/West Minor Collector Street. This access may be able to operate as a full access in the interim, but it will ultimately need to be modified to a RI/RO access.
 - Site access – S. Grand Prairie Parkway South Access: The southern access is shown approximately 780' south of the East/West Minor Collector Street (the noted private street access) and approximately 675' north of Stagecoach Drive. This

spacing is adequate, but it must not shift any farther north unless there is adequate intersection sight distance with the full-build width of S. Grand Prairie Parkway (assuming the access continues to be a full access at full-build). It should also not shift any farther south in order to allow for adequate northbound left-turn storage at the access and southbound left-turn storage at Stagecoach Drive. This intersection should operate as stop-controlled, with S. Grand Prairie Parkway as the designated through street. Signalizing the intersection is not recommended due to the spacing from planned traffic signals to the north and south. If crashes or other factors indicate a need in the future, modifying the intersection to a limited-movement access such as a RI/RO may be needed. If that occurs, traffic turning left at this intersection would then need to utilize the future traffic signal at S. Grand Prairie Parkway & East/West Minor Collector Street.

- Site access – East/West Minor Collector Street: The first commercial access on the East/West Minor Collector Street east of S. Grand Prairie Parkway must be at least 300' from S. Grand Prairie Parkway to provide westbound left-turn storage at S. Grand Prairie Parkway and eastbound left-turn storage at the access. No residential driveways should be located between S. Grand Prairie Parkway and this commercial access. To the east of the commercial access, intersections should be lined up or spaced at least 100' apart.

Staff Rationale for Recommending Denying the Land Use Change Request

Proposed Land Use Classification(s)	Color	Approx. # of Acres	
Multi Use Low	Light Purple	7.8	
<p>Rationale for denial:</p> <ol style="list-style-type: none"> 1. Walkability: there are two multi-use land use areas within walking distance of the residential land use on the property. Walking distance is acceptable if the multi-use area is within ¼ to ½ mile of the residential developments. 2. Number of Commercial opportunities in the area. As noted, there are two areas of multi-use in the area; one is a multi-use low (MUL) immediately to the north and one is a multi-use medium (MUM) (the darker purple area) essentially kitty-corner at the south end. Additionally, the city designated a large area of MUM and MUL along I-80 that will allow the same uses. Staff feels that there is sufficient commercial in the area to accommodate the needs of the residential land use in the area and that the addition of another MUL area is not necessary to serve the areas. The multi-use areas to the north and south will provide the commercial uses and meet the needs of the surrounding residential. 3. Comprehensive Plan Action Item LU1c - Locate residential areas to capitalize on natural amenities. Staff feels that this action item in the Comprehensive Plan is applicable in this area. There is a creek to the east that is anticipated to be dedicated as greenway along both sides of the creek. Greenways are good habitat and may have trails for residents to enjoy and are most effective when part of residential development. There is an anticipated trail on the south side of Mills Civic Parkway which staff feels would be more comfortable for users if they didn't have to go through commercial development to get to the trail. 4. Comprehensive Plan Action Item CD2a - Support the preservation and protection of trees, natural vegetation, wetlands, stream corridors and environmentally sensitive areas. Staff feels that the existing vegetation of the property and the challenging terrain is more conducive to residential development, rather than the clear cutting and flattening of the ground required by most commercial areas. Topography was a topic of discussion at the Subcommittee meeting in September 2022, where staff discussed the preservation of the 			

topography as much as possible in the area requested to be MUL. The applicant noted that the topography was a challenge, but it could be graded out to flatten pads for commercial development. Staff noted, that with the development of residential, there still would be grading for dwellings, but there would be more flexibility in protecting existing landscape and avoiding areas that would need more grading than others.

5. **Traffic and Access:** As noted earlier in the staff report, a traffic study was conducted for this proposed land use change which identified anticipated traffic generation and spells out access points and separation distances. It was noted that the only full access movement into the proposed MUL area is at the southern end of the proposed area at a stop-controlled point with the proposed east/west collector road as shown on the applicant's concept which is included in the staff report. All other allowed access points are likely to be right-in and right-out with no opportunity to turn left in and out of the development at these locations. For example, that means that traffic coming from the east on Mills Civic Parkway (335th Street) and wanting to get into a commercial center has to make a left turn onto S. Grand Prairie Parkway and make its way south onto the east/west collector. The east/west collector has not been designed or approved for the location indicated on the concept plan.

This situation would occur with residential development as well; staff feels that residential development is more flexible to accommodate access restrictions. Keeping the whole property for residential also eliminates commercial traffic traveling through residential development as it seeks out better access points.

Outstanding Issues: There are no outstanding issues.

Planning and Zoning Commission Action:

Date: December 27, 2022

Vote: 7-0, for Approval

Recommendation: Approve the Comprehensive Plan Land Use Amendment request

Planning & Zoning Commission Discussion: Dean Roghair reviewed the request with the Plan and Zoning Commission to change the land use designation of the property. He noted staff's rationale for denial and rebutted the rationale items.

Staff reviewed the rationale and specifically noted the access points, the amount of commercial in the area and restated their recommendation for denial.

Planning and Zoning Commission Recommendation: Approve the Comprehensive Plan Land Use Map Amendment.

Lead Staff Member: Kara Tragesser

Approval Meeting Dates:

Planning and Zoning Commission	December 27, 2022
City Council	

Staff Report Reviews:

Planning & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator (or) <input type="checkbox"/> Director	<input type="checkbox"/> Legal Department
City Council	<input checked="" type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Legal Department <input type="checkbox"/> Agenda Acceptance

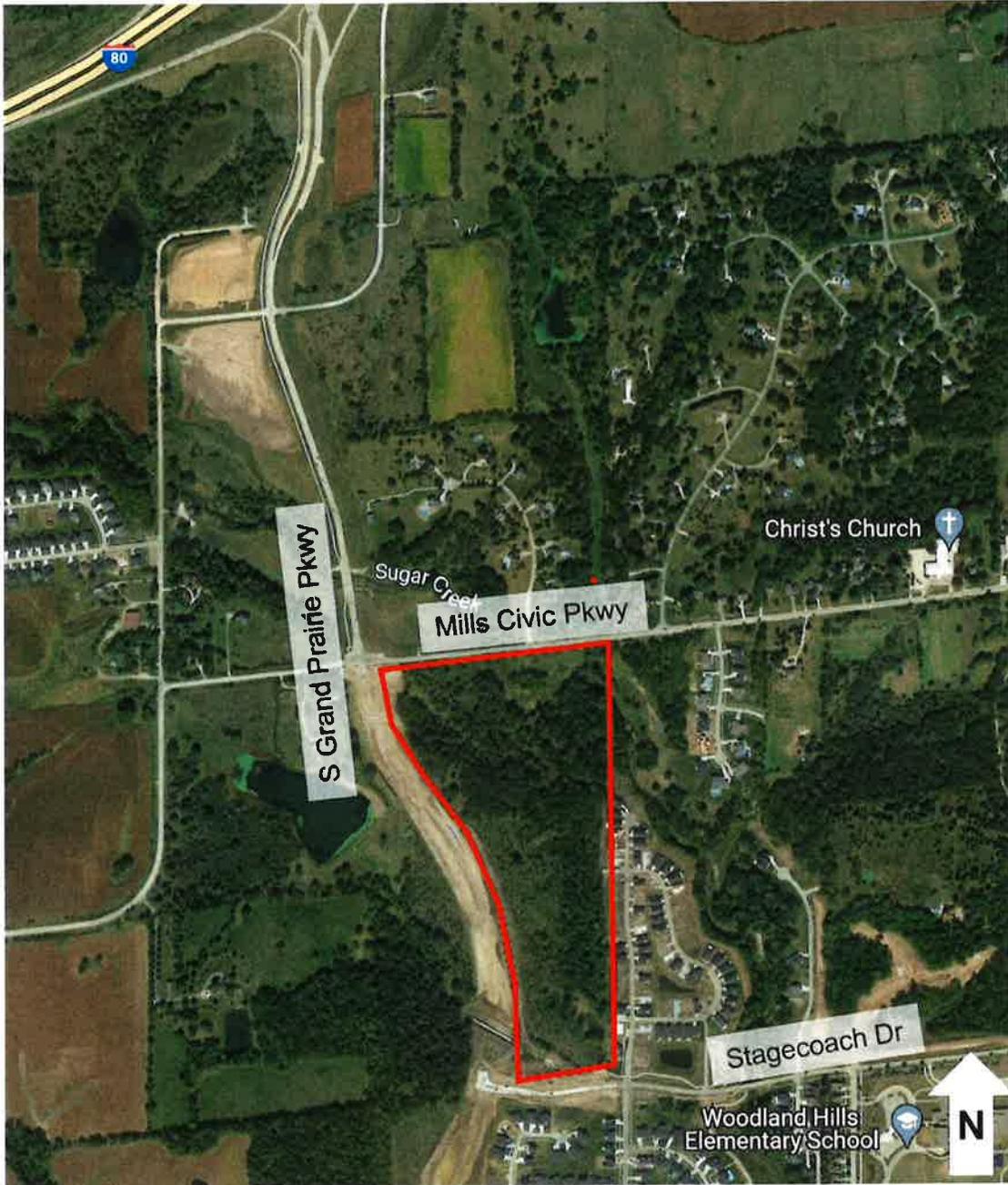
Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	12/16/22
Date(s) of Mailed Notices	12/15/22

Council Subcommittee Review (if applicable)

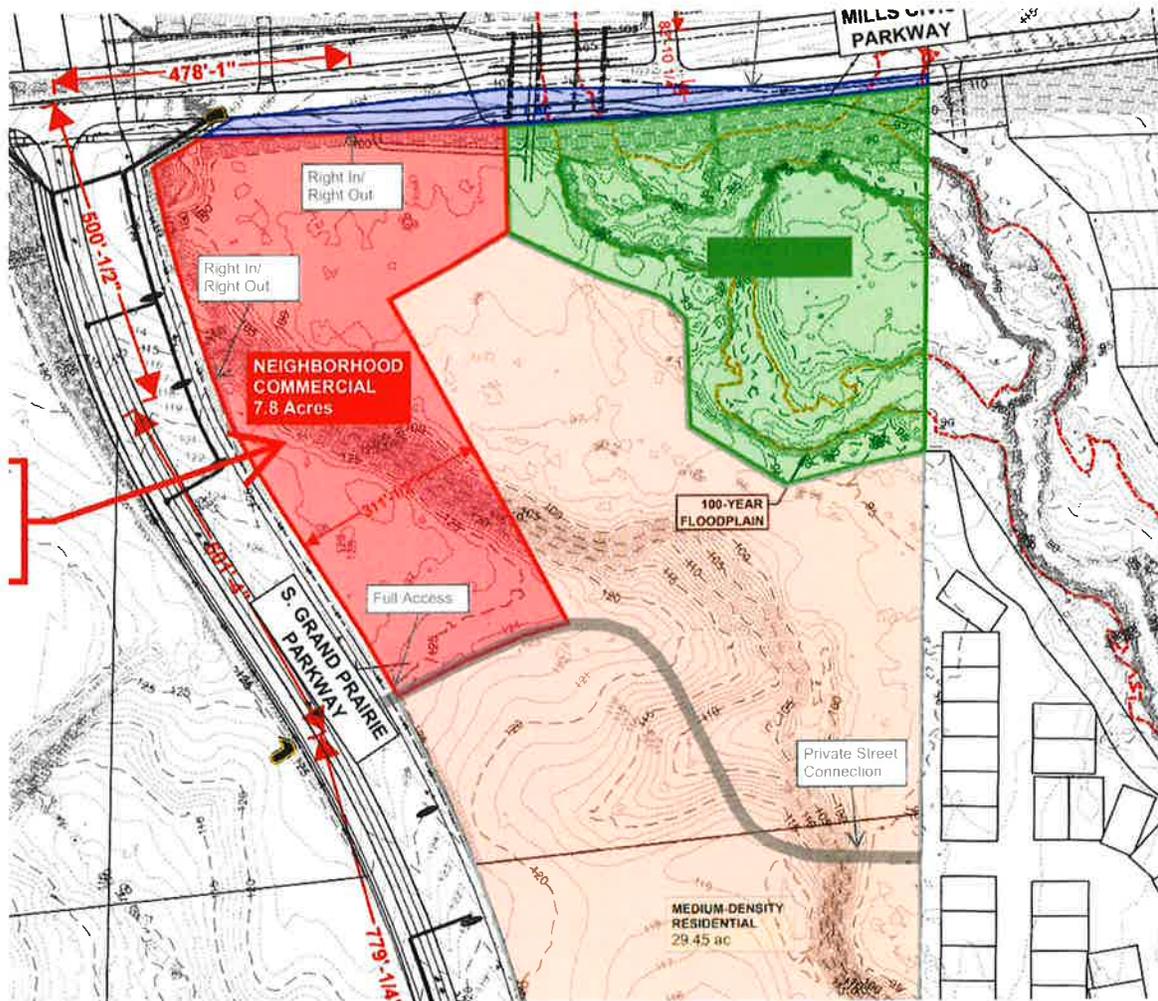
Subcommittee	Development & Planning
Date Reviewed	9/6/2022 and 11/21/2022
Recommendation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Split

Location Map



Applicant's Concept Drawing of Land Use and Accesses

Note: the red area notated by the text "Neighborhood Commercial" is the area proposed to be changed to Multi-Use Low land use. The greenbelt/park in green is not part of the request. The peachy-pink area already has a land use designation of Mixed Residential and also is not part of the request. The private street connection is conceptual only and has not been approved or recommended for approval.



Land Use Assignment Considerations/Criteria
(Excerpt from 2022 Comprehensive Plan)

Though certainly not the only possible future, the arrangement of land uses within the undeveloped areas reflects the goals and strategies provided in the Comprehensive Plan, basic rules of good planning, and the best understanding of existing environmental conditions and future conditions as related to roads and utility infrastructure.

- a. Land Context: (Environmentally Sensitive Areas)
 - i. Steep slopes (smaller footprint building types can be accommodated on steeper slopes)
 - ii. Drainage and Flood Hazard
 - iii. Tree canopy
- b. Streets as boundaries between different intensity land use classifications
- c. Street classification and access consideration for higher intensity classifications
- d. Walkability (½ and ¼ mile buffer areas) from non-residential land uses
- e. Community Facilities/Schools should be surrounded by residential
- f. Detached Residential (DR) should have nearby access to parks and open spaces, as well as nearby neighborhood scale retail and services.
- g. Mixed Residential (MR) land use areas are an appropriate transition use between the detached residential land use and non-residential use designations.
- h. Mixed Residential (MR) land use will be adjacent to or surrounding areas of multi-use to provide the roof tops needed to support retail, service and office uses and provide walkability from the residential neighborhoods to daily needs and support services.
- i. The Multi Use Low (MUL) land use classification is used to either provide areas for commercial nodes surrounded by residential land use areas or as a transition from higher intensity multi-use areas to residential neighborhoods.
- j. Multi Use Low (MUL) land uses should be located for necessary auto access off of collectors and local streets.
- k. Multi Use Medium (MUM) land use will provide larger commercial corridors or activity areas surrounded by residential land use areas or as a transition from higher intense classifications.
- l. The Multi Use Medium (MUM) classification is typically used as a transition between high intensity multi use and low intensity multi use areas or residential classifications. And would typically be buffered to any surrounding detached residential land use.
- m. Multi Use High (MUH) land use should be provided as either the core of a larger/urban scale activity center that draws from the broader region or as an auto oriented service and retail node located at an interchange for interstate and highway road classifications.
- n. Multi Use High (MUH) land use shall be located with service from highways and major arterials.
- o. Multi Use High (MUH) shall be located on one side of an interstate or highway rather than straddling major roadways to allow for interior walkability.
- p. Multi Use High (MUH) and Industrial High (IH) should not be adjacent to Single Family Detached.
- q. Due to the potential for truck traffic, Industrial Low (IL) land use areas are auto oriented and should be located along collector or higher classification of roadways.
- r. With large amounts of truck traffic Industrial High (IH) land use areas are auto oriented and should be located along major collector or arterial roadways.

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION

NO. PZC-22-116

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, Accurate Land Development, Inc., with permission from the property owners Jamal and Tamara Khatib, requests approval for a Comprehensive Plan Land Use Map Amendment (CPA-005795-2022) for property generally located at the southeast corner of Mills Civic Parkway (335th Street) and Grand S. Grand Prairie Parkway as depicted on the Comprehensive Plan Land Use Map Change Illustration included in the staff report to change the land use designation as follows:

- Amend the Comprehensive Plan Land Use Map for the approximately 7.8 acres located at the southeast corner of Mills Civic Parkway and S Grand Prairie Parkway to change from Mixed Residential (MR) to Multi-Use Low (MUL) land use.

WHEREAS, the comprehensive plan amendment complies with the applicable provisions of Iowa Code Chapter 414 and City Code.

NOW, THEREFORE, the Planning and Zoning Commission of the City of West Des Moines recommends that City Council _____ (approve or deny) the Comprehensive Plan Land Use Map Amendment, (CPA-005795-2022).

PASSED AND ADOPTED on December 27, 2022.


Jennifer Drake, Chair
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 27, 2022, by the following vote:

AYES: *CONLIP, COSTA, CROWLEY, DAVIS, DRAKE, HATFIELD, SHAW*
NAYS:
ABSTENTIONS:
ABSENT:

ATTEST:


Recording Secretary

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 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

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, Accurate Land Development, Inc., with permission from the property owners Jamal and Tamara Khatib, requests approval of a Comprehensive Plan Land Use Map Amendment to change the land use designation from Mixed Residential (MR) to Mixed Use Low (MUL) on the 7.8 acres at the southeast corner of Mills Civic Parkway (335th Street) and S. Grand Prairie Parkway and as indicated on the attached Comprehensive Plan Land Use Map Change Illustration; and

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; and

WHEREAS, the Comprehensive Plan Land Use Map Amendment complies with applicable provisions of Iowa Code Chapter 414 and City Code; and

WHEREAS, on December 27, 2022, the Planning and Zoning Commission did recommend to the City Council, by a 7-0 vote, for approval of the Comprehensive Plan Land Use Map Amendment; and

WHEREAS, on this day this City Council held a duly noticed Public Hearing to consider the application for Comprehensive Plan Land Use Map Amendment.

NOW, THEREFORE, The City Council hereby _____ (*approves or denies*) the Comprehensive Plan Land Use Map Amendment (CPA-005795-2022) as shown on attached Comprehensive Plan Land Use Map Change Illustration, subject to compliance with all the conditions in the staff report, dated January 3, 2023, including conditions added at the meeting, and attached hereto as Exhibit "A". Violation(s) of any such condition(s) shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED on **January 3, 2023**.

Russ Trimble, Mayor

ATTEST:

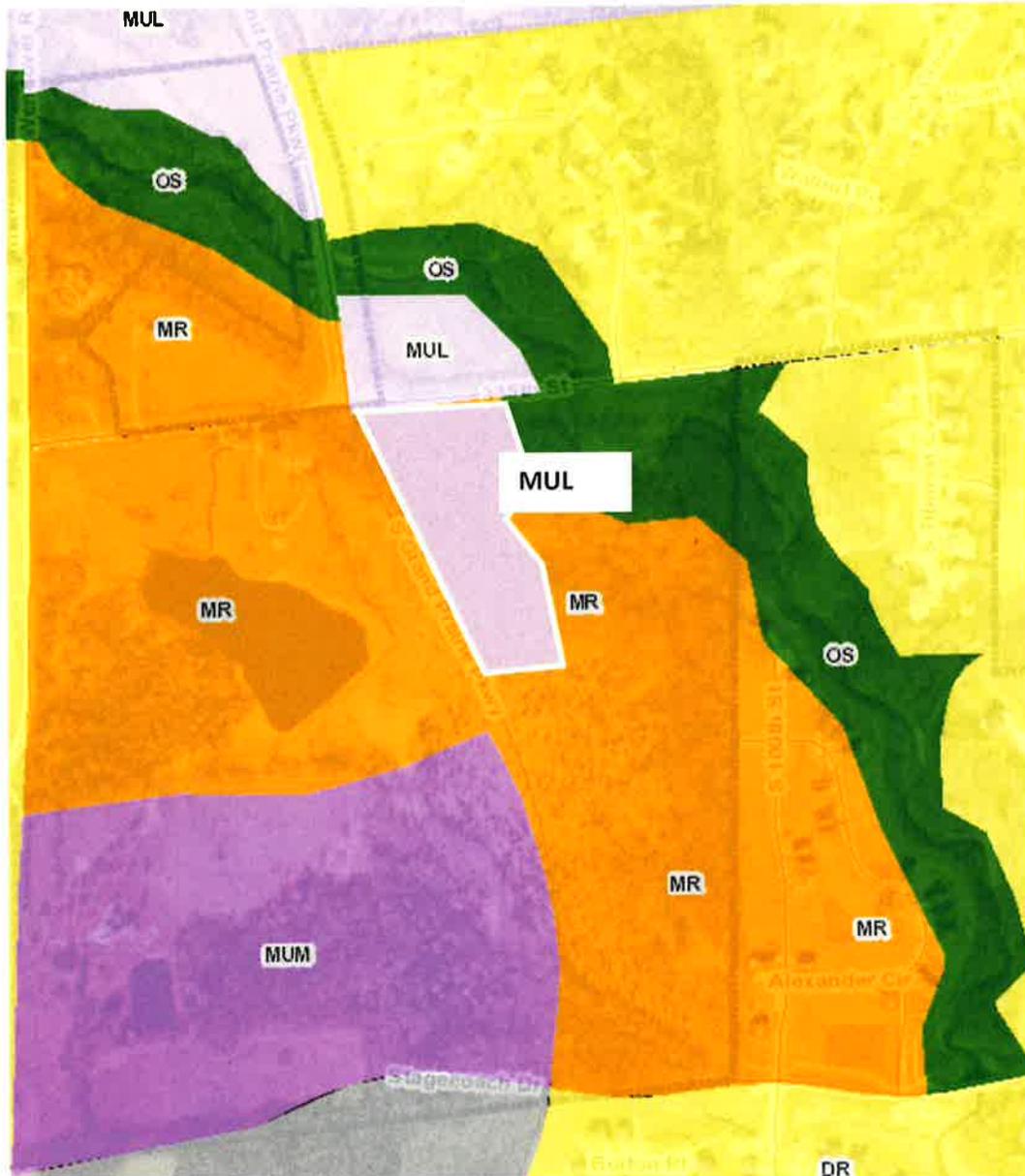
Ryan Jacobson, City Clerk

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 **January 3, 2023**, by the following vote.

Exhibit A: Conditions of Approval

None

Comprehensive Plan Land Use Illustration



Requested change of 7.8 acres from Mixed Residential (consistent with 2010 Comprehensive Plan Land Use of Medium Density Residential: orange) to Mixed Use Low (consistent to 2010 Comprehensive Plan Land Use of Neighborhood Commercial: light purple)

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: January 3, 2023

ITEM: Glen Oaks Rowhomes, Southwest Corner of I-35 and Mills Civic Parkway – Amend Comprehensive Plan Land Use Map to establish Medium Density Residential land use and amend the Glen Oaks Planned Unit Development Ordinance to add Parcel M and regulations governing the development of Medium Density Residential in Parcel M – Paramount - Destination Homes, Inc. – CPAZC-005363-2021

RESOLUTION: Approval of Comprehensive Plan Land Use Map Amendment and Amendment to Planned Unit Development Ordinance

Background: James Myers with Paramount – Destination Homes, Inc., applicant, with permission from the property owner, Gerald M. Kirke, as Trustee of the Gerald M. Kirke Revocable Family Trust under agreement dated January 5, 1989, requests approval of a Comprehensive Plan Land Use Map Amendment for the 4.64-acre property generally located at the southwest corner of I-35 and Mills Civic Parkway. Also requested is a rezoning approval to amend the Glen Oaks Planned Unit Development (PUD), to include the property in the Glen Oaks Planned Unit Development, zone the property Medium Density Residential and establish development regulations for the development of attached townhomes. The property has no land use designation or zoning as it was originally owned by the Iowa Department of Transportation for a different design for the I-35/Mills Civic Parkway Interchange. With the change in type of interchange design, there was ground no longer needed by the Iowa Department of Transportation that was transferred to Gerald M. Kirke, as Trustee of the Gerald M. Kirke Revocable Family Trust under agreement dated January 5, 1989.

At the Plan & Zoning Commission meeting on March 28, 2022, the Commission recommended the City Council approve the request to apply the Medium Density Residential land use to the property and recommended that the public hearing on the rezoning be deferred to April 11, 2022. On April 4, 2022, the City Council approved a motion to defer the public hearing on the land use amendment to April 18, 2022, when they will take up both the land use amendment and the rezoning. The item was deferred indefinitely to allow the applicant and the Glen Oaks Owners Association to continue discussion regarding the sale/use of the Glen Oaks Owners Association property lying between the applicant's property and Glen Oaks Drive.

Specifically, the following Land Use and Zoning changes are proposed with this request:

- Amend the Comprehensive Plan Land Use Map for the approximately 4.64 acre parcel in the southwest corner of the intersection of Mills Civic Parkway and Interstate 35 to assign a land use designation of Medium Density Residential as currently there is no designation on the property.
- Amend the Glen Oaks Planned Unit Development (PUD) to include modifications to the following:
 - The addition of PUD Parcel M to be zoned Residential Medium Density (RM-8) for attached townhome development; and
 - Add specific bulk regulations related to setbacks and architecture for attached townhomes development in Parcel M.

Staff Review & Comment:

- **Financial Impact:** There is no city funding of this project; however, there will be staff time for the review of development plans, as well as inspections during construction of the dwellings.
- **Proposed Changes:** The following changes are proposed with this amendment:
 - Add new PUD Parcel M to identify the parcel of ground being added to the PUD for the Glen Oaks Rowhomes.
 - Change the setbacks to deviate from City Code to allow the development to occur on an infill parcel. Part of the property is to be dedicated for right-of-way for I-35 interchange southbound ramp from Mills Civic Parkway. The right-of-way will be dedicated to the City then further dedicated to the Iowa Department of Transportation. This dedication reduces the parcel size by approximately 3.2 acres. Also, the developer was proposing to buy a piece of property from the Glen Oaks Owners Association that lies to the west of the subject property; however, that purchase will not occur. These two occurrences leave a long, narrow piece of property to develop. The developer has asked for support from the Development and Planning City Council Subcommittee to have no setback requirement from the boundary of the footprint lots and to have no perimeter setback along the west property line in order to make a viable project. The application of standard Zoning Code regulations of a 35' perimeter setback and a minimum of 7' setback from the boundary of the footprint lot to the structure foundation would cause the development to have fewer lots and, according to the developer, would make the development infeasible. Even with the elimination of the setback requirements, the development has changed from 38 lots to 35 due to the above constraints.
 - Added language regarding buffering from the interstate, requirement for an opaque fence along the interstate boundary and the planting of additional trees from loss of canopy. There are many trees on this piece of property, and they should be replaced if impacted by construction to other places on the property to add visual interest and, when fully grown, add shade and more visual enhancement to the property from the interstate, Mills Civic Parkway, and for the residents for a more desirable living experience.
 - Remove part of the legal description which describes property to the north of Mills Civic Parkway. This property is now covered by the West Glen Specific Plan and was not removed from the Glen Oaks Planned Unit Development when the West Glen Specific Plan was prepared.
- **Traffic Analysis Findings** A Traffic Impact Analysis was performed for the townhome development being added to this area. The analysis indicates that the proposed development of 35 townhomes, as well as the Glen Oaks development, is expected to generate approximately the same amount of traffic as estimated in previous studies. Recommendations given in previous studies for the surrounding public streets remain adequate.

Previous studies have shown that future levels of services for intersections in the vicinity fall below the desired level of survey D standard. Studies have projected failing levels of service in the future at S. 60th Street and Mills Civic Parkway and Interstate 35 and Mills Civic Parkway, for example. However, the future congestion is not expected to worsen by this development since the site is still below the planned trip generations.

- Development & Planning Subcommittee: The project has been reviewed by the Development and Planning City Council Subcommittee for discussion on reduction of setbacks, especially along Glen Oaks Drive from 35 feet to zero feet. The Glen Oaks Owners Association did not agree to transfer property that lies between Glen Oaks Drive and the development, which could have been used for setback purposes. The developer approached the City proposing no setback requirement abutting the Glen Oaks Owners property. The property has a berm and landscape that the owners' association wanted to protect, as well as the relatively small depth of the property essentially prevents the construction of a structure in this area. The Subcommittee agreed to allow the zero setback.

Outstanding Issues: There are no outstanding issues.

Plan and Zoning Commission Action:

Date: December 27, 2022

Vote: 7-0, for Approval

Recommendation: Approval of the amendment to the Comprehensive Plan Land Use Map

Plan and Zoning Commission Action:

Date: December 27, 2022

Vote: 6-1, for Approval, with Commissioner Hatfield voting "no"

Recommendation: Approval of the amendment to the Glen Oaks Planned Unit Development

Planning and Zoning Commission Meeting Discussion: Bob Burns, 844 Glen Oaks Terrace, indicated he objected to the zero setback being allowed in the PUD amendment. He felt that the 35 foot setback should be maintained.

Jamie Myers, 2540 73rd Street, Urbandale, proposed developer of the property, indicated that he has been working with the Glen Oaks Owners' Association regarding enhancing the landscaping on top of the berm on the Association's property to provide more buffer between Glen Oaks Drive and the development in response to the decreased setback.

Commissioner Hatfield indicated he voted "no" on the PUD amendment with concern about the zero feet minimum setback along the west parcel line.

City Council Comprehensive Plan Land Use Amendment:

Date: January 3, 2023

Vote:

City Council First Reading:

Date: January 3, 2023

Vote:

Recommendation: Approve the Comprehensive Plan Land Use Map Amendment and Rezoning request to amend the Glen Oaks Planned Unit Development (PUD) Ordinance, subject to the applicant meeting all City Code requirements.

Lead Staff Member: Kara Tragesser, AICP

Approval Meeting Dates:

Planning and Zoning Commission	December 27, 2022
City Council: First Reading	January 3, 2023
City Council: Second Reading	
City Council: Third Reading	

Staff Report Reviews:

Planning & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator (or) <input checked="" type="checkbox"/> Director	<input type="checkbox"/> Legal Department
City Council	<input checked="" type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Legal Department <input type="checkbox"/> Agenda Acceptance

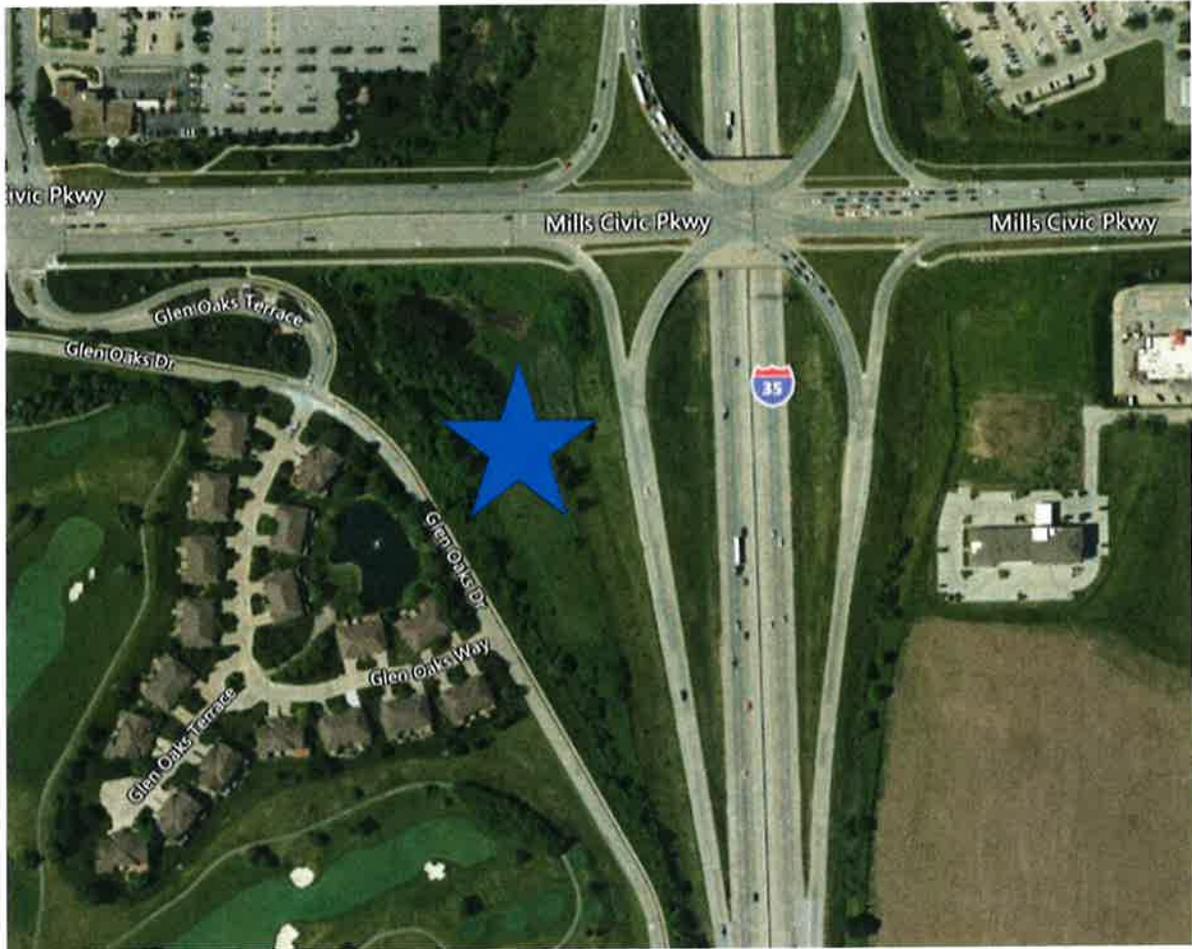
Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	12/16/22
Date(s) of Mailed Notices	12/15/22

Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning			
Date Reviewed	10/3/22			
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input type="checkbox"/>

Location Map



A RESOLUTION OF THE PLANNING AND ZONING COMMISSION
NO. PZC-22-118

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant, Paramount – Destination Homes, Inc., with permission from the property owner, Gerald M. Kirke Revocable Family Trust, request approval for a Comprehensive Plan Land Use Map Amendment to assign a land use designation on the approximately 4.64 acres in the southwest quadrant of the interchange of I-35 and Mills Civic Parkway as shown on the Comprehensive Plan Land Use Change Illustration included in the staff report to Medium Density Residential

WHEREAS, the comprehensive plan amendment complies with the applicable provisions of Iowa Code Chapter 414 and City Code.

NOW, THEREFORE, the Planning and Zoning Commission of the City of West Des Moines recommends that City Council approve the Comprehensive Plan Land Use Map Amendment, (CPAZC-005363-2021) subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

PASSED AND ADOPTED on December 27, 2022.


Jennifer Drake, Chair
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 27, 2022, by the following vote:

AYES: *CONNOR, COSTA, CROWLEY, DAVIS, DRAKE, HATFIELD, SHAW*

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:


Recording Secretary

A RESOLUTION OF THE PLANNING AND ZONING COMMISSION

NO. PZC-22-119

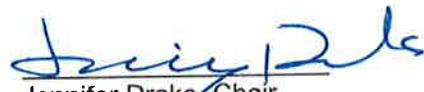
WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, Paramount – Destination Homes, Inc., with permission from the property owner, Gerald M. Kirke Revocable Family Trust, requests approval of an amendment to the Glen Oaks Planned Unit Development for new development parcel 'M' as shown on the Glen Oaks Planned Unit Development Sketch Plan attached to the PUD ordinance included in the staff report as follows:

- Add PUD Parcel M for attached residential development; and
- Assign Residential Medium Density (RM-8) zoning to PUD Parcel M for development of attached townhomes; and
- Establish bulk regulations and architectural requirements for attached townhome development within PUD Parcel M.

WHEREAS, the Rezoning request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

NOW, THEREFORE, the Planning and Zoning Commission of the City of West Des Moines recommends that City Council approve the Rezoning request, (CPAZC-005363-2021) subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

PASSED AND ADOPTED on December 27, 2022.


Jennifer Drake, Chair
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 27, 2022, by the following vote:

AYES: *CONLON, COSTA, CROWLEY, DAVIS, DRAKE, SHAW*

NAYS: *HATFIELD*

ABSTENTIONS:

ABSENT:

ATTEST:


Recording Secretary

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 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

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, the applicant James Myers with Paramount – Destination Homes, Inc., and property owner Gerald M. Kirke, as Trustee of the Gerald M. Kirke Revocable Family Trust under agreement dated January 5, 1989, request approval of a Comprehensive Plan Land Use Map Amendment to assign a land use designation of Medium Density Residential (MD) on the ground legally described in the attached ordinance and as indicated on the attached Comprehensive Plan Land Use Map Change Illustration; and

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; and

WHEREAS, the Comprehensive Plan Land Use Map Amendment complies with applicable provisions of Iowa Code Chapter 414 and City Code; and

WHEREAS, on December 27, 2022, the Planning and Zoning Commission did recommend to the City Council, by a 7-0 vote, for approval of the Comprehensive Plan Land Use Map Amendment; and

WHEREAS, on this day this City Council held a duly noticed Public Hearing to consider the application for Comprehensive Plan Land Use Map Amendment.

NOW, THEREFORE, The City Council hereby approves the Comprehensive Plan Land Use Map Amendment (CPAZC-005363-2021) as shown on attached Comprehensive Plan Land Use Map Change Illustration, subject to compliance with all the conditions in the staff report, dated January 3, 2023, including conditions added at the meeting, and attached hereto as Exhibit " A". Violation(s) of any such condition(s) shall be grounds for revocation of the entitlement, as well as any other remedy which is available to the City.

PASSED AND ADOPTED by the City Council on January 3, 2023.

Russ Trimble, Mayor

ATTEST:

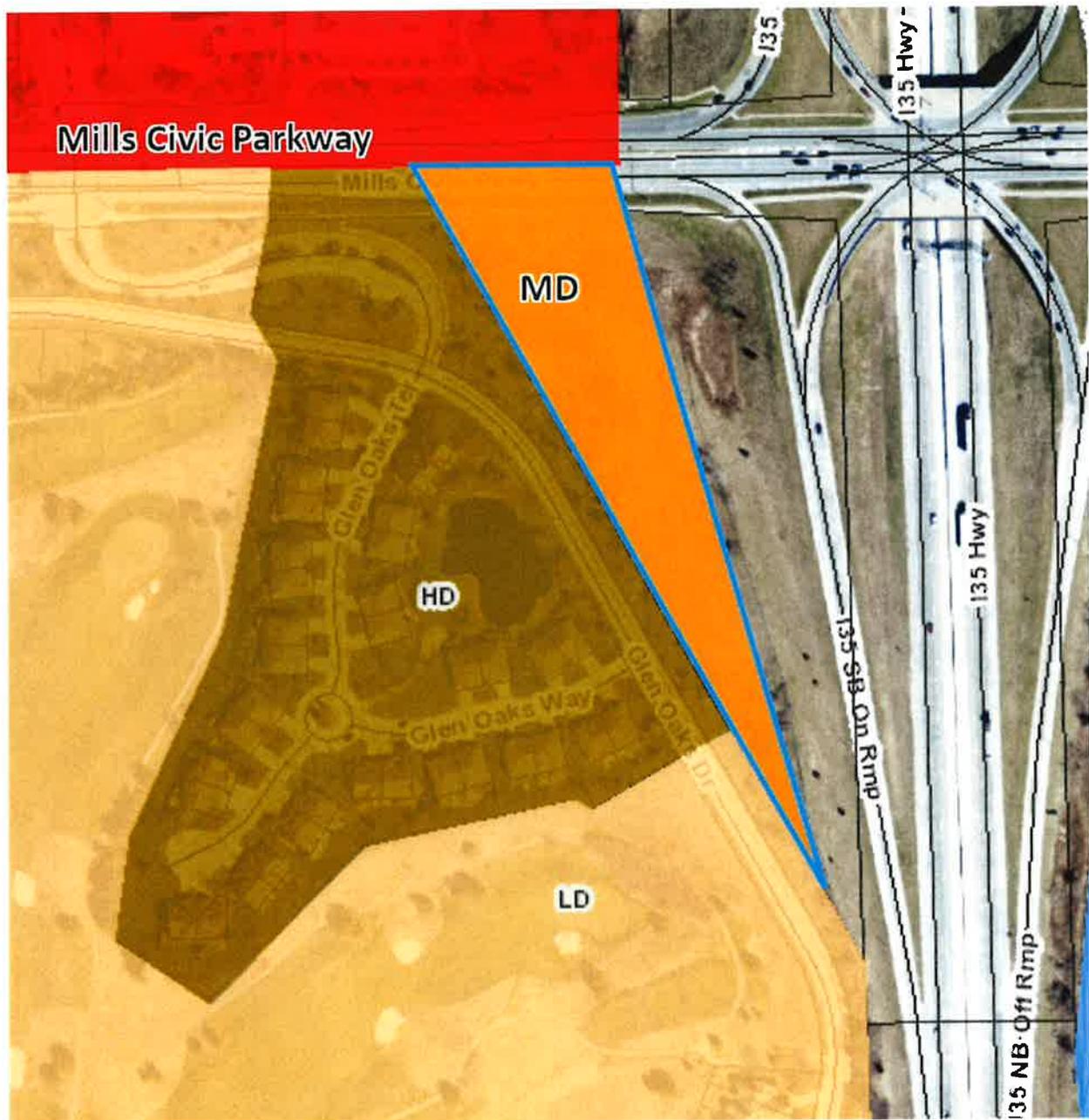
Ryan Jacobson, City Clerk

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 January 3, 2023, by the indicated vote.

Exhibit A: Conditions of Approval

None

Comprehensive Plan Land Use Change Illustration



Change 4.64 acres from no land use designation to Medium Density Residential Designation

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 50265-0320 515-222-3620
When Recorded, Return to: City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA 50265-0320

ORDINANCE

AN ORDINANCE AMENDING THE CITY CODE OF THE CITY OF WEST DES MOINES, IOWA, 2019, AND ORDINANCES PERTAINING TO PLANNED UNIT DEVELOPMENT (PUD) #030, DISTRICT REGULATIONS AND GUIDELINES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, IOWA:

SECTION 1. AMENDMENT. Ordinance #1007, #1043, #1047, #1063, #1156, #1568, #1720, #2451 and #2453, pertaining to the Glen Oaks Planned Unit Development (PUD) Ordinance, Section 030-01, *Legal Description*, is hereby amended by deleting the highlighted strike-through text and adding the text in bold italics:

NORTH AREA:

~~The $W^{1/2}$ of the West 40 acres of Lot 2, partition plat of the $N^{1/2}$ of the $SW^{1/4}$ and the $N^{1/2}$ of the $SE^{1/4}$ of Section 18, Township 78 North, Range 25 West of the 5th P.M. and, the North 5 acres of the $E^{1/2}$ of the West 40 acres of Lot 2, partition plat of the $N^{1/2}$ of the $SW^{1/4}$ and the $N^{1/2}$ of the $SE^{1/4}$ of Section 18, Township 78 North, Range 25 West of the 5th P.M., more particularly described as follows:~~

~~Commencing at the center of said Section 18, which is the point of beginning; thence $S0^{\circ}29'34''W$, along the east line of said $SW^{1/4}$, a distance of 329.82 feet; thence $N89^{\circ}56'54''W$, a distance of 660.12 feet; thence $S0^{\circ}24'42''W$, a distance of 989.49 feet; thence $N89^{\circ}59'38''W$, a distance of 658.72 feet; thence $N0^{\circ}22'12''E$, a distance of 1320.05 feet to a point on the North line of the $SW^{1/4}$ of said Section 18; thence $S89^{\circ}56'08''E$, along said North line of said $SW^{1/4}$, a distance of 1320.26 feet to the point of beginning, all being in and forming a part of the City of West Des Moines, Polk County, Iowa, containing 24.973 acres, more or less; and The $E^{1/2}$ of the West 40 acres of Lot 2, partition plat of the $N^{1/2}$ of the $SW^{1/4}$ and the $N^{1/2}$ of the $SE^{1/4}$ of Section 18, Township 78 North, Range 25 West of the 5th P.M., except, the North 5 acres of said $E^{1/2}$ of the West 40 acres of Lot 2, partition plat of the $N^{1/2}$ of the $SW^{1/4}$ and the $N^{1/2}$ of the $SE^{1/4}$ of Section 18, Township 78 North, Range 25 West of the 5th P.M., more particularly described as follows:~~

~~Commencing at the center of said Section 18; thence S0°29'34"W, along the East line of said SW¹/₄, a distance of 329.82 feet; to the point of beginning; thence continuing S0°29'34"W, along said East line, a distance of 989.06 feet to the SE corner of the NE¹/₄ of the SW¹/₄ of said Section 18; thence N89°59'38"W, a distance of 658.72 feet; thence N0°24'42"E, a distance of 989.49 feet; thence S89°56'54"E, a distance of 660.12 feet to the point of beginning, all being in and forming a part of the City of West Des Moines, Polk County, Iowa, containing 14.975 acres, more or less; and~~

~~The W¹/₂ of the NW¹/₄ of the SE¹/₄ of Section 18, Township 78 North, Range 25 West of the 5th P.M., more particularly described as follows:~~

~~Commencing at the center of said Section 18, which is the point of beginning; thence S89°55'26"E, along the North line of said SW¹/₄, a distance of 659.88 feet; thence S0°29'46"W, a distance of 1319.00 feet; thence N89°54'48"W, a distance of 659.71 feet to the SE corner of the NE¹/₄ of the SW¹/₄ of said Section 18; thence N0°29'34"E, along the West line of said SE¹/₄, a distance of 1318.88 feet to the point of beginning, all being in and forming a part of the City of West Des Moines, Polk County, Iowa, containing 19.979 acres, more or less.~~

~~CORE AREA (Grand Avenue to Mills Civic Parkway)~~

~~Lots 1, 2, 3, 4, 5 and 6 of Westview Proprietors Final Plat (W.P.F.P.), an official plat, and lots 8, 9, 10, 11, 12, 13, 14, 15 and 16 of Westview Country Estates Replat (W.C.E.R.), an official plat, and part of the SW 1/4 of the NW 1/4 of Section 19, Township 78 North, Range 25 west of the 5th P.M., and part of the NW 1/4 of the SW 1/4 of said Section 19, and part of the E 1/2 of the SW 1/4 of said Section 19, and part of the W 1/2 of the SE 1/4 of said Section 19, more particularly described as follows:~~

~~Commencing at the W 1/4 corner of said Section 19, which is the point of beginning; thence S89°54'15"E, a distance of 513.47 feet; thence N 0°02'19"W, a distance of 595.98 feet; thence S89°56'36"E, a distance of 244.80 feet; thence N0°12'49"W, a distance of 719.20 feet to a point on the south line of lot 10 of said W.C.E.R.; thence S89°57'21"W, a distance of 254.25 feet to the SW corner of said lot 10, W.C.E.R.; thence N0°33'18"E, a distance of 874.93 feet to the NW corner of said Lot 10; thence N28°47'38"E, a distance of 497.38 feet to the NE corner of lot 3, W.C.E.R.; thence N28°19'06"E, a distance of 245.90 feet along the westerly line of Lot 9, W.C.E.R.; thence N3°45'00"E, a distance of 201.67 feet to the NW corner of said Lot 9; thence 90°00'00"E, a distance of 70.56 feet to the se corner of lot 5, W.C.E.R.; thence N0°00'07"E, a distance of 876.29 feet to the NW corner of lot 8, W.C.E.R.; thence S89°57'27"E, a distance of 1740.30 feet to the se corner of lot a of W.P.F.P.; thence S85°52'40"E, a distance of 179.54 feet to the ne corner of lot 4, W.P.F.P.; thence S85°51'06"E, a distance of 829.30 feet to the NE corner of Lot 1, W.P.F.P; thence S1°08'13"E, a distance of 3849.98 feet to the SE corner of lot 3, W.P.F.P; thence S0°51'19"E, a distance of 1672.48 feet; thence S40°01'14"W, a distance of 825.39 feet; thence S80°40'42"W, a distance of 487.59 feet; thence N89°43'24"W, a distance of 378.86 feet; thence N89°17'54"W, a distance of 452.08 feet; thence N69°11'09"W, a distance of 473.84 feet; thence S24°35'00"E, a distance of 468.21 feet to a point on the south line of said section 19; thence N89°49'57"W, a distance of 242.78 feet to the SW corner of the E1/2 of the SW1/4 of said Section 19; thence N1°20'54"E, a distance of 504.19 feet; thence N1°31'25"E, a distance of 216.32 feet; thence N0°10'03"E, a distance of 664.03 feet; thence N71°13'02"W, a distance of 29.70 feet; thence N89°54'07"W, a distance of 1100.00 feet; thence N0°00'06"W, a distance of 444.00 feet; thence N89°54'10"W, a distance of 372.84 feet to a point on the west line of~~

said Section 19; thence N0°40'13"E, a distance of 800.00 feet to the point of beginning, all being in and forming a part of the City of West Des Moines, Polk County, Iowa, containing 432.113 acres, more or less; and

A tract of land situated in the NW fractional 1/4 of Section 19, Township 78 North, Range 25 West of the 5th P.M., more particularly described as follows:

Commencing at the W1/4 corner of said Section 19; thence N0°39'20"E, along the West line of said Section 19, a distance of 595.69 feet; thence S89°56'35"E, a distance of 506.06 feet to the point of beginning; thence N0°08'02"W, a distance of 178.67 feet; thence S89°56'35"E, a distance of 243.80 feet; thence S0°08'02"E, a distance of 178.67 feet; thence N89°56'35"W, a distance of 243.80 feet to the point of beginning, all being in and forming a part of the City of West Des Moines, Polk County, Iowa, containing 1.000 acres, more or less.

AND

A tract of land located in the SW1/4 of the NW frl.1/4 of Section 19, Township 78 North, Range 25 West of the 5th p.m., in the City of West Des Moines, Polk County, Iowa, described as follows:

Commencing at the W1/4 corner of said Section 19, a distance of 595.69 feet to the point of beginning; thence N0°39'20"E, a distance of 303.67 feet; thence S89°59'01"E, a distance of 418.00 feet; thence N0°36'33"E, a distance of 416.02 feet to the north line of the SW1/4 of the NW frl.1/4; thence S89°59'01"E, a distance of 322.27 feet; thence S0°12'49"E, a distance of 719.16 feet; thence N89°56'35"W, a distance of 749.86 feet to the point of beginning, containing 8.325 acres more or less except commencing at the West 1/4 of said Section 19; thence N0°39'20"E, along the West line of said Section 19; a distance of 595.69 feet; thence S89°56'35"E, a distance of 506.06 feet to the point of beginning; thence N0°08'02"W, a distance of 178.67 feet; thence S89°56'35"E, a distance of 243.80 feet; thence S0°08'02"E, a distance of 178.67 feet; thence N89°56'35"E, a distance of 243.80 feet to the point of beginning.

AND

The North 415 feet of the West 418 feet of the SW 1/4 of the NW frl.1/4 of Section 19, Township 78 North, Range 25 West of the 5th P.M., all now included in and forming a part of the City of West Des Moines, Iowa.

AND

Outlot O Glen Oaks Plat 2, an official plat now included in and forming a part of the City of West Des Moines,

Except

A PART OF OUTLOT "O", GLEN OAKS PLAT 2, AN OFFICIAL PLAT, NOW INCLUDED IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY IOWA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS. BEGINNING at the Northeast Corner of said Outlot "O"; THENCE South 1°32'06" East, along the East line of said Outlot "O", a distance of 1,129.17 feet; THENCE North 20°06'11" West, a distance of 56.63 feet; THENCE North 12°21'03" West, a distance of 100.00 feet; THENCE North

12°21'03" West, a distance of 100.00 feet; THENCE North 9°52'34" West, a distance of 102.26 feet; THENCE North 13°04'23" West, a distance of 96.77 feet; THENCE North 15°36'55" West, a distance of 96.13 feet; THENCE North 17°17'39" West, a distance of 102.87 feet; THENCE North 18°22'13" West, a distance of 96.92 feet; THENCE North 20°23'54" West, a distance of 100.96 feet; THENCE North 11°22'09" West, a distance of 101.09 feet; THENCE North 10°03'55" West, a distance of 100.78 feet; THENCE North 27°34'20" West, a distance of 50.83 feet; THENCE North 11°32'14" West, a distance of 83.90 feet, to the North line of said Outlot "O"; THENCE South 86°14'59" East, along the said North line, a distance of 272.05 feet to the POINT OF BEGINNING, containing 3.42 ACRES, more or less

AND

EXCEPT

A tract of land located in the Southwest 1/4 of the Southwest 1/4 of Section 19, Township 78 North, Range 25 West of the 5th P.M. and the Northwest 1/4 of the Northwest 1/4 of Section 30, Township 78 North, Range 25 West of the 5th P.M., and Outlot "Y" in West Grand Business Park Plat 1, an official plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa is described as follows:

Beginning at the northwest corner of said Outlot "Y" thence South 59° 09'23" east, a distance of 191.49 feet along the north line of said Outlot "Y"; thence North 24° 00'04" east, a distance of 30.21 feet; thence south 59° 09'58" east, a distance of 545.83 feet; thence south 31 ° 02'50" west, a distance of 47.19 feet; thence South 74° 37' 10" West, a distance of 38.51 feet; thence along a curve to the left having a radius of 475.00 feet, a delta of 49°58'14", an arc length of 414.27 feet, a chord which bears south 01°27'53" west having a chord length of 401.27 feet; thence south 33°45'42" east a distance of 35.39 feet; thence along a curve to the right having a radius of 550.00 feet, a delta of 19°17'45", an arc length of 185.23 feet, a chord which bears north 18°07'19" west having a chord length of 184.35 feet; thence south 55°11'28" east, a distance of 55.17 feet, to a point on the north right-of-way line of Grand Avenue as presently established; thence along said north right of way along a curve to the right along said right away having a radius of 940.00 feet, a delta of 36°54'13" an arc length of 605.45 feet, a chord which bears south 84°27'03" east having a chord length of 595.03 feet; thence, continuing along said north right-of-way, right north 66°05'20" west, a distance of 119.80 feet; to the southeast corner of Outlot 2 in said west grand business park plat 1. Thence north 0° 21 '25" east, a distance of 932.17 feet, to the point of beginning, containing 11.83 square feet, more or less.

SECTION 2. AMENDMENT: Ordinance #1007, #1043, #1047, #1063, #1156, #1568, #1720, #2451 and #2453, pertaining to the Glen Oaks Planned Unit Development (PUD) Ordinance, Section 030-02, *Sketch Plan*, is hereby amended by deleting the highlighted strike-through text and adding the text in bold italics:

~~On file with the community development department of the city and made a part of this rezoning approval for concept description and delineation is the sketch plan document for the Glen Oaks planned unit development labeled "Revised November 20, 2020". It is recognized minor shifts or modifications to general plan layout may be necessary and compatible with the need to acquire workable street patterns, grades and usable building sites, but the general plan layout, including the relationship of uses to each other and the relationship of land use~~

~~to the general plan framework, and development requirements shall be used as the implementation guide.~~

On file with the city and made a part of this rezoning approval is the Sketch Plan illustration for the PUD. 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. It should be recognized that the location of streets throughout the development shall define the final parcel configuration and size. Wherever conflict occurs between the written text in this document and the notations on the Sketch Plan, the written text shall prevail.

SECTION 3. AMENDMENT: Ordinance #1007, #1043, #1047, #1063, #1156, #1568, #1720, #2451 and #2453, pertaining to the Glen Oaks Planned Unit Development (PUD) Ordinance, Section 030-03, *Conditions*, Subsection B, *Land Use Design Criteria* is hereby amended by deleting the highlighted strike-through text and adding the text in bold italics and adding a new paragraph #6 and renumbering the remaining paragraphs in the section. All other language adopted in code not otherwise included here shall remain as is.

B. Land Use Design Criteria: In addition to the general conditions as stated in subsection A of this section, the following land use design criteria shall apply to the development areas designated by parcel on the sketch plan. The sketch plan document which is made a part of this rezoning action per section 030-02 of this ordinance, delineates ~~twenty (20)~~ ***eighteen (18)*** parcels of the PUD for application of specific standards of land use and development regulations. The following development standards and use regulations shall apply to each of the individual parcels as applicable.

(Insert new Paragraph 6 with the following language:)

6. Parcel M: All general use regulations, performance standards, and provisions set forth in City Code, Title 9, Zoning, for the Residential Medium Density (RM-8) zoning district shall apply to any development within Parcel M as shown on the PUD sketch plan, except as shall be further provided herein.

a. Permitted Uses: The parcel shall only be developed with a maximum of thirty-five (35) attached townhome dwellings. No other use otherwise allowed within the Medium Density zoning district shall be allowed.

b. Development Standards:

1) Building Setbacks:

- i. Minimum setback from I-35 Interstate right-of-way shall be 35 feet for a building up to four (4) stories. An additional 10 feet of setback shall be provided for each story over four.***
- ii. Minimum setback from Mills Civic Parkway shall be 100 feet.***
- iii. Minimum Setback from the west property line shall be zero (0) feet.***
- iv. Building setbacks within footprint lot shall follow City Code unless noted below.***
 - a) No minimum rear yard setback shall be required; however, no part of the dwelling structure, including roof overhangs, or mechanical equipment or window wells for a dwelling may extend outside of the footprint lot boundary. A building shall not be setback more***

- than ten (10) feet from the footprint lot boundary as measured to the building foundation.*
- b) The front boundary line of the footprint lot may be located at the private access drive edge. The front plane of the building shall be setback a minimum of seven (7) feet; however, to accommodate the exterior parking of a vehicle between the vehicle access drive and the garage, the opening to a garage shall be setback a minimum of twenty-five (25) feet from the edge of the vehicle drive or pedestrian sidewalk if incorporated.*
 - c) The exterior wall of end units shall be setback a minimum of seven (7) feet and maximum of ten (10) feet from the footprint lot boundary as measured to the building foundation. A minimum of fourteen feet (14') shall be provided between building elements of opposing end units, or protective construction in accordance with building codes shall be utilized.*
- 2) Landscaping: Existing vegetation may be counted toward meeting buffer or open space requirements, provided that the vegetation meets the type of material required, the material is located within the respective buffer area or open space, and that the material is documented on the site plan. Said existing trees and shrubs may be credited towards provision of the buffer or open space plantings when an ISA (International Society of Arboriculture) certified arborist provides documentation confirming that the tree is high quality, a desired variety, not on the City's prohibited tree list or of an Ash variety and in a thriving condition. Any mature, quality trees to be retained on the site shall be protected during construction.*

Existing vegetation shall be kept as much as possible. Removal of trees outside of the footprint lots area and vehicle access drives within the property owned by the developer of the townhomes will be permitted for diseased, dead, damaged, or of a species not commonly recognized as being desirable. For every two thousand (2,000) square feet of tree canopy removed, as measured on an aerial photograph after July 1, 2018, at least one (1) evergreen a minimum of six feet (6') tall or over-story species tree at least two inches (2") in caliper, shall be planted within Parcel M to mitigate the loss of canopy. Any existing trees kept with the intent to fulfill minimum vegetation requirements that die during site development or up to within one year after issuance of the last final occupancy permit, shall be replaced with the minimum plant size required per the type of tree as stated in city code.

- i. Open Space: A minimum of twenty-five percent (25%) of Parcel M shall be provided as open space, unencumbered by buildings or pavement. Landscape vegetation shall be provided in accordance with city code.*
- ii. Buffers:*
 - (a) Along Mills Civic Parkway: A minimum 60-foot wide buffer with landscaping shall be installed which complies with the landscape requirements stated in City Code for a 60-foot*

buffer. A minimum 3' high earthen berm shall be implemented in those areas in which existing vegetation is not preserved.

- (b) Along Interstate 35 On-Ramp: A minimum 30-foot wide buffer with landscaping shall be installed which complies with the landscape requirements of the City Code for a 30-foot buffer. A six foot (6') opaque fence is required on the public side of this buffer.*
 - (c) Along Glen Oaks Drive: The Glen Oaks Owners Association controls the first approximately 35' immediately adjacent to the roadway. Unless otherwise approved in writing by the Association, this area shall be preserved as is except for that area necessary for the access drive to the townhomes. Any vegetation disturbed because of the development of the townhomes shall be replaced. The Glen Oaks Owners Association shall determine replacement requirements. Documentation of the Owners Association allowance to disturb the area and the replacement requirements shall be provided to the city prior to approval of the townhome site plan with replacements noted on the associated site plan and installation of replacements required prior to issuance of an occupancy permit for any of the last 15 dwellings constructed.*
 - (d) While the intended dwelling structures should provide sound mitigation of the interstate and Mills Civic Parkway noise, in addition to the minimum vegetation required of buffers, vegetation, preferably of an evergreen variety shall be installed in the gaps between the dwelling structure buildings. Said evergreens shall be a minimum height of six feet (6') if balled & burlap or container, or a minimum height of four feet (4') if grown in a root bag. Proof that the plants are root bag grown will be required.*
 - (d) If existing vegetation preserved is not sufficient to mitigate views of mechanical or any other negative site element, additional trees and shrubs shall be implemented to achieve mitigation of views.*
- c) Architecture: The architecture of buildings within Parcel M shall be acceptable to the City and accomplished in a manner compatible with the adjoining residential uses in the neighborhood through the use of building materials and colors, and design details. Architectural design for the buildings shall attempt to express a creative presentation of exterior building materials, exterior details and texture, treatment of windows and doors, and use of angles and multiplicity of planes within the wall and roof design to lessen the plainness of appearance which can be characteristic of large residential buildings.*

Side or end walls of buildings visible from any roadway within the Glen Oaks development, Mills Civic Parkway or I-35 ramp shall be enhanced through changes in materials, colors, or pattern and textures or the placement of additional landscape material, projected to grow to a height generally equal to the height of the wall of the building.

SECTION 4. AMENDMENT. Ordinance #1007, #1043, #1047, #1063, #1156, #1568, #1720, #2451 and #2453, pertaining to the Glen Oaks Planned Unit Development (PUD) Ordinance, Section 030-04, *Total Unit Maximum*, is hereby amended by adding the text in bold italics:

A maximum of four hundred thirty-four (434) residential units shall be established for parcels located south of Mills Civic Parkway with the exception of Parcel I, Parcel J ***and Parcel M.*** The maximum overall unit density for said parcels, excluding Parcel I, Parcel J ***and Parcel M,*** shall not exceed the low density residential designation of the comprehensive plan with a maximum overall density being one dwelling unit per acre. The golf course parcels shall be included within the overall density calculation.

SECTION 5. REPEALER. All ordinances of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 6. 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 7. 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.

SECTION 8. OTHER REMEDIES. In addition to the provisions set out in 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 9. EFFECTIVE DATE. This Ordinance shall be in full force and effect from and after its passage, approval and publication as provided by law.

Passed and approved by the City Council on January 17, 2023

Russ Trimble, Mayor

ATTEST:

Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the Council for the City of West Des Moines, Iowa, on _____, 2023, and was published in the Des Moines Register on _____, 2023.

PUD Sketch Plan

Glen Oaks Planned Unit Development (PUD) Sketch Plan



Updated 12/2022

CITY OF WEST DES MOINES STAFF REPORT COMMUNICATION

Meeting Date: January 3, 2023

ITEM: Woodhouse Planned Unit Development, 7220 Lake Drive - Establish the Woodhouse Planned Unit Development Ordinance to govern development of the PUD Parcel – Woodhouse Auto Group – ZC-005866-2022

ORDINANCE: Approval of First Reading

Background: Larry D. Smith with Avant Architects, Inc. on behalf of the applicant, Woodhouse Auto Family, Inc. a Nebraska Corporation, with permission from the property owner, Earlham Savings Bank, requests approval of a Rezoning to establish the Woodhouse Planned Unit Development (PUD), governing development of that ground located at 7220 Lake Drive. The applicant is proposing to develop an auto dealership on the property. The lot can be considered an infill lot and has been vacant since it was created in 1994.

Staff Review & Comment:

- Development Intent: The PUD intends to establish a framework for the development of Support Commercial land uses which are visually cohesive and operationally respectful of the surrounding built environment. This intent would apply to any development of the property.
- Key Development Aspect:
 - **Setbacks:** The current code setbacks for support commercial development are 100-foot front yard and 50 for rear and side yards. However, the setbacks at the time the lot was platted, was a 45-foot front yard and 25-foot rear and side yards. Also, since the lot was platted, a strip of land along the south edge of the lot was acquired for the interstate ramp right-of-way, reducing the depth of the lot. The proposed site concept indicates that not all components of the plan can fit in this infill lot with the current zoning setbacks, however, they do fit if the platted setbacks are applied. After discussing the issues with the City's Legal Department, it was determined that because the parcels within this area were either developed under the original smaller setbacks, or have been developed under current Professional Commerce Park (PCP) zoning district which requires only 50' front, rear and side yard setbacks, the use of the originally platted setbacks would be consistent with the surrounding development and would not provide any benefit to this parcel that the others have not received. All other development regulations of the Support Commercial zoning district shall govern development of the parcel.
- Traffic Analysis Findings: The traffic analysis for this use at this location indicates that the proposed use is anticipated to generate less traffic than what was previously estimated with no additional loading on the planned roadway system. The site layout illustrates two accesses on Lake Drive are possible and the west driveway is shown at the minimum spacing necessary between the access to Earlham Savings Bank and this location. The east drive location is acceptable however, the drive is shown at a skew which will need to be corrected with the site plan to be perpendicular to Lake Drive.

Outstanding Issues: There are no outstanding issues

Planning and Zoning Commission Action:

Date: December 27, 2022

Vote: 7-0, Approval

Recommendation: Approve the ordinance establishing the Woodhouse Planned Unit Development

The applicant spoke about the required parking lot setback along Lake Drive indicating that the shape of the parcel makes it difficult to achieve 15 feet of parking lot setback and that the City-request for five (5) foot of additional property for right-of-way purposes further reduces their ability to meet the setback. The applicant requested a parking lot setback of five (5) feet for the parking lot along Lake Drive.

Staff noted that discussions will occur internally about the requested reduction and that, if the Commissioners were comfortable with the setback being between the requested five feet and the required 15 feet, staff recommended approval of the ordinance and that the setback will be finalized prior to proceeding to ordinance proceeding to the City Council on January 3, 2023.

In response, Staff has modified the PUD to allow for a 10 foot parking lot setback along Lake Drive if screen walls or hardscape is incorporated in the parking lot screening to provide full screening with the reduced area for landscaping. Additional right of way needs will be evaluated at the time of Site Plan.

City Council First Reading Rezoning:

Date: January 3, 2023

Vote:

Recommendation: Approve the first reading of the ordinance to establish the Woodhouse Planned Unit Development.

Lead Staff Member: Kara Tragesser

Approval Meeting Dates:

Planning and Zoning Commission	December 27, 2022
City Council: First Reading	January 3, 2023
City Council: Second Reading	
City Council: Third Reading	

Staff Report Reviews:

Planning & Zoning Commission	<input checked="" type="checkbox"/> Development Coordinator (or) <input checked="" type="checkbox"/> Director	<input type="checkbox"/> Legal Department
City Council	<input checked="" type="checkbox"/> Director <input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Legal Department <input type="checkbox"/> Agenda Acceptance

Publications (if applicable)

Published In:	Des Moines Register Community Section
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Council Subcommittee Review (if applicable)

Subcommittee	Development & Planning
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Date(s) Published	12/16/22
Date(s) of Mailed Notices	12/15/22

Date Reviewed	11/21/22
Recommendation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Split

Location Map



A RESOLUTION OF THE PLANNING AND ZONING COMMISSION
NO. PZC-22-117

WHEREAS, pursuant to the provisions of Title 9, Zoning, of the West Des Moines Municipal Code, Woodhouse Auto Family, applicant, with permission from the property owner, Earlham Savings Bank, requests approval of a Rezoning Request to establish the Woodhouse Planned Unit Development (PUD) to allow for development of an auto dealership on property as legally defined in the Planned Unit Development Ordinance and indicated on the Location Map, both of which are included in the staff report; and

WHEREAS, the rezoning request complies with the applicable provisions of Iowa Code Chapter 414, the Comprehensive Plan and City Code.

NOW, THEREFORE, the Planning and Zoning Commission of the City of West Des Moines recommends that City Council approve the Rezoning Request to establish the Woodhouse Planned Unit Development (PUD) (ZC-005866-2022), subject to compliance with all the conditions of approval as stated in the staff report, including conditions added at the meeting, and attached hereto as Exhibit "A", if applicable.

PASSED AND ADOPTED on December 27, 2022.


Jennifer Drake, Chair
Planning and Zoning Commission

I HEREBY CERTIFY that the foregoing resolution was duly adopted by the Planning and Zoning Commission of the City of West Des Moines, Iowa, at a regular meeting held on December 27, 2022, by the following vote:

AYES: *COLLIN, COSTA, CROWLEY, DAVIS, DRAKE, HATFIELD, SHAW*

NAYS:

ABSTENTIONS:

ABSENT:

ATTEST:


Recording Secretary

Prepared by: Kara Tragesser, City of West Des Moines Development Services Dept.,
PO Box 65320, West Des Moines, Iowa 50265-0320 515-222-3620
When Recorded, City Clerk, City of West Des Moines, PO Box 65320, West Des Moines, IA
Return to 50265-0320

ORDINANCE #

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 PLANNED UNIT DEVELOPMENT (PUD) 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, by rezoning the following legally described property from Support Commercial to Woodhouse Planned Unit Development (PUD) Ordinance of West Des Moines, Iowa:

Legal Description

Lot 2 Earlham Park Plat 1, an official plat now in and forming a part of the City of West Des Moines, Dallas County, Iowa, except Earlham Park Parcel A Lot 2, recorded at the Dallas County Recorder's Office, Dallas County, Iowa

SECTION 2. INTENT: The PUD intends to establish a framework for the development of Support Commercial land uses which are visually cohesive and operationally respectful of the surrounding built environment. All development shall adhere to City Codes and regulations, except as provided herein. Where the PUD is silent, City Codes and regulations will be the standard.

SECTION 3. SKETCH PLAN: Attached hereto (or on file with the city) and made a part of the rezoning approval, for concept description and delineation is the Sketch Plan document for the PUD. The Sketch Plan is a graphic representation of the property included in the PUD delineating the approximate location and configuration of the development standards of the PUD Parcel 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 4. REQUIRED PLANS: Prior to or in conjunction with development of any portion of the property covered by this PUD, the following plans may be required:

- A. Preliminary Plat and Final Plat: Any subdivisions of any ground within the PUD shall be platted in accordance with the City's Subdivision Ordinance and associated zoning regulations unless otherwise modified within this ordinance. Outlots within a plat shall have the proposed use clearly designated on the plat documents. Platted outlots intended for future private development must be re-platted through the preliminary and final plat process prior to physical development. Outlots intended to provide for public utilities, or publicly owned or accessible park ground, greenways, or other recreational amenities (not include private recreation based for-profit businesses) are not required to be replatted prior to development.
- B. Development Applications: Site plans for development within the PUD must meet the intent of the approved PUD. Site plans (new, Major Modifications and Minor Modifications) shall be submitted to the City of West Des Moines for review and approval prior to the development or modifications to any portion of the lot. New site plans and Major Modifications for permitted uses which comply (as determined by the Director of Development Services or designee) with the development intent as set forth in this PUD will be subject to review via the City's review process and receive final approval from the City Council following a recommendation from the Planning and Zoning Commission. Minor Modifications to previously approved site plans may be approved administratively when said development is in accordance with Title 9 of the City Code. Approval by the Board of Adjustment for any use designated as a Permitted Conditional (Pc) use shall occur prior to final approval of a subsequent site plan by the City Council. At the discretion of the Director of Development Services, an amendment to the PUD may be required to bring consistency between the ordinance and site plan development proposed.

SECTION 5. 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: The following general development criteria shall be integrated into and made a part of this planned unit development.
 - 1. General Conformance to City Code: Unless otherwise specified herein, the development of the PUD shall comply with city code, including, but not limited to Title 9: Zoning, Title 10: Subdivision Regulations and Des Moines Metropolitan Design Standards or the more current design standards as adopted by the city. To the extent that the provisions of this ordinance conflict with or are more restrictive than provisions provided elsewhere in city code, the provisions of this ordinance shall prevail.
 - 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 execution of the planned unit development as provided and required by this Ordinance or city code and approved as part of plats and site plans. No occupancy permits, either temporary or permanent, shall be issued until all necessary infrastructure and 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. 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.
4. Buildings shall only be permitted within twenty-five (25) feet 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.
5. Sanitary Sewer: Any proposed change in approved land uses and/or 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(s).
6. 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. Locations of the CBUs shall be acceptable to the city to avoid traffic circulation impacts.
7. To allow and encourage pedestrian movement between parcels and to and from the development, an internal pedestrian sidewalk network connecting all lots, uses and buildings within the development, as well as connecting to adjacent sidewalk/trails shall be required.
8. Fire Access:
 - a) All internal drive aisles and parking lots shall permit the travel of the Fire Department's largest vehicle, including adequate accommodation of the vehicle's turning needs. Approval of unique design solutions to accommodate fire access may be granted by the City Council if, the solutions proposed are recommended by the West Des Moines Fire Department.
 - b) At the discretion of the City's Fire Marshal, "No Parking Fire Lane" areas may be established as necessary to ensure efficient movement and access of the fire trucks. Unless otherwise agreed upon, the developer of each site within the PUD shall be responsible for the procurement and erection of approved fire lane signage.
 - c) All access drives and drive aisles shall maintain a minimum of twenty (20) feet of clear pavement.
 - d) A minimum of fourteen (14) feet of vertical clearance over the travel portion of all vehicle travel ways shall be maintained at all times.
 - e) The developer or its designee of each site within the PUD shall be responsible for enforcement of no parking lanes and maintaining adequate clearance of structures and vegetation along and above all vehicle travel ways, regardless if public or private.
 - f) Adequate fire accesses as determined by the City's Fire Marshal shall be provided at all times to those areas under construction.
9. Street Lighting: Unless otherwise provided for in a separate development agreement, the Developer of each site within the PUD shall be responsible for all costs associated with the installation of public and private streetlights within or adjacent to any area included within the development at the time of final platting.

10. Interior site lighting should be located, designed and directed in such a way as to mitigate impact on adjacent uses.
 - a) As a part of the review of each site plan, a photometric plan must be submitted. During the review, the applicant must demonstrate how lighting will not adversely affect adjoining properties.
 - b) The lighting level at property lines not adjacent to an exterior roadway shall be less than one footcandle.
 - c) All fixtures are to be downcast and of a cut-off variety to direct lighting to parking areas and pedestrian pathways and eliminate glare to neighboring properties. Bulbs shall not be exposed or extend down past the fixture. Care should be taken to ensure that adjoining properties are not looking up and into the bulbs of light fixtures. In addition to cut-off fixtures, particular attention shall be given to eliminate hot spots and light glare. To achieve this, additional measures may include, but are not limited to, lowering parking lot light levels after business hours, turning off lights not necessary for security purposes, the use of additional shields and use of landscaping for light screening/blockage.
 - d) No wall packs without shields to direct light down or floodlighting are allowed, except that sconces or decorative architectural lighting shall be permitted.
11. Those businesses which have windows towards the adjacent hotels are not allowed nighttime interior lighting intended to draw attention to the business (e.g., neon/LED lighting which washes the building with light or a color) which is visible and obtrusive to the hotel guests. Limited-intensity nighttime interior lighting necessary for security shall be allowed.

B. **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 of the PUD. All general use regulations and provisions set forth in Title 9, Zoning of the West Des Moines City Code for the Support Commercial (SC) district shall apply to development of all areas of the PUD, unless noted otherwise in this ordinance.

1. Allowed Uses: All uses identified in Title 9, Zoning, as either Permitted (P) or Permitted Conditional (PC) may be allowed with approval of the appropriate review body unless otherwise noted herein.
2. Development Standards:
 - a. Setbacks: The setbacks applied to the PUD are as follows:
 - i. Front Yard (Lake Drive frontage) setback of 45 feet.
 - ii. Rear Yard (interstate frontage) setback of 25 feet.
 - iii. Side Yard setback of 25 feet.
 - b. Screening: Screening for purpose of mitigating negative views of site elements such as, but not limited to off-street parking of employee vehicles and vehicles being serviced/repaired (views of new and used vehicles for sale are not required to be screened), utility meters, mechanical equipment, overhead doors, trash enclosures, etc. shall be provided.
 - c. Parking:
 - i. The number of stalls to be provided for each use within the PUD shall comply with city code title 9, chapter 15, section 7.
 - ii. Parking lots shall be setback a minimum of either fifteen (15) feet with code required screening or, if the setback is less than fifteen feet and greater

than 10 feet a screen wall or fence of at least three feet in height to provide the intended screening of the parking area from the Lake Drive will be required. This actual setback and screening method will be determined at the site plan level. A minimum five (5) foot setback shall be provided from all other perimeter property boundaries; however, a larger setback may be necessary to accommodate achievement of screening of site elements noted above.

- iii. Parking stall dimension and drive aisle widths shall comply with city code title 9, chapter 15.
 - iv. Parking lot landscape requirements, including the incorporation of landscape islands and landscape vegetation shall comply with city code title 9, chapter 19, except for defined auto sale areas as identified on the associated site plan.
- d. Uses with Drive-throughs and Service Bays: Unless all aspects of a drive-through or service bay (such as visibility of garage doors, lights, noise, etc.) can be completely negated, drive throughs and service bays shall only be allowed facing west or east on any parcel in the PUD. The presence of drive throughs and service bays shall be minimized through one or a combination of the following methods:
- i. Integration of the drive thru or service into the building architecture in order to eliminate the appearance as an added-on canopy component.
 - ii. Situating the drive thru between two buildings in order to limit the number of views thereof.
 - iii. Opaque visual screening to a minimum height of six (6) feet. May be achieved through the use of earthen berming with vegetation, solid fencing, decorative walls, etc. Screening method shall provide for year-round visual mitigation of the drive throughs.

SECTION 6. ARCHITECTURE: The intent is to create building facades that are varied and articulated to provide visual interest and to establish a unique identity for the PUD. Each building shall include design elements, materials, complimentary colors and detailing to provide visual continuity with the neighboring built environment. The architectural design of any building within this development shall be acceptable to the City.

Final details of actual design, materials, colors and detailing will be provided at the time of individual site plan approvals. Once City approval is obtained on a particular building design, any alteration in design before, during or after construction must be reviewed and approved by the City's Development Services Department.

- A. All buildings within this development shall accommodate or incorporate the following in building design and materials:
- B. All sides to each building shall receive high quality materials, finishes, and details (360 degree architectural treatment) and shall be architecturally treated to produce an aesthetically pleasing facade which is of a design compatible with surrounding buildings. There are no "backs" to a building.
- C. Form and Scale: Building design shall consider the scale of the building and create a distinct and intended transition to the height, bulk, and scale of the building depending on the surrounding development. Building entries, entries for residential uses, pedestrian areas, plazas and street level uses and functions should be designed to engage the pedestrian with

the activities occurring within them and should be designed to be in the scale appropriate to the use and function of the space.

- D. **Roof and Building Mounted Mechanical Equipment:** Views of all mechanical and meter equipment from roadways, adjacent PUD parcels and adjoining property outside of the PUD area shall be mitigated by screening incorporated into the design of the building through location and the use of equipment penthouse, parapets, screening walls, or other acceptable solutions as identified during the review of the site plan. Views of equipment placed on the ground shall be mitigated accordingly through architectural elements or landscape vegetation.
- E. **Material Quality and Detail:**
1. The choice of materials and texture has great visual significance and can affect the long-term appearance of the city. Proper selection of exterior building material is directly related to the durability of the building against weathering and damage from natural forces. Materials should be durable, economically maintained and of a quality that will maintain their appearance over a prolonged time. Natural materials such as brick and stone shall be used as the major cladding elements of the facade. Acceptable cladding for the balance of the building and trim materials will be determined with the review of each site plan.
 2. 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 three (3)-dimensional elements.
 3. **Building Lighting:** Building lighting shall be downcast and night sky compliant. Any use of neon, LED, or colored lighting shall be in a channel which directs the light down and washes the building façade instead of exposed lighting which is directed outward. The color shall be consistent with the other colors used on the building and shall be acceptable to the City.

SECTION 7. SIGNAGE. All signage within the PUD shall be designed, constructed and maintained in accordance with the West Des Moines Sign Code. The zoning district designated for application of bulk regulations for each parcel shall govern signage allowances and design.

SECTION 8. VEHICLE TRIP ALLOCATIONS. A Traffic Impact Study (study) dated October 18, 2022, has been prepared for the PUD. Per the study, the development has been allocated 167 P.M. peak hour trips; 152 A.M. peak hour trips; and 1,955 Average Daily Trips (ADT). As development proposals are approved, the number of vehicle trips generated by the proposed development will be subtracted from the total trips allocated to the development. Approval of this PUD does not constitute a guarantee that the proposed plan can be implemented. Development of all parcels and implementation of desired land uses, including specific high traffic generating tenants, will be limited by the available number of trips.

Should anticipated traffic exceed the total trips allocated for the PUD prior to full build out, further development of parcels may be limited or prohibited. Alternate uses to those planned within the study and approved as part of this PUD ordinance may be allowed, following completion of an amended traffic study analyzing the proposed alternative and appropriate City approval of an amendment to the respective PUD ordinance and/or PUD Sketch map, if necessary, if the existing uses and the proposed change(s) collectively do not exceed the total trips allocated to the development.

SECTION 9. STORM WATER MANAGEMENT. Individual Storm Water Management Plans will be required with each preliminary plat or site plan for ground within the PUD. The Developer will have said Storm Water Management Plans prepared by a Professional Engineer licensed in the State of Iowa. The Storm Water Management Plans 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 or site plan.

At time of final platting of a developable parcel or site plan if development is not known at the time of 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.

Upon installation of storm water management facilities, the property owner will be responsible to provide as-built drawings and a letter certifying the detention facility was constructed in conformance with the approved Storm Water Management Plan. The letter and as-built plans will be required prior to the issuance of a final occupancy permit for the first building or residential 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 of parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

SECTION 11. 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 12. 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.

SECTION 13. OTHER REMEDIES. In addition to the provisions set out in 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 from and after its passage, approval and publication as provided by law.

Passed and approved by the City Council on January 17, 2023.

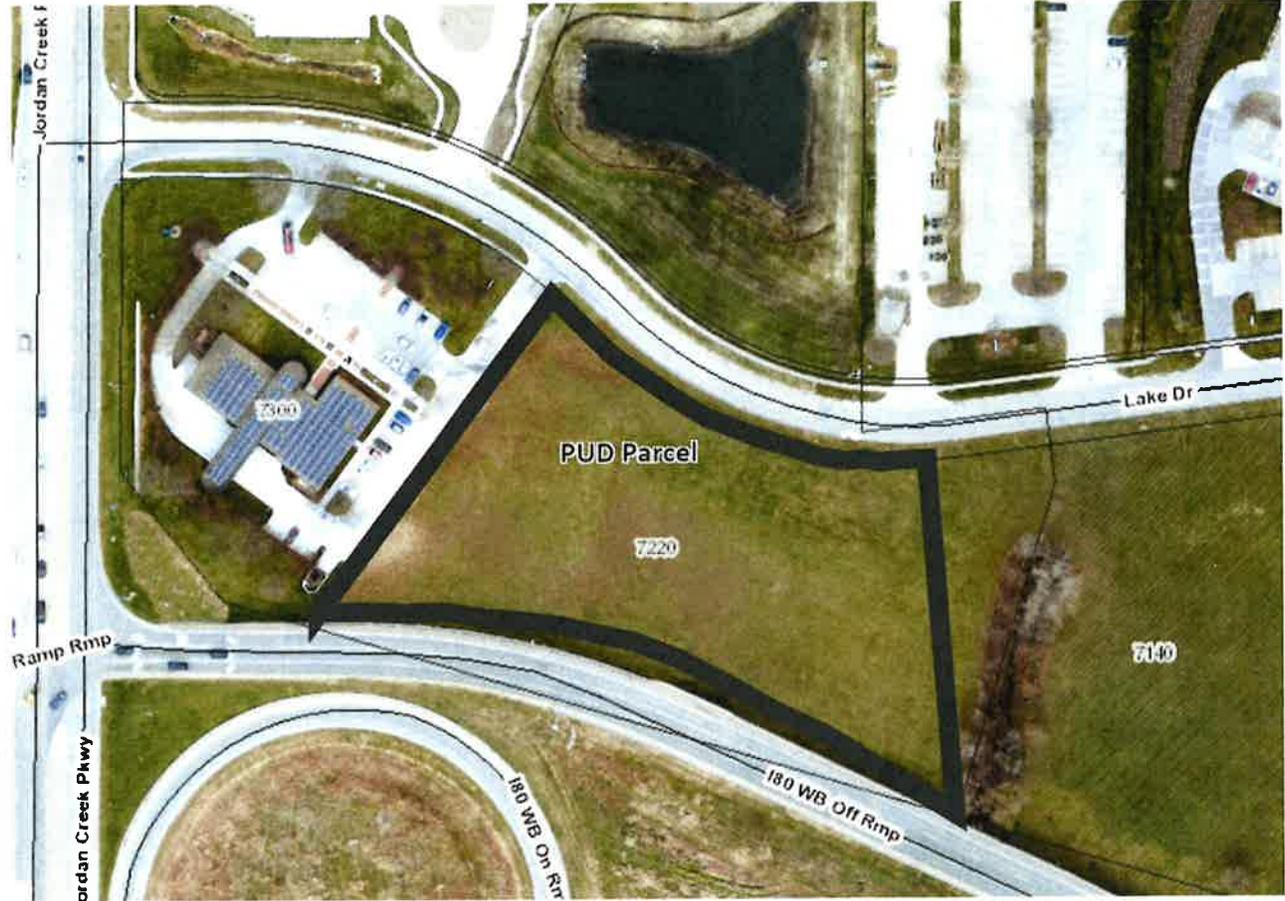
Russ Trimble, Mayor

ATTEST:

Ryan Jacobson, City Clerk

The foregoing Ordinance No. _____ was adopted by the City Council for
the City of
West Des Moines, Iowa, on _____, 2023, and was published in the
Des Moines Register on _____, 2023

PUD Sketch Plan
Woodhouse Planned Unit Development
January 2023



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

ITEM: Public Hearing for Amendment No. 6 to Historic West Des Moines Urban Renewal Plan - City Initiated

DATE: January 3, 2023

RESOLUTION: Resolution adopting Amendment No. 6 to Historic West Des Moines Urban Renewal Plan

FINANCIAL IMPACT: It is anticipated that the City will commit to purchasing 329 6th Street and constructing a public parking lot with associated public improvements not to exceed \$800,000 and issuing property tax rebates not to exceed \$550,000 under the Property Tax Rebate program over a 10-year period.

BACKGROUND: The Historic West Des Moines Urban Renewal Plan (Plan) was adopted by City Council Resolution on April 3, 2017. The TIF Ordinance was later amended on June 12, 2017, to correct the legal description, removing a split parcel, as required by law. Amendment No. 1 was approved on December 2, 2019, to add multiple known development projects. The TIF was amended on December 16, 2019, to correct the boundary of the URA and TIF district due to scrivener's error. Amendment No. 2 was approved on April 6, 2020, which added objectives and activities that clarify that the promotion of low and moderate income ("LMI") housing is appropriate as part of the overall promotion of economic development in the area. The Urban Renewal Plan was amended a third time on May 17, 2021, to add three development projects (Taxium, L.L.C, First National Bank and Junction Development Catalyst) to the plan. A fourth amendment occurred November 1, 2021, to adjust the minimum assessment agreement and extend the project completion date because of issues within the supply chain due to the pandemic. The most recent fifth amendment occurred on March 7, 2022, to include the 111 5th Street restaurant project to the Urban Renewal Plan.

This amendment will add the following development projects to the Plan:

- The City anticipates acquiring the lot at 329 6th Street, demolishing the existing structure(s), and constructing a public, surface parking lot to be utilized by customers visiting businesses in the Area. The costs of acquisition, site clearing, construction of the parking lot and trash enclosure is estimated not to exceed \$800,000. According to the City's Historic WDM Master Plan, there is a need for parking in closer proximity to the businesses and for additional parking during peak business hours. This project is intended to address those concerns and facilitate continued economic growth and redevelopment in the Area.
- Commonwealth Properties LLC is completing the rehabilitation of a 5,000 square foot, 2-story historic building. Construction is expected to be substantially completed by December 31, 2023. It is estimated that total construction cost will be approximately \$1,500,000. The City expects to make annual grants to Commonwealth Properties LLC in the form of rebates of incremental taxes generated by the project over a period not to exceed ten (10) years. The cost of such grants shall not exceed \$550,000 and will be subject to annual appropriation and the terms and conditions of a detailed development agreement with both parties. The agreement is anticipated to include a minimum assessment agreement and job creation or retention requirement.

The proposed amendments were presented to the Finance and Administration City Council Subcommittee, whom were in favor of the projects, on October 19, 2022, and November 9, 2022. Then on December 5, 2022, City Council approved a resolution to initiate the amendment of the Historic West Des Moines Urban Renewal Plan. The city held a consultation meeting on December 14, 2022, and received no comments on the amendment to the Plan.

OUTSTANDING ISSUES: There are no outstanding issues regarding this proposed amendment.

RECOMMENDATION: Finance and Administration City Council Subcommittee recommends that the City Council approve a resolution adopting Amendment No. 6 to the Historic West Des Moines Urban Renewal Plan.

Lead Staff Member: Bryce Johnson, Business Development Coordinator

STAFF REVIEWS

Department Director	Clyde E. Evans, Director, Community and Economic Development
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Appropriations/Finance	
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Dates(s) Published	December 23, 2022

SUBCOMMITTEE REVIEW (if applicable)

Committee	F&A		
Date Reviewed	October 19, 2022 & November 9, 2022		
Recommendation	<input checked="" type="radio"/> Yes	<input type="radio"/> No	<input type="radio"/> Split

ATTACHMENTS:

Exhibit I
Exhibit II

Amendment No. 6 to the Historic West Des Moines Urban Renewal Plan Resolution

AMENDMENT NO. 6

to the

**HISTORIC WEST DES MOINES
URBAN RENEWAL PLAN**

for the

**HISTORIC WEST DES MOINES
URBAN RENEWAL AREA**

WEST DES MOINES, IOWA

**Original Area - 2017
Amendment No. 1 - 2019
Amendment No. 2 - 2020
Amendment No. 3 – 2021
Amendment No. 4 – 2021
Amendment No. 5 – 2022
Amendment No. 6 - 2023**

**Amendment No. 6
to the
Historic West Des Moines Urban Renewal Plan
for the
Historic West Des Moines Urban Renewal Area
City of West Des Moines, Iowa**

INTRODUCTION AND HISTORY

The Historic West Des Moines Urban Renewal Plan (“Plan” or “Urban Renewal Plan”) for the Historic West Des Moines Urban Renewal Area (“Area” or “Urban Renewal Area”) adopted in April 2017, was amended in 2019, 2020, twice in 2021, and in 2022. The Urban Renewal Plan is being further amended by the adoption of this Amendment No. 6 to the Plan (“Amendment” or “Amendment No. 6”) to add to and/or update the list of proposed projects to be undertaken within the Urban Renewal Area.

No land is being added to or removed from the Urban Renewal Area by this Amendment. Accordingly, the previously established "base values" or "base valuations" of the original Urban Renewal Area and any subareas added by prior amendments to the Plan will remain unchanged by this Amendment.

Except as modified by this Amendment, the provisions of the original Urban Renewal Plan, as previously amended, are hereby ratified, confirmed, and approved and shall remain in full force and effect as provided herein. In case of any conflict or uncertainty, the terms of this Amendment shall control. Any subsection of the Plan not mentioned in this Amendment shall continue to apply to the Plan, as previously amended.

AREA DESIGNATION

The Urban Renewal Area continues to be an economic development area that is appropriate for the promotion of commercial and industrial development, as well as appropriate for low or moderate income (LMI) residential development, as described in the Plan as previously amended.

DEVELOPMENT PLAN

The Urban Renewal Plan, as amended, and this Amendment are in conformity with the Connect 2 Create WDM, adopted October 17, 2022, which is the City of West Des Moines’ (“City’s”) general plan for the development of the City as a whole.

This Plan does not in any way replace or modify the City’s current land use planning or zoning regulation process. Any need for improved traffic, public transportation, public utilities, recreational and community facilities, or other public improvements within the Urban Renewal Area is set forth in the Plan, as amended.

PREVIOUSLY APPROVED URBAN RENEWAL PROJECTS

Numerous urban renewal projects were authorized prior to the date of this Amendment and are continuing. Such projects are not listed in this Amendment but consist of a variety of urban renewal projects.

ELIGIBLE URBAN RENEWAL PROJECTS (Amendment No. 6)

Although certain project activities may occur over a period of years, in addition to projects previously authorized in the Plan, as previously amended, the eligible urban renewal projects under this Amendment No. 6 include:

1. **Property Acquisition/Public Improvements:** The City anticipates acquiring the lot at 329 6th Street, demolishing the existing structure(s), and constructing a public, surface parking lot to be utilized by customers visiting businesses in the Area. The costs of acquisition, site clearing, construction of lot and trash enclosure is estimated not to exceed \$800,000. According to the City's Historic WDM Master Plan, there is a need for parking in closer proximity to the businesses and for additional parking during peak business hours. This project is intended to address those concerns and facilitate continued economic growth and redevelopment in the Area.

2. **Development Agreements:**
 - A. *Commonwealth Properties, LLC (or related entities):* The proposed urban renewal project anticipates Commonwealth Properties, LLC (or a related entity) completing complete rehabilitation of 5000 square foot 2-story historic building. Construction is expected to be substantially completed by December 31, 2023. It is estimated that total construction costs will be approximately \$1,500,000. The City expects to make annual grants to Commonwealth Properties, LLC in the form of rebates of incremental taxes generated by the project over a period of not to exceed ten (10) years. The cost of such grants shall not exceed \$550,000 and will be subject to annual appropriation and the terms and conditions of a detailed development agreement with both parties. The agreement is anticipated to include a minimum assessment agreement and job creation or retention requirement.

 - B. *Development Agreements:* The City expects to consider requests for development agreements for projects that are consistent with this Plan, in the City's sole discretion. Such agreements are unknown at this time, but based on past history, and dependent on development opportunities and climate, the City expects to consider a broad range of incentives as authorized by this Plan, including but not limited to land, loans, grants, tax rebates, infrastructure assistance and other incentives. The costs of such development agreements will not exceed \$10,000,000.

3. Planning, engineering fees (for urban renewal plans), attorney fees, other related costs to support urban renewal projects and planning

Project	Date	Estimated cost
Fees and costs	Undetermined	Not to Exceed \$50,000

FINANCIAL DATA

1.	July 1, 2022 constitutional debt limit:	\$506,339,850
2.	Current outstanding general obligation debt:	\$292,620,000
3.	Proposed amount of indebtedness to be incurred: A specific amount of debt to be incurred for the Eligible Urban Renewal Projects (Amendment No. 6) has not yet been determined. This document is for planning purposes only. The estimated project costs in this Amendment are estimates only and will be incurred and spent over a number of years. In no event will the City's constitutional debt limit be exceeded. The City Council will consider each project proposal on a case-by-case basis to determine if it is in the City's best interest to participate before approving an urban renewal project or expense. Subject to the foregoing, it is estimated that the City's costs for the Eligible Urban Renewal Projects (Amendment No. 6) as described above will be approximately as stated in the next column:	\$11,400,000 This does not include financing costs related to debt issuance, which may be incurred over the life of the Area.

URBAN RENEWAL FINANCING

The City intends to utilize various financing tools, such as those described below to successfully undertake the proposed urban renewal actions. The City has the statutory authority to use a variety of tools to finance physical improvements within the Area, as amended. These include:

- A. Tax Increment Financing.
Under Section 403.19 of the *Code of Iowa*, urban renewal areas may utilize the tax increment financing mechanism to finance the costs of public improvements, economic development incentives or other urban renewal projects. Upon creation of a tax increment district within the Area, by ordinance, the assessment base is frozen and the amount of tax revenue available from taxes paid on the difference between the frozen base and the increased value, if any, is segregated into a separate fund for the use by the City to pay costs of the eligible urban renewal projects. Certain increased taxes generated by any new development, above the base value, are distributed to the taxing entities, if not requested by the City, and in any event upon the expiration of the tax increment district.
- B. General Obligation Bonds.

Under Division III of Chapter 384 and Chapter 403 of the *Code of Iowa*, the City has the authority to issue and sell general obligation bonds for specified essential and general corporate purposes, including the acquisition and construction of certain public improvements within the Area, as amended, and for other urban renewal projects or incentives for development consistent with this Plan, as amended. Such bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the City. It may be the City will elect to abate some or all of the debt service on these bonds with incremental taxes from this Area, as amended.

The City may also determine to use tax increment financing to provide incentives such as cash grants, loans, tax rebates or other incentives to developers or private entities in connection with the urban renewal projects identified in the Plan, as amended. In addition, the City may determine to issue general obligation bonds, tax increment revenue bonds or such other obligations, or loan agreements for the purpose of making loans or grants of public funds to private businesses located in the Area for urban renewal projects. Alternatively, the City may determine to use available funds for making such loans or grants or other incentives related to urban renewal projects. In any event, the City may determine to use tax increment financing to reimburse the City for any obligations or advances.

Nothing herein shall be construed as a limitation on the power of the City to exercise any lawful power granted to the City under Chapter 15, Chapter 15A, Chapter 403, Chapter 427B, or any other provision of the *Code of Iowa* in furtherance of the objectives of the Plan.

EFFECTIVE PERIOD

This Amendment No. 6 will become effective upon its adoption by the City Council and will remain in effect until it is repealed by the City Council. Notwithstanding anything to the contrary in the Plan, any prior amendment, resolution, or document, the Plan, as amended, shall remain in effect until terminated by the City Council.

The use of incremental property tax revenues, or the “division of revenue,” as those words are used in Chapter 403 of the *Code of Iowa*, will be consistent with Chapter 403 of the Iowa Code. Nothing in this Amendment shall alter the duration of the division of revenue as previously explained in the Plan, as previously amended.

REPEALER AND SEVERABILITY CLAUSE

Any parts of the previous Plan, as previously amended, in conflict with this Amendment are hereby repealed.

If any part of this Amendment or the Plan, as previously amended, is determined to be invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the validity of the Amendment or the Plan as a whole, or any part of the Amendment or the Plan not determined to be invalid or unconstitutional.

RESOLUTION NO. _____

RESOLUTION DETERMINING AN AREA OF THE CITY TO BE AN ECONOMIC DEVELOPMENT AREA, AND THAT THE REHABILITATION, CONSERVATION, REDEVELOPMENT, DEVELOPMENT, OR A COMBINATION THEREOF, OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY OR WELFARE OF THE RESIDENTS OF THE CITY; DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS; AND ADOPTING AMENDMENT NO. 6 TO THE HISTORIC WEST DES MOINES URBAN RENEWAL PLAN

WHEREAS, by Resolution No. 17-04-03-14, adopted April 3, 2017, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Historic West Des Moines Urban Renewal Plan (the "Urban Renewal Plan" or "Plan") for the Historic West Des Moines Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan has subsequently been amended several times, most recently by an Amendment No. 5 to the Plan, adopted March 7, 2022, and which Plan, as amended, is on file in the office of the Recorder of Polk County, Iowa; and

WHEREAS, this Urban Renewal Area currently includes and consists of:

ORIGINAL AREA AND AMENDMENT NO. 1 AREA

A TRACT OF LAND IN SECTIONS 10, 11, 14 AND 15 TOWNSHIP 78 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPLE MERIDIAN, WEST DES MOINES, POLK COUNTY, IOWA IS INCLUDED IN THE HISTORIC WEST DES MOINES URBAN RENEWAL PLAN AND IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF LOT 1, BLOCK 6, VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 1, TO THE NORTHEAST CORNER OF SAID BLOCK 6, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE EXTENDED OF SAID BLOCK 6, TO THE SOUTHEAST CORNER OF BLOCK 9, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE OF SAID BLOCK 9, TO THE SOUTHEAST CORNER OF LOT 1, OF SAID BLOCK 9, OF SAID VALLEY JUNCTION;

THENCE WEST, ALONG THE SOUTH LINE OF SAID LOT 1, TO THE SOUTHWEST CORNER OF SAID LOT 1, OF SAID BLOCK 9, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE WEST LINE OF SAID LOT 1, TO THE NORTH LINE OF SAID BLOCK 9, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND THE NORTH LINE EXTENDED OF SAID BLOCK 9, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF BLOCK 10 OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE WEST LINE EXTENDED OF SAID BLOCK 10, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF BLOCK 19, FIRST ADDITION TO VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE NORTH, ALONG THE WEST LINE OF SAID BLOCK 19, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF SAID BLOCK 19, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE OF SAID BLOCK 19, TO THE NORTHEAST CORNER OF LOT 18, OF SAID BLOCK 19, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE EXTENDED OF SAID LOT 18, OF SAID BLOCK 19, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 11, BLOCK 24, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE OF LOTS 11, 12, 13, 14, 15, 16, 17, 18, 19 AND 20, OF SAID BLOCK 24, TO THE NORTHEAST CORNER OF SAID LOT 20, OF SAID BLOCK 24, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE EXTENDED OF SAID LOT 20, OF SAID BLOCK 24, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 49, BUTLER'S ADDITION TO VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE NORTH, ALONG THE EAST LINE OF LOTS 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59 AND 60, OF SAID BUTLER'S ADDITION TO VALLEY

JUNCTION, TO THE NORTHEAST CORNER OF SAID LOT 60, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE EXTENDED OF SAID LOT 60, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF SAID LOT 61, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND THE NORTH LINE EXTENDED OF SAID LOT 61, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 84, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF LOT 84, OF SAID BUTLER'S ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 1; BLOCK 32, SECOND ADDITION TO VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 1, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, TO THE NORTHEAST CORNER OF SAID LOT 1, OF SAID SECOND ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE OF SAID LOT 1, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, TO THE NORTHEAST CORNER OF LOT 2, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE OF SAID LOT 2, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF SAID LOT 2; OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION;

THENCE WEST, ALONG THE SOUTH LINE OF SAID LOT 2, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF SAID LOT 2, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE WEST LINE OF LOTS 3, 4, 5, 6, 7, 8, 9, 10, 11 AND 12, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF SAID LOT 12, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE OF SAID LOT 12, OF SAID BLOCK 32, OF SAID SECOND ADDITION TO VALLEY JUNCTION, A DISTANCE OF SIX FEET;

THENCE SOUTH, TO THE NORTHWEST CORNER OF LOT 1, BLOCK 25, FIRST ADDITION TO VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE SOUTH, ALONG THE WEST LINE OF LOTS 1, 2, 3, 4, 5, 6, 7, 8 AND 9, OF SAID BLOCK 25, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF SAID LOT 9, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE OF SAID LOT 9, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE EAST LINE OF SAID BLOCK 25, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE OF SAID BLOCK 25, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF SAID BLOCK 25, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE WEST, ALONG THE SOUTH LINE OF SAID BLOCK 25, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 10, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE WEST LINE EXTENDED OF SAID LOT 10, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 1, BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE WEST LINE OF LOTS 1, 2, 3, 4, 5, 6 AND 7, OF SAID BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 8, OF SAID BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 8, OF SAID BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE EAST LINE OF SAID BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE AND EAST LINE EXTENDED OF SAID BLOCK 18, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE NORTHEAST CORNER OF BLOCK 11, VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE SOUTH, ALONG THE EAST LINE OF SAID BLOCK 11, OF SAID VALLEY JUNCTION TO THE NORTHEAST CORNER OF LOT 7, OF SAID BLOCK 11, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE EXTENDED OF SAID LOT 7, OF SAID BLOCK 11, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 12, BLOCK 12, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE OF SAID LOT 12, OF SAID BLOCK 12, OF SAID VALLEY JUNCTION, TO THE NORTHEAST CORNER OF SAID LOT 12, OF SAID BLOCK 12, OF SAID VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE OF LOTS 10, 11 AND 12, OF SAID BLOCK 12, OF SAID VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 10, OF SAID BLOCK 12, OF SAID VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE EXTENDED OF SAID LOT 10, OF SAID BLOCK 12, OF SAID VALLEY JUNCTION, TO THE NORTHEAST CORNER OF LOT 20, BLOCK 3, OF SAID VALLEY JUNCTION;

THENCE SOUTH, ALONG THE EAST LINE OF LOTS 15, 16, 17, 18, 19, AND 20, OF SAID BLOCK 3; OF SAID VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 15, OF BLOCK 3, SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE EXTENDED OF SAID LOT 15, OF SAID BLOCK 3, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 6, OF SAID BLOCK 3, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE AND SOUTH LINE EXTENDED OF SAID LOT 6, OF SAID BLOCK 3, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 15, BLOCK 2, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE AND SOUTH LINE EXTENDED OF SAID LOT 15, OF SAID BLOCK 2, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 6, OF SAID BLOCK 2, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE AND SOUTH LINE EXTENDED OF SAID LOT 6, OF SAID BLOCK 2, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 17, OF BLOCK 1, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE SOUTH LINE AND SOUTH LINE EXTENDED OF SAID LOT 17, OF SAID BLOCK 1, OF SAID VALLEY JUNCTION, TO

THE SOUTHEAST CORNER OF SAID LOT 17, OF SAID BLOCK 1, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE AND EAST LINE EXTENDED OF LOTS 17, 18, 19, 20, 21 AND 22, OF SAID BLOCK 1, OF SAID VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 10, BLOCK 14, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE EAST LINE AND EAST LINE EXTENDED OF LOTS 10, 11, 12, 13, 14, 15, 16, 17 AND 18, OF SAID BLOCK 14, OF SAID VALLEY JUNCTION, TO THE SOUTHEAST CORNER OF LOT 10, BLOCK 15, OF FIRST ADDITION TO VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, POLK COUNTY, IOWA;

THENCE NORTH, ALONG THE EAST LINE AND EAST LINE EXTENDED OF LOTS 10, 11, 12, 13, 14, 15, 16, 17 AND 18, OF SAID BLOCK 15, OF SAID FIRST ADDITION TO VALLEY JUNCTION, TO THE SOUTH RIGHT OF WAY LINE OF WALNUT STREET;

THENCE EASTERLY, ALONG THE SOUTH RIGHT OF WAY LINE OF WALNUT STREET, TO THE WEST RIGHT OF WAY LINE OF 1ST STREET (STATE HIGHWAY 28);

THENCE SOUTH, ALONG THE WEST RIGHT OF WAY LINE AND WEST RIGHT OF WAY LINE EXTENDED OF 1ST STREET, TO THE SOUTH RIGHT OF WAY LINE OF RAILROAD AVENUE;

THENCE WEST, ALONG THE SOUTH RIGHT OF WAY LINE OF RAILROAD AVENUE, TO A POINT NORTH OF AND NORMAL TO THE NORTHEAST CORNER OF GOODMAN INDUSTRIAL PARK, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, IOWA;

THENCE SOUTH, ALONG A LINE NORMAL TO THE SOUTH RIGHT OF WAY LINE OF RAILROAD AVENUE, TO THE NORTHEAST CORNER OF SAID GOODMAN INDUSTRIAL PARK;

THENCE SOUTH, ALONG THE EAST LINE OF SAID GOODMAN INDUSTRIAL PARK, TO THE SOUTHEAST CORNER OF SAID GOODMAN INDUSTRIAL PARK;

THENCE SOUTHWESTERLY, ALONG THE SOUTHEASTERLY LINE OF SAID GOODMAN INDUSTRIAL PARK, TO THE SOUTHEASTERLY CORNER OF WEST GREEN INDUSTRIAL PARK PLAT 1, AN OFFICIAL

SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, IOWA;

THENCE NORTHERLY AND NORTHWESTERLY, ALONG THE EASTERLY LINE OF SAID WEST GREEN INDUSTRIAL PARK PLAT 1, TO THE SOUTHEAST CORNER OF PART OF LOT "D", VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES, IOWA SAID LINE BEING THE SOUTH LINE OF PROPERTY CONVEYED TO LILLIE G. CLAY AND HARRY W. BAILEY BY DEED DATED DECEMBER 29, 1939;

THENCE WESTERLY, ALONG SAID SOUTH LINE OF CONVEYANCE TO LILLIE G. CLAY AND HARRY W. BAILEY, EXTENDED TO THE EAST LINE OF PROPERTY CONVEYED TO THE CITY OF WEST DES MOINES, IOWA FOR PUBLIC STREET PURPOSES BY DEED DATED OCTOBER 5, 1955;

THENCE NORTHERLY, ALONG SAID EAST PROPERTY LINE AND PROPERTY LINE EXTENDED FOR PUBLIC ROADWAY, TO THE NORTH RIGHT OF WAY LINE OF RAILROAD AVENUE;

THENCE EAST, ALONG THE NORTH RIGHT OF WAY LINE AND NORTH RIGHT OF WAY LINE EXTENDED OF RAILROAD AVENUE, TO THE WEST LINE OF LOT 9; BLOCK 34, VALLEY JUNCTION, AN OFFICIAL SUBDIVISION NOW IN AND FORMING A PART OF THE CITY OF WEST DES MOINES;

THENCE NORTH, ALONG THE WEST LINE OF LOTS 6, 7, 8 AND 9, OF SAID BLOCK 34, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF SAID LOT 6, OF SAID BLOCK 34, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 6, OF SAID BLOCK 34, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 13, BLOCK 33, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 13, OF SAID BLOCK 33, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 6, OF SAID BLOCK 33, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 6, OF SAID BLOCK 33, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 13, BLOCK 7, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 13, OF SAID BLOCK 7, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 6, OF SAID BLOCK 7, OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 6, OF SAID BLOCK 7, OF SAID VALLEY JUNCTION, TO THE NORTHWEST CORNER OF LOT 13 OF SAID BLOCK 6; OF SAID VALLEY JUNCTION;

THENCE EAST, ALONG THE NORTH LINE AND NORTH LINE EXTENDED OF SAID LOT 13, OF SAID BLOCK 6, OF SAID VALLEY JUNCTION, TO THE SOUTHWEST CORNER OF LOT 5, OF SAID BLOCK 6, OF SAID VALLEY JUNCTION;

THENCE NORTH, ALONG THE WEST LINE OF LOTS 1, 2, 3, 4 AND 5, OF SAID BLOCK 6, OF SAID VALLEY JUNCTION, TO THE POINT OF BEGINNING.

WHEREAS, a proposed Amendment No. 6 to the Plan ("Amendment No. 6" or "Amendment") for the Urban Renewal Area described above has been prepared, which proposed Amendment has been on file in the office of the City Clerk and which is incorporated herein by reference, the purpose of which is to add to and/or update the list of proposed projects to be undertaken within the Urban Renewal Area; and

WHEREAS, it is desirable that the area be redeveloped as part of the overall redevelopment covered by the Plan, as amended; and

WHEREAS, this proposed Amendment No. 6 adds no new land to the Urban Renewal Area; and

WHEREAS, by resolution adopted on December 5, 2022, this Council directed that a consultation be held with the designated representatives of all affected taxing entities to discuss the proposed Amendment No. 6 and the division of revenue described therein, and that notice of the consultation and a copy of the proposed Amendment No. 6 be sent to all affected taxing entities; and

WHEREAS, pursuant to such notice, the consultation was duly held as ordered by the City Council and all required responses to the recommendations made by the affected taxing entities, if any, have been timely made as set forth in the report of the Business Development Coordinator, or his delegate, filed herewith and incorporated herein by this reference, which report is in all respects approved; and

WHEREAS, by resolution this Council also set a public hearing on the adoption of the proposed Amendment No. 6 for this meeting of the Council, and due and proper notice of the

public hearing was given, as provided by law, by timely publication in the Des Moines Register, which notice set forth the time and place for this hearing and the nature and purpose thereof; and

WHEREAS, in accordance with the notice, all persons or organizations desiring to be heard on the proposed Amendment No. 6, both for and against, have been given an opportunity to be heard with respect thereto and due consideration has been given to all comments and views expressed to this Council in connection therewith and the public hearing has been closed.

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

Section 1. That the findings and conclusions set forth or contained in Amendment No. 6 concerning the area of the City of West Des Moines, State of Iowa, described in the preamble hereof, be and the same are hereby ratified and confirmed in all respects as the findings of this Council for this area.

Section 2. This Council further finds:

a) Although relocation is not expected, a feasible method exists for the relocation of any families who will be displaced from the Urban Renewal Area into decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families;

b) The Plan, as amended, and Amendment No. 6 conform to the general plan for the development of the City as a whole; and

c) Acquisition by the City is not immediately expected, however, as to any areas of open land to be acquired by the City included within the Urban Renewal Area:

i. Residential use is expected and with reference to those portions thereof which are to be developed for residential uses, this City Council hereby determines that a shortage of housing of sound standards and design with decency, safety and sanitation exists within the City; that the acquisition of the area for residential uses is an integral part of and essential to the program of the municipality; and that one or more of the following conditions exist:

a. That the need for housing accommodations has been or will be increased as a result of the clearance of slums in other areas, including other portions of the urban renewal area.

b. That conditions of blight in the municipality and the shortage of decent, safe and sanitary housing cause or contribute to an increase in and spread of disease and crime, so as to constitute a menace to the public health, safety, morals, or welfare.

c. That the provision of public improvements related to housing and residential development will encourage housing and residential

development which is necessary to encourage the retention or relocation of industrial and commercial enterprises in this state and its municipalities.

d. The acquisition of the area is necessary to provide for the construction of housing for low and moderate income families.

ii. Non-residential use is expected and with reference to those portions thereof which are to be developed for non-residential uses, such non-residential uses are necessary and appropriate to facilitate the proper growth and development of the City in accordance with sound planning standards and local community objectives.

Section 3. That the Urban Renewal Area, as amended, continues to be an economic development area within the meaning of Chapter 403, Code of Iowa; that such area is eligible for designation as an urban renewal area and otherwise meets all requisites under the provisions of Chapter 403, Code of Iowa; and that the rehabilitation, conservation, redevelopment, development, or a combination thereof, of such area is necessary in the interest of the public health, safety or welfare of the residents of this City.

Section 4. That Amendment No. 6 to the Historic West Des Moines Urban Renewal Plan of the City of West Des Moines, State of Iowa, attached hereto as Exhibit 1 and incorporated herein by reference, be and the same is hereby approved and adopted as "Amendment No. 6 to the Historic West Des Moines Urban Renewal Plan for the City of West Des Moines, State of Iowa"; Amendment No. 6, including all of the exhibits attached thereto, is hereby in all respects approved; and the City Clerk is hereby directed to file a certified copy of Amendment No. 6 with the proceedings of this meeting.

Section 5. That, notwithstanding any resolution, ordinance, plan, amendment or any other document, Amendment No. 6 shall be in full force and effect from the date of this Resolution until the Council amends or repeals the Plan. The proposed Amendment No. 6 shall be forthwith certified by the City Clerk, along with a copy of this Resolution, to the Recorder for Polk County, Iowa, to be filed and recorded in the manner provided by law.

Section 6. That all other provisions of the Plan not affected or otherwise revised by the terms of Amendment No. 6, as well as all resolutions previously adopted by this City Council related to the Plan be and the same are hereby ratified, confirmed and approved in all respects.

PASSED AND APPROVED this 3rd day of January, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

Label the Amendment as Exhibit 1 (with all exhibits) and attach it to this Resolution.

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

ITEM: Approval to execute a Development Agreement between VAB, LLC and the City of West Des Moines **DATE:** January 3, 2023

RESOLUTION: Approval of Development Agreement

FINANCIAL IMPACT: The applicant, VAB, LLC, has requested the creation of a Development Agreement (DA) with the City that would include an economic development incentive package for the renovation of the Val Air Ballroom. They are requesting that the DA include a 10-year 100% property tax rebate for a total of \$1,110,250 and reimbursement of certain development fees totaling up to \$72,000. Total costs of the incentive package would not exceed \$1,182,250. All costs would come out of the Val Gate Urban Renewal Plan and Tax Increment Finance District. City policy requires that the Development Agreement contain a Minimum Assessment Agreement to guarantee the investment, to guarantee the valuation for twenty (20) years, and to guarantee the retention/creation of five (5) FTEs. The applicant has agreed to a figure of \$5,500,000 as the value of the Minimum Assessment Agreement and create and/or retain fourteen- (14) FTEs.

BACKGROUND: On July 21, 2021, staff met with Sam Summers/First Fleet Concerts to discuss the purchase of the Val Air Ballroom. Summers has since acquired the property (January 2022) and filed an application with the City to be considered for the Property Tax Rebate Program to offset the costs of the historic renovation and building improvements. Review of the application indicates that they are proposing to renovate the 35,000 square foot music and entertainment venue located on 8.5 acres at 301 Ashworth Road in the Val Gate Urban Renewal Area. The total project cost is estimated at \$14,500,000 and the applicant anticipates a minimum assessment of \$5,500,000. The property is currently assessed at \$1,430,100 with the building valuation at \$100. Due to the significant investment in this historic landmark, it is being requested that the City provide a property tax rebate for the project for ten (10) years. Based upon the incremental increase in valuation, the development would yield an annual rebate of \$111,025 for a total of \$1,110,250 over ten (10) years. In addition to the property tax rebate, the developer is requesting up to \$72,000 in reimbursement on development fees. Originally, the developer had requested \$250,000 to install the required streetscape work along Ashworth Road. That work is now being incorporated into the Ashworth Road improvement project.

This proposal was reviewed by the Finance & Administration Council Subcommittee at their May 18, 2022, meeting and the members recommended bringing the request to the full Council for action to fund the request through the Property Tax Rebate Program.

On June 6, 2022, the City Council directed staff to initiate the preparation of a Development Agreement.

The project site is currently within the Val Gate Urban Renewal area. The URA was amended on August 15, 2022, to add this project.

OUTSTANDING ISSUES: There are no outstanding issues.

RECOMMENDATION: Staff recommends that the City Council adopt a resolution approving the Development Agreement and authorizing the Mayor to sign the Agreement on behalf of the City.

Lead Staff Member: Clyde E. Evans, AICP

STAFF REVIEWS

Department Director	Clyde E. Evans, Director
Appropriations/Finance	Tim Stiles, Finance Director
Legal	
Agenda Acceptance	

PUBLICATION(S) (if applicable)

Published In	Des Moines Register
Date(s) Published	December 23, 2022
Letter sent to surrounding property owners	N/A

SUBCOMMITTEE REVIEW (if applicable)

Committee	Finance & Administration		
Date Reviewed	May 18, 2022		
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>

ATTACHMENTS:

Exhibit I
Exhibit II

Development Agreement
Resolution

AGREEMENT FOR PRIVATE DEVELOPMENT

BY AND BETWEEN

CITY OF WEST DES MOINES

AND

VAB, LLC

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (this “Agreement”) is made as of this ____ day of _____, 2023 (“Effective Date”), by and between the CITY OF WEST DES MOINES, IOWA, a municipality (“City”), established pursuant to the Code of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2021, as amended (the “Urban Renewal Act”) and VAB, LLC, an Iowa limited liability company with its principal place of business located at 500 East Locust Street, Suite 500, Des Moines, Iowa 50309 (“Developer”).

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for economic development within its corporate limits and, in connection therewith adopted the Val-Gate Urban Renewal Plan (the “Urban Renewal Plan”) for purposes of carrying out urban renewal activities in an area known as the Val-Gate Urban Renewal Area (the “Urban Renewal Area”); and

WHEREAS, a copy of the Urban Renewal Plan, as subsequently amended, has been recorded among the land records in the office of the Recorder of Polk County; and

WHEREAS, Developer is the owner of certain real property located within the Urban Renewal Area (the “Development Property,” as legally defined in Exhibit A attached hereto), upon which Developer intends to develop the Project (as hereinafter defined), which will include the construction of certain Minimum Improvements (as hereinafter defined) and related improvements, and the creation and/or retention of employment opportunities within the City and Urban Renewal Area; and

WHEREAS, City is willing to provide certain economic development incentives to Developer, as described further herein, in consideration for Developer’s development of the Development Property with the Project and performance of other obligations set forth in this Agreement; and

WHEREAS, Developer would not have agreed to pursue the development of the Development Property with the Project without the benefit of, and City’s agreement to provide, the economic incentives set forth in this Agreement; and

WHEREAS, City believes that the development of the Development Property with the Project pursuant to this Agreement and the parties' fulfillment generally of this Agreement are in the vital and best interests of City and in accord with the public purposes and provisions of the applicable State and local laws and requirements.

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 hereto, as the same may be modified, amended, or supplemented in accordance with the terms hereof.

Building Fees means sewer connection fees and sewer capital charge; water connection fees; storm sewer inspection fees; stormwater inspection fee; plan review fees/Fire Department building permit review fees; site plan submission; filing fees; and traffic study fees, all to the extent incurred by Developer and related to the Minimum Improvements and/or the Development Property.

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, 2021, as amended.

Construction Plans means the plans, specifications, drawings, and related documents for the Project on the Development Property; the Construction Plans shall be as detailed as plans, specifications, drawings, and related documents which are submitted to the building inspector of City as required by applicable City codes for permit approval.

County means Polk County, Iowa.

Developer means VAB, LLC, an Iowa limited liability company, and its permitted successors and assigns.

Development Property means that portion of the Urban Renewal Area described on Exhibit A attached hereto and incorporated herein.

Economic Development Grants means the payments to be made by the City to Developer under Article VIII of this Agreement.

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.

Full Time Equivalent Employee means 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.

Minimum Actual Value means the actual value assigned to the Minimum Improvements 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.

Minimum Improvements means the renovation of an historic music entertainment venue, and related improvements, as more particularly described in Exhibit B-1 and depicted in Exhibit B-2.

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 under a policy or policies of insurance required to be provided and maintained by Developer pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinances 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 Val-Gate Urban Renewal Tax Increment Revenue Fund under Section 403.19 of the Code.

Project means the construction of the Minimum Improvements by the Developer, and the operation of the Minimum Improvements thereafter.

Qualified Costs and Expenses means the Building Fees actually collected by the City, up to a combined maximum of \$72,000.

State means the State of Iowa.

Tax Increments means the property tax revenues derived from that portion of the assessed value of the Minimum Improvements and the Development Property above the January 1, 2022 assessed value of \$ 1,430,100, divided and made available to the City for deposit in the VAB, LLC TIF Account of the Val-Gate Urban Renewal Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code, as amended, and the Ordinance.

Termination Date means the date of termination of this Agreement, as established in Section 10.11 of this Agreement.

Unavoidable Delays means delays resulting from reasonably unforeseeable 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 shortages/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); or government declared pandemics. Notwithstanding the foregoing, each Party acknowledges and agrees that it is entering into this Agreement and committing to perform its respective obligations with an awareness of the effects of the COVID-19 outbreak, as of the Effective Date, the continuation of which the Parties agree will not be deemed an Unavoidable Delay, absent changes in circumstances or occurrence of events, as of the date hereof, beyond the Parties' reasonable control which would independently meet the definition of an Unavoidable Delay.

VAB, LLC TIF Account means a separate account within the Val-Gate Urban Renewal Tax Increment Revenue Fund of the City in which Tax Increments received by the City with respect to the Minimum Improvements and the Development Property shall be deposited.

Val-Gate 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 for the sole purpose of paying 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.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations and Warranties of City. City makes the following representations and warranties:

a. 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 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 City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and

obligations of City only, and not of any governing body member, officer, agent, servant, or employee of City in the individual capacity thereof.

Section 2.2. Representations, Warranties, and Covenants of Developer. Developer makes the following representations and warranties and covenants to City as follows:

a. Developer is an Iowa limited liability company duly organized and validly existing under the laws of the State of Iowa and duly registered to do business in 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 this Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by Developer and, assuming due authorization, execution, and delivery by City, 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 will cause the Project to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

f. Developer will use its best efforts to obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations that must be obtained or met before the Project may be lawfully constructed.

g. 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 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.

h. Developer would not undertake its obligations under this Agreement without the payment by the City of the Economic Development Grants being made to Developer pursuant to this Agreement.

ARTICLE III. CONSTRUCTION BY DEVELOPER

Section 3.1. Construction of Minimum Improvements.

a. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to City. Developer agrees that the scope and scale of the Project as detailed and outlined in the Construction Plans shall be substantially similar to the scope and scale of the Minimum Improvements, as more particularly described in Exhibit B-1, and shall require a total investment of not less than \$14,000,000. Developer agrees to pay all Building Fees required for the Project.

b. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be completed: (i) on or before 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.

c. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the City's building official or any amendments thereto as may be approved by the City's building official. Developer shall permit designated representatives of 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.

Section 3.2. Construction Plans. Developer shall cause Construction Plans to be provided for the Minimum Improvements, which shall be subject to approval by City's building official and/or economic development staff as provided in this Section 3.2, which approval shall not be unreasonably withheld. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable federal, State, and local laws and regulations. City's building official shall approve the Construction Plans in writing and issue all required permits 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 constitute approval for the purposes of this Agreement only and 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 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, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default.

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. City and Developer shall use reasonable efforts to cooperate with each other in connection with all permits and other approvals required for the Minimum Improvements.

Section 3.3. Certificate of Completion. Within twenty (20) days after written request of Developer and after issuance of an occupancy permit for the Minimum Improvements, City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto and incorporated herein. 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 proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.3, City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail 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 City, for Developer to take or perform in order to obtain such Certificate of Completion.

Issuance by City of the Certificate of Completion pursuant to this Section 3.3 is solely for the purposes of this Agreement and shall not constitute approval for any other City purpose, nor shall it subject City to any liability for the Development Property or the Project as constructed.

Section 3.4. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to 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: (i) construction of the Minimum Improvements shall commence and be completed within the time limits set forth herein; (ii) the Minimum Improvements shall be constructed in accordance with

the Construction Plans; (iii) the Minimum Improvements shall be constructed and completed free and clear of any mechanic's liens, materialman's liens, and equitable liens; and (iv) all costs of constructing the Minimum Improvements shall be paid when due.

ARTICLE IV. PROPERTY TAXES AND MINIMUM ASSESSMENT AGREEMENT

Section 4.1. Real Property Taxes. Developer, or its successors, 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 acquired and owned by Developer and pursuant to the provisions of this Agreement. Until Developer's obligations have been assumed by any other person or legal title to the Development Property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes on the Development Property and Minimum Improvements.

Developer, and its successors, agree that prior to the Termination Date:

a. Developer 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. Developer 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.

Section 4.2. Minimum Assessment Agreement.

a. As further consideration for this Agreement, Developer shall execute and cause any lienholders to execute, contemporaneous with the closing of its acquisition of the Development Property, an Assessment Agreement pursuant to the provisions of Iowa Code Section 403.6(19) specifying the Assessor's Minimum Actual Value of 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 \$5,500,000, before rollback, upon completion of the Minimum Improvements, but in no event later than January 1, 2024, until the Assessment Agreement Termination Date (as defined below). Such minimum actual value at the time applicable is herein referred to as the "Assessor's Minimum Actual Value".

b. Nothing in the Assessment Agreement shall limit the discretion of the County Assessor to assign an actual value to the Development 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 until December 31, 2033 (the "Assessment Agreement Termination Date"). The Assessment Agreement shall be certified by the Assessor for the County as provided in Iowa Code Section 403.6(19) (2021) 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 V. INSURANCE

Section 5.1. 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 City, furnish City with proof of coverage of 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 one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, 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. City shall be named as an additional insured for City's liability or loss arising out of or in any way associated with the Minimum Improvements and arising out of any act, error, or omission of Developer, its directors, officers, shareholders, members, contractors, and subcontractors or anyone else for whose acts City may be held responsible (with coverage to 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 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 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 under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without limiting 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 or self-insurance up to not more than \$1,000,000. 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 coinsurance provisions or otherwise, without the prior consent thereto in writing by 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 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 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 V 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 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 V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to Developer and City at least thirty (30) days before the cancellation or modification becomes effective. Not less than fifteen (15) days prior to the expiration of any policy, Developer shall furnish City evidence satisfactory to City that the policy has been renewed or replaced by another policy conforming to the provisions of this Article V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain or cause to be maintained 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 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 City immediately in the case of damage exceeding \$100,000 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, and Developer 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 VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer shall maintain, preserve, and keep its properties within City (whether owned in fee or a leasehold interest), including but not limited to the Development Property and 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 6.2. Maintenance of Records. Developer shall 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 their business and affairs relating to the Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and will provide reasonable protection against loss or damage to such books of record and account.

Section 6.3. Compliance with Laws. Developer shall comply with all federal, State, and local laws, rules, and regulations relating to the Development Property, Minimum Improvements, and the Project.

Section 6.4. Non-Discrimination. In the construction and operation of the Project, Developer shall not discriminate against any applicant, employee, tenant, or customer because of age, color, creed, disability, gender identity, national origin, race, religion, sex, sexual orientation, or veteran status.

Section 6.5. Available Information. Upon request, Developer shall promptly provide City with copies of information reasonably requested by City that are related to this Agreement so that City can determine compliance with this Agreement.

Section 6.6. Employment. Developer currently employs 2 Full-Time Equivalent Jobs in its operations and shall retain all current employee positions until at least the Termination Date of this Agreement for Developer to be eligible for the Economic Development Grants. Further, following completion of the Minimum Improvements, but by no later than November 1, 2023, Employer shall add at least 12 additional Full-Time Equivalent Jobs in its operations on the Development Property. The Annual Certifications submitted by the Developer pursuant to Section 6.7, starting with the certification due on October 15, 2024 and continuing until the Termination Date, shall show that a Monthly Average of 14 Full Time Equivalent Employees has been maintained by Developer on the Development Property in accordance with the terms of this Section 6.6. "Monthly Average" means the average number of Full Time Equivalent Employees employed by Developer on the Development Property as of October 1 of each year and as of the first day of each of the preceding eleven (11) months as shown on the "Annual Certification" (a form of which is attached hereto in Exhibit "D"). Developer shall provide information as reasonably requested by the City to determine compliance with the foregoing employment obligations.

Section 6.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Developer hereunder, a duly authorized officer of Developer shall provide Annual Certifications to the City. Until such time as Developer is released from its obligations under this Section 6.7, Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been timely paid for the prior fiscal year and for the current fiscal year as of the date of certification (if due and payable); (ii) the date of the first full assessment of the Minimum Improvements and the fully assessed value; (iii) certification of the number of Full Time Equivalent Employees employed by Developer on the Development Property as of October 1 and as of the first day of each of the preceding eleven (11) months; (iv) certification that the signing officer has re-examined the terms and provisions of this Agreement and that to Developer's actual knowledge at the date of such certification, and during the preceding twelve (12) months, Developer is not, and was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that Developer is not aware of any Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) which is occurring or has occurred as of the date of such certification 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 from Developer shall be in the form of Exhibit D and shall be provided not later than October 15 of each year, commencing October 15, 2024 through the Termination Date. Developer shall provide reasonable supporting information in Developer's possession for the Annual Certifications upon request of the City.

Section 6.8. Release and Indemnification Covenants.

a. Developer releases City and the governing body members, officers, agents, servants, and employees thereof (hereinafter, for purposes of this Section 6.8, 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 Minimum Improvements or Development Property.

b. Except to the extent arising from any willful misrepresentation, intentional, willful or wanton misconduct, or any unlawful act, of the Indemnified Parties, Developer agrees to protect and defend the Indemnified Parties, now or forever, and further agrees 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 against 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 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.

d. All covenants, stipulations, promises, agreements, and obligations of City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of City, and not of any governing body member, officer, agent, servant, or employee of City in the individual capacity thereof.

e. The provisions of this Section 6.8 shall survive the termination of this Agreement.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of Developer under this Agreement, Developer represents and agrees that, prior to the Termination Date, Developer will maintain its existence as an Iowa limited liability company and will not wind up or otherwise dispose of all or substantially all of its assets or terminate, transfer, or assign its interest in the Minimum Improvements or this Agreement to any other party unless: (i) the Developer and the transferee partnership, corporation, limited liability company, or individual agree in writing which party is assuming the rights and obligations of Developer under this Agreement; and (ii) City consents thereto in writing in advance thereof which consent shall not be unreasonably withheld.

In the event that Developer wishes to assign this Agreement, including its rights and duties hereunder, Developer and the assignee individual or entity shall request that City consent to an assignment of this Agreement to accommodate the assignment and to provide for the assumption of all Developer obligations under this Agreement, which consent shall not be unreasonably withheld. Such assignment shall not be effective unless and until City and Developer consent in writing to an assignment of this Agreement authorizing the assignment.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Developer, and 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 VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants.

a. Amount of Grants. For and in consideration of the obligations being assumed by Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan

for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make up to ten (10) consecutive annual payments of Economic Development Grants to Developer up to a total amount not to exceed the sum of One Million One Hundred Ten Thousand Two Hundred Fifty Dollars (\$1,110,250) plus up to (\$72,000) of the Developer’s certified Qualified Costs and Expenses for the Building Fees submitted to and approved by the City pursuant to Section 8.3 (“Aggregate Maximum Amount”).

b. Schedule of Grants. Assuming the completion of the Minimum Improvements by December 31, 2023, and full assessment of the Minimum Improvements on January 1, 2024, and debt certification by the City to the Auditor prior to December 1, 2024, the Economic Development Grants shall commence on June 1, 2026 and end on the earlier of: (i) June 1, 2035, or (ii) the June 1st on which the Aggregate Maximum Amount of Economic Development Grants is paid, pursuant to Section 403.19 of the Urban Renewal Act under the following schedule:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2026	100% of Tax Increments for the Fiscal Year 25-26
June 1, 2027	100% of Tax Increments for the Fiscal Year 26-27
June 1, 2028	100% of Tax Increments for the Fiscal Year 27-28
June 1, 2029	100% of Tax Increments for the Fiscal Year 28-29
June 1, 2030	100% of Tax Increments for the Fiscal Year 29-30
June 1, 2031	100% of Tax Increments for the Fiscal Year 30-31
June 1, 2032	100% of Tax Increments for the Fiscal Year 31-32
June 1, 2033	100% of Tax Increments for the Fiscal Year 32-33
June 1, 2034	100% of Tax Increments for the Fiscal Year 33-34
June 1, 2035	100% of Tax Increments for the Fiscal Year 34-35

After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if Developer’s Annual Certification is timely filed and contains the information required under Section 6.7, then the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments 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. (Example: Assuming completion of construction of the Minimum Improvements and first full assessment of the Minimum Improvements on January 1, 2024, if Developer provides its Annual Certification in October 2024, then the City will certify to the County by December 1, 2024, and the first Economic Development Grant would be paid to Developer on June 1, 2026 (for 100% of the Tax Increment for fiscal year 25-26)).

c. Calculation of Grants. Each annual payment shall be in amounts calculated pursuant to the above percentages of the Tax Increments collected by the City under the terms of the Ordinance and deposited into the VAB, LLC TIF Account (without regard to any averaging that may otherwise be utilized under Iowa Code Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding twelve-month period in respect of that portion of the assessed value of the Minimum Improvements and the Development

Property above the January 1, 2022 assessed value of \$ 1,430,100, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the “Economic Development Grants”).

d. Limitation to Minimum Improvements. The Economic Development Grants are only derived from the increase in assessed value to the Development Property above the January 1, 2022 assessed value caused by the completion of the Project described in this Agreement and not any expansions or improvements not included within the definition of the Project which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

e. Maximum Amount of Grants. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of Tax Increments collected in respect of the assessments imposed on the Minimum Improvements and Development Property over the specified time period as set out in Section 8.1(b), but in no event shall exceed the Aggregate Maximum Amount described in Section 8.1(a) over ten (10) years. The City makes no guarantee that the Developer will receive the Aggregate Maximum Amount of Grants.

Section 8.2. Conditions Precedent. Notwithstanding the provisions of Section 8.1 above, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the following:

a. Developer’s compliance with the terms of this Agreement including, but not limited to, completion of the Minimum Improvements, satisfaction of the employment obligations in Section 6.6 of this Agreement, and payment of property taxes for the Development Property;

b. Timely filing by Developer of the Annual Certification required under Section 6.7 hereof and the Council’s approval thereof;

c. Timely filing by Developer of the Certification of Qualified Costs and Expenses required under Section 8.3 hereof and the Council’s approval thereof;

d. Developer’s continual use of the Development Property and Minimum Improvements as set forth herein; and

e. The Parties’ execution and delivery of the Minimum Assessment Agreement, the Polk County Assessor’s execution and delivery of a certification thereto, and the executed consent of every existing lienholder to the Development Property, each in the form as provided on Exhibit G.

In the event that an Event of Default (as hereinafter defined) occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence of an Event of Default that was not cured or cannot reasonably be cured within the applicable cure period, the City shall have the remedies set forth in Section 9.2.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make an Economic Development Grant payment available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants 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 Economic Development Grants only if Developer fully complies with the provisions hereof and the Developer becomes entitled thereto, up to the Maximum Aggregate Amount set forth in Section 8.1(a).

Section 8.3. Certification of Qualified Costs and Expenses. In order to be eligible for reimbursement of the Building Fees as part of the Economic Development Grants under Article VIII of this Agreement, the Developer shall certify to the City the amount of all Qualified Costs and Expenses submitted for reimbursement as Economic Development Grants and that such amounts are true and correct. See Exhibit E for the form of Certification. Such Certification shall be provided not later than December 31, 2023. Developer shall provide additional supporting information for its Certification upon the reasonable request of the City to the extent such information is in Developer's possession and control.

Within twenty (20) days of receipt of the Developer's Certification and substantiating documentation, City staff shall review the submitted costs and expenses and notify the Developer if any submitted costs and expenses are not approved as Qualified Costs and Expenses. If the City does not approve any submitted costs and expenses as Qualified Costs and Expenses, then the City shall provide a written statement indicating in adequate detail in what respects such costs and expenses failed to qualify as Qualified Costs and Expenses, and what measures or acts may be available, in the opinion of City, for Developer to take or perform in order to have such costs and expenses approved.

Section 8.4. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by amounts deposited and held in the VAB, LLC TIF Account of the Val-Gate Urban Renewal Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force on the Development Property during the term hereof and to apply the appropriate portion of Tax Increments collected in respect of the Development Property and Minimum Improvements and allocated to the VAB, LLC TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development Grants 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 Economic Development Grants 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 Economic Development Grants for which Developer is eligible.

b. Each Economic Development Grant is subject to annual appropriation by the City Council. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, the City's ability to collect Tax Increment from the Development Property terminates under Iowa Code Chapter 403, as may be amended, or the City receives an opinion from its legal counsel to the effect that the use of Tax Increments resulting from the Development Property and Minimum Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is not, based on a change in applicable law or its interpretation since the date of this Agreement, 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, non-appropriation, or termination of the ability to collect Tax Increment, 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 Economic Development Grants would otherwise have been paid to Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

Section 8.5. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the amount to be given to Developer in this Agreement, or any available Tax Increments resulting from the termination of the Economic Development Grants as provided in this Agreement, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use thereof.

Section 8.6. Reduction of First Grant. Developer shall pay to the City an amount equal to the actual costs incurred by the City in connection with the negotiation, drafting and adoption 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. 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 Economic Development Grant.

ARTICLE IX. EVENTS OF DEFAULT AND 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 pursuant to the terms and conditions of this Agreement;

b. Transfer of Developer’s interests in the Development Property, Minimum Improvements, or this Agreement in violation of the provisions of this Agreement;

c. Failure by Developer to timely pay ad valorem taxes on the Development Property and Minimum Improvements;

d. Failure by Developer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement or the Minimum Assessment Agreement;

e. 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; or

f. 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 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 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; or

g. Any representation or warranty made by Developer in this Agreement or in any written statement or certificate furnished by Developer 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.

Section 9.2. Remedies on Default. Whenever any Event of Default referred to in Section 9.1 of this Agreement occurs and is continuing, City may take any one or more of the following actions after giving thirty (30) days' written notice to Developer of the Event of Default (except in the case of an Event of Default under Section 9.1(e), (f) or (g) which do not require a notice and cure period), but only if the Event of Default has not been cured to the satisfaction of City within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Developer does not provide assurances reasonably satisfactory to City that the Event of Default will be cured as soon as reasonably possible:

a. City may suspend its performance under this Agreement until it receives assurances from Developer, deemed adequate by City, that Developer will cure the default and continue its performance under this Agreement;

b. City may forfeit or terminate this Agreement;

c. City may withhold the Certificate of Completion;

d. 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 under this Agreement; and

e. The City will have no obligation to make payment of Economic Development Grants 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 Economic Development Grants previously made to Developer under Article VIII 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. 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 9.4. 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 9.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City employs attorneys or incurs 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 herein contained, Developer agrees that it 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 represents and warrants that, to its 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 and deemed delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, sent by national overnight delivery service, or delivered personally, and

a. In the case of Developer, is addressed or delivered personally to VAB, LLC, 500 East Locust Street, Suite 500, Des Moines, Iowa 50309, Attn: Sam Summers, Manager.

b. In the case of the City, is addressed to or delivered personally to City at City Hall, 4200 Mills Civic Parkway, P.O. Box 65320, West Des Moines, Iowa 50265-0320; Attn: 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. Severability. If any provision of this Agreement or the application of such provision to any person or circumstance shall be held invalid, then the remainder of this Agreement or the application of such provision to persons or circumstances other than those to which it is held invalid shall not be affected thereby and the parties shall thereupon amend this Agreement to legally and most closely embody the spirit and intent of the invalid provisions.

Section 10.9. 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.

Section 10.10. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit F, 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 10.11. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2035, unless terminated earlier under the provisions of this Agreement.

IN WITNESS WHEREOF, 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 has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

[Signatures Appear on the Following Pages]

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

Russ Trimble
Mayor

ATTEST:

Ryan T. Jacobson
City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 2023, before me a Notary Public in and for said County, personally appeared Russ Trimble 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 Roll Call No. _____, passed on the _____ day of _____, 2023, 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

EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

Lot 169 in CLEGG PARK PLAT 4, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa, excepting therefrom the following tract of land: Beginning at the Southeasterly corner of said Lot 169, thence West on the South line thereof, 230 feet, thence North at right angles to said South line to a point on the Northeasterly line of said lot, thence Southeasterly on said Northeasterly line to beginning.

EXHIBIT B-1
MINIMUM IMPROVEMENTS

Minimum Improvements means the renovation of an historic music entertainment venue. The construction of the Minimum Improvements is expected to be completed by December 31, 2023. Construction costs for the Minimum Improvements are expected to be no less than \$14,000,000.

The assessed value of the Development Property after construction of the Minimum Improvements for the purpose of this Agreement is required to be at least \$5,500,000 pursuant to the Minimum Assessment Agreement entered into by and among the City, Developer, and the Polk County Assessor.

Preliminary site plans for the Minimum Improvements are attached as Exhibit B-2.

EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

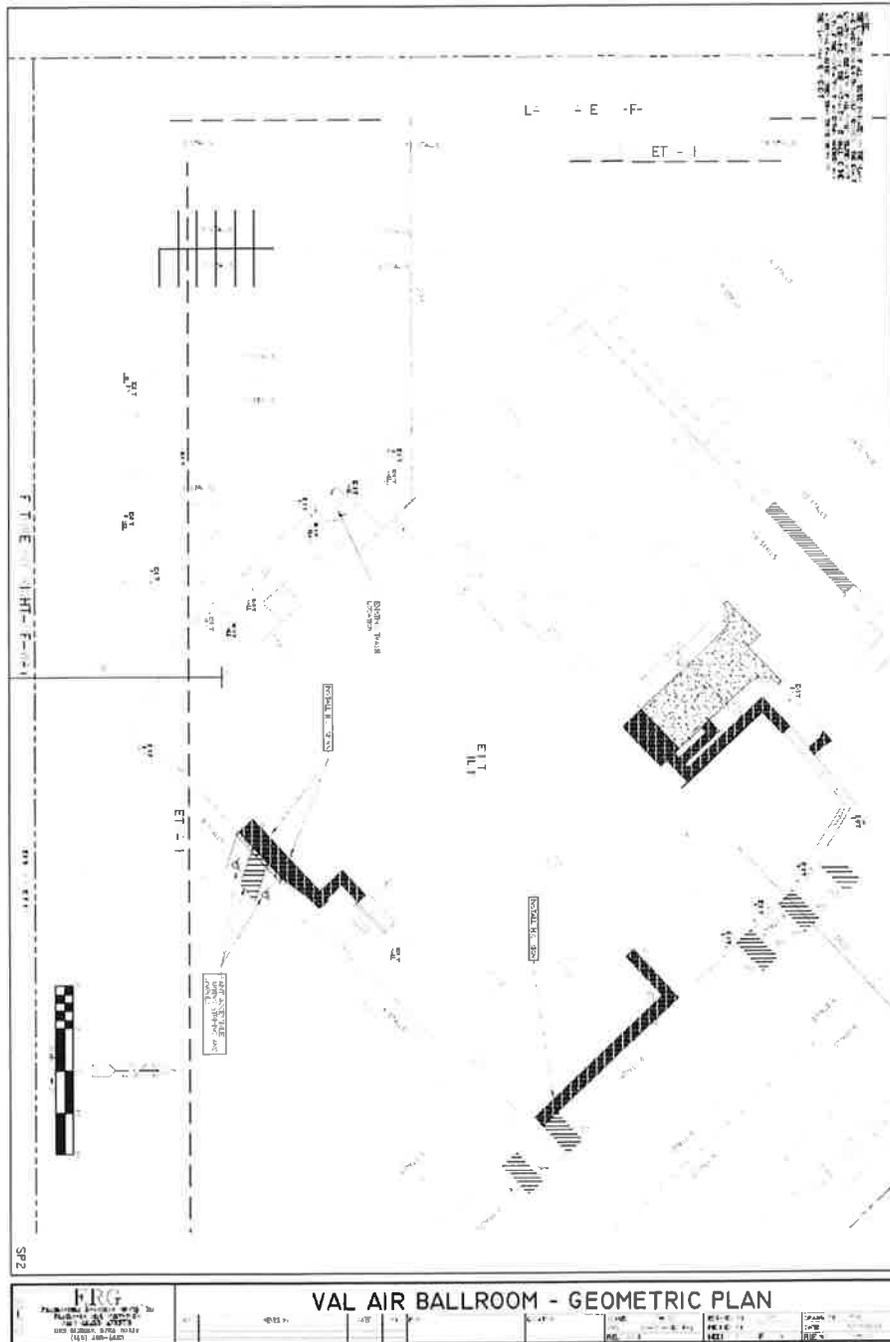


EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

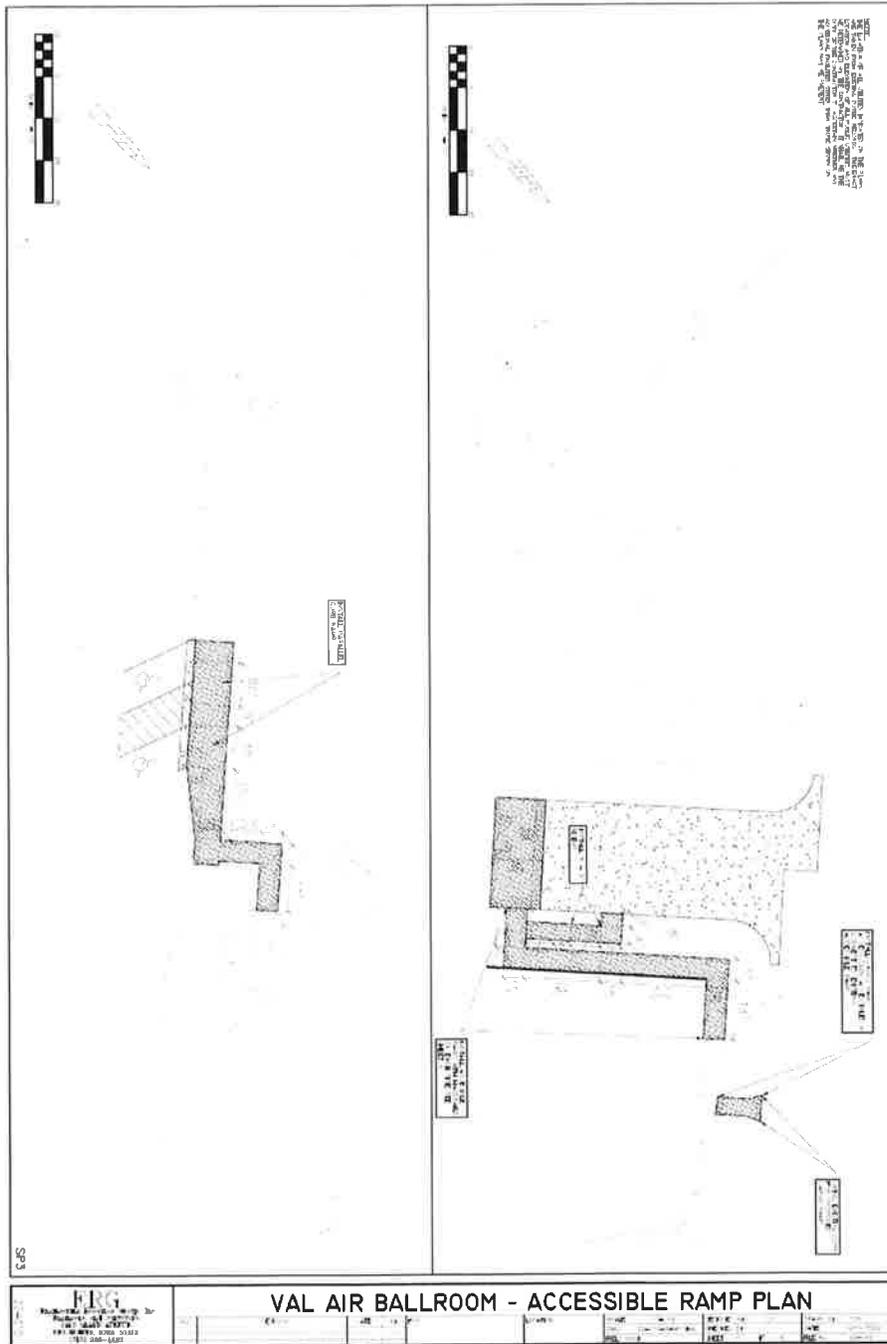


EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

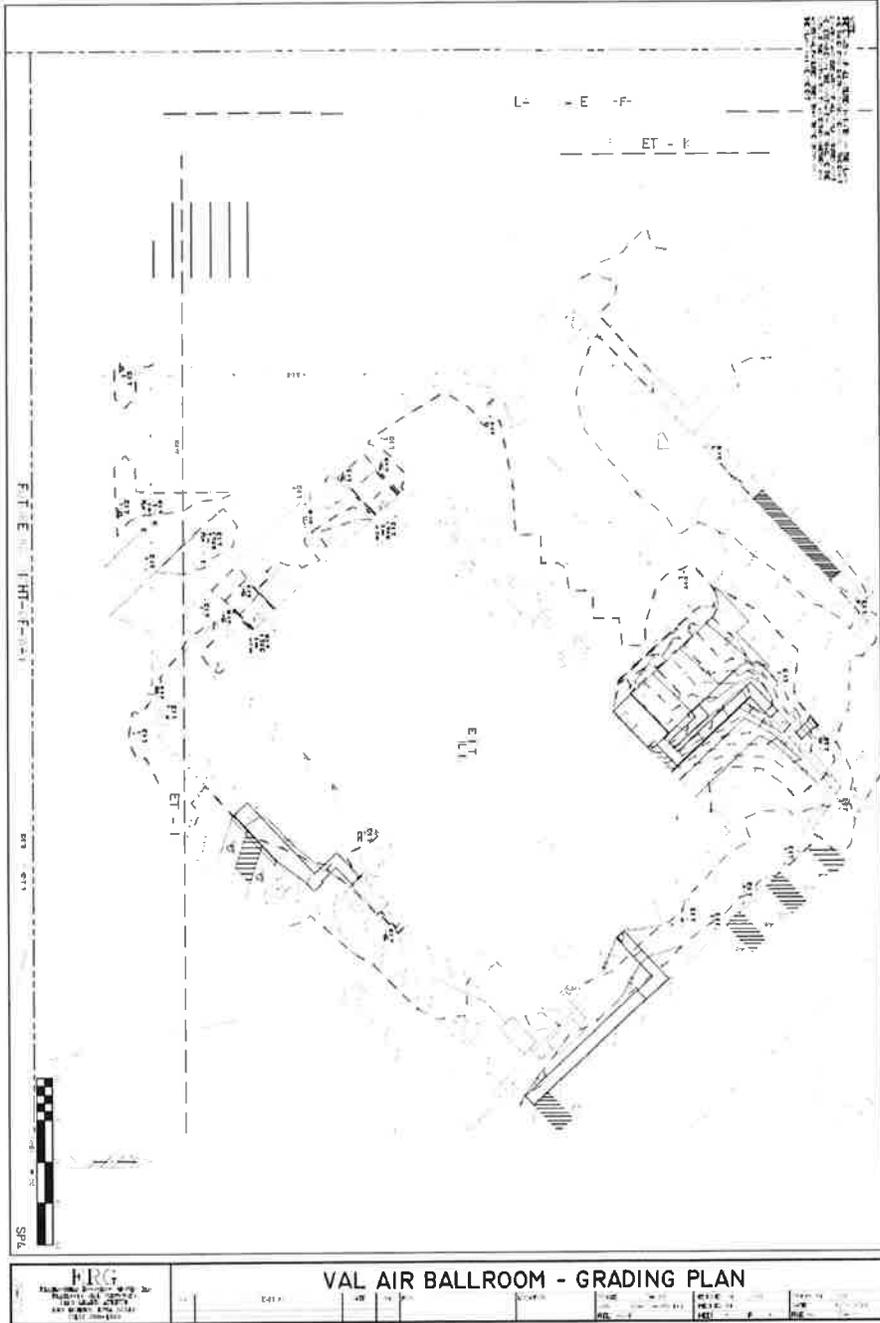


EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

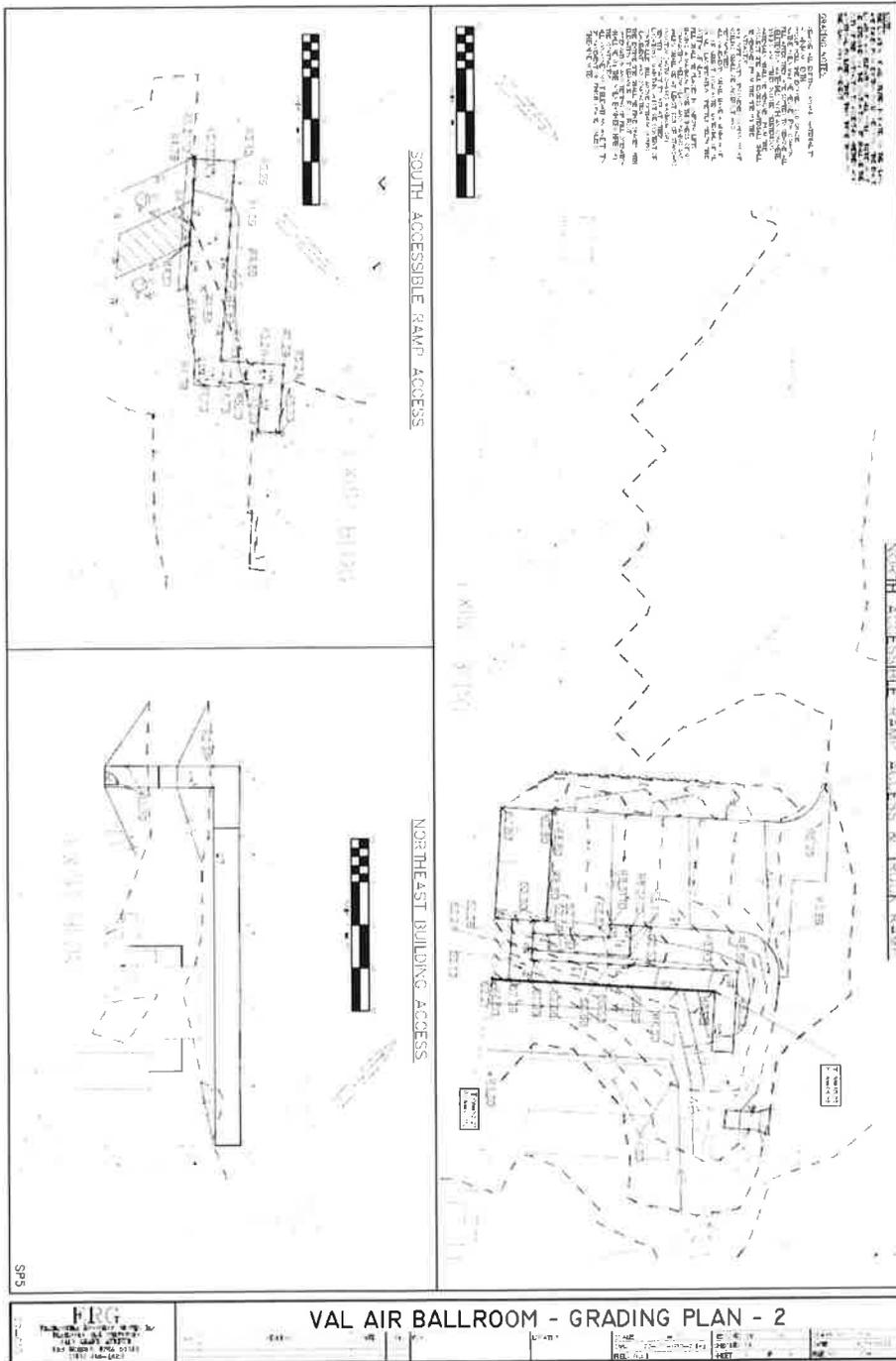


EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

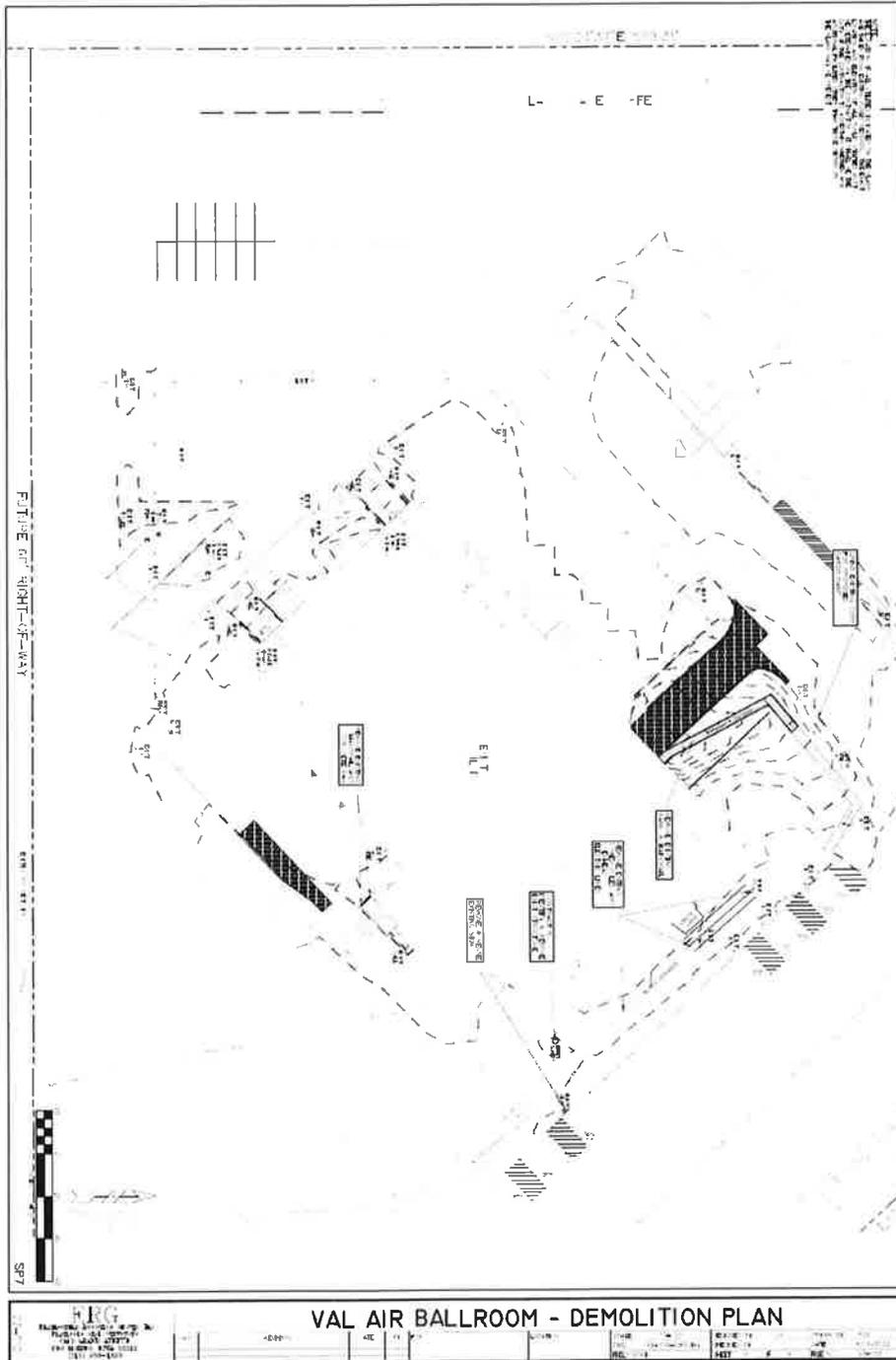


EXHIBIT B-2
MINIMUM IMPROVEMENTS
PRELIMINARY SITE PLAN(S) (cont.)

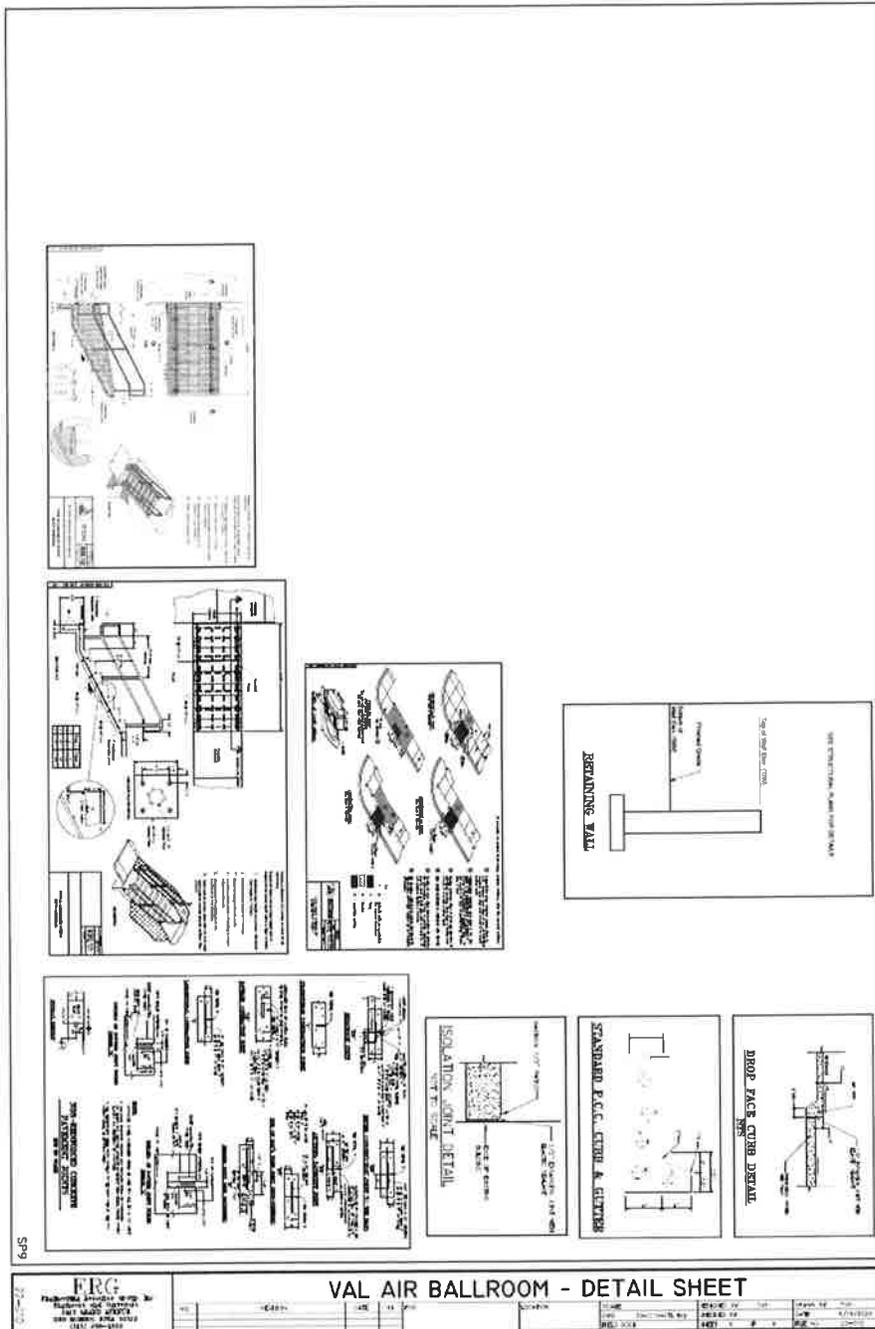


EXHIBIT C
CERTIFICATE OF COMPLETION

WHEREAS, the City of West Des Moines, Iowa (“City”) and VAB, LLC, an Iowa limited liability company (“Developer”) did on or about the ____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the “Agreement”), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within City and as more particularly described as follows:

Lot 169 in CLEGG PARK PLAT 4, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa, excepting therefrom the following tract of land: Beginning at the Southeasterly corner of said Lot 169, thence West on the South line thereof, 230 feet, thence North at right angles to said South line to a point on the Northeasterly line of said lot, thence Southeasterly on said Northeasterly line to beginning.

(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 the 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 the Minimum Improvements in a manner deemed by 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 permitted successors and assigns to construct the Minimum Improvements on the Development Property have been completed and performed by Developer and such obligations are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Polk County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Minimum Improvements on the Development Property.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

[Signatures Appear on the Following Page]

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

Mayor

ATTEST:

City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 20____, before me a Notary Public in and for said County, personally appeared _____ and _____, 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 Roll Call No. _____, passed on the _____ day of _____, 20____, 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

EXHIBIT D
DEVELOPER ANNUAL CERTIFICATION

(due by October 15th as required under terms of Development Agreement)

Developer hereby certifies the following:

During the time period covered by this Certification, Developer is and was in compliance with Section 6.7 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 the assessed value of the Development Property and Minimum Improvements as of the date of this certification is \$ _____.

(iii) The number of Full Time Equivalent Employees employed by Developer at the Development Property as of October 1, 20___ and as of the first day of each of the preceding eleven (11) months were as 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__ : _____

(iv) The undersigned officer of Developer has re-examined the terms and provisions of this Agreement and certifies, that at the date of such certification and during the preceding twelve (12) months, 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 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.

[signatures on next page]

Attachments: (a) Proof of payment of taxes

EXHIBIT F

Type of Document: **MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT BETWEEN THE CITY OF WEST DES MOINES AND VAB, 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: **Nathan J. Overberg
Ahlers & Cooney, P.C.
100 Court Ave., Ste. #600
Des Moines, IA 50309
(515) 243-7611**

Taxpayer Information : **N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See Page F-2 of Memorandum of Agreement

MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of West Des Moines, Iowa (“City”) and VAB, LLC, an Iowa limited liability company (“Developer”) did on or about the _____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the “Agreement”), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within City and as more particularly described as follows:

Lot 169 in CLEGG PARK PLAT 4, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa, excepting therefrom the following tract of land: Beginning at the Southeasterly corner of said Lot 169, thence West on the South line thereof, 230 feet, thence North at right angles to said South line to a point on the Northeasterly line of said lot, thence Southeasterly on said Northeasterly line to beginning.

(the “Development Property”); and

WHEREAS, the term of the Agreement commenced on the _____ day of _____, 2023 and terminates on the Termination Date as set forth in the Agreement; and

WHEREAS, the City and Developer 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 and Developer have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2023.

[Signatures Start on Next Page]

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

Russ Trimble
Mayor

ATTEST:

Ryan T. Jacobson
City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 2023, before me a Notary Public in and for said County, personally appeared Russ Trimble 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 Roll Call No. _____, passed on the _____ day of _____, 2023, 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

EXHIBIT G

Type of Document: **MINIMUM ASSESSMENT AGREEMENT BETWEEN THE CITY OF WEST DES MOINES AND VAB, 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: **Nathan J. Overberg
Ahlers & Cooney, P.C.
100 Court Ave., Ste. #600
Des Moines, IA 50309
(515) 243-7611**

Taxpayer Information : **N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See Page G-2 of Minimum Assessment Agreement

MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT (“Minimum Assessment Agreement” or “Assessment Agreement”) is dated as of the ___ day of _____ 2023, by and between the City of West Des Moines (the “City”), an Iowa municipal corporation, acting under the authorization of Chapter 403 of the Code of Iowa, 2021, as amended, and VAB, LLC, an Iowa limited liability company having offices for the transaction of business at 500 East Locust Street, Suite 500, Des Moines, Iowa 50309 (the “Developer”).

RECITALS

WHEREAS, the City and Developer have entered into an Agreement for Private Development dated as of ___ day of _____ 2023 (“Agreement” or “Development Agreement”) regarding certain real property to be located in the City, which is legally described as follows:

Lot 169 in CLEGG PARK PLAT 4, an Official Plat, now included in and forming a part of the City of West Des Moines, Polk County, Iowa, excepting therefrom the following tract of land: Beginning at the Southeasterly corner of said Lot 169, thence West on the South line thereof, 230 feet, thence North at right angles to said South line to a point on the Northeasterly line of said lot, thence Southeasterly on said Northeasterly line to beginning.

(the “Development Property”);

WHEREAS, the defined terms in the Development Agreement will also apply to this Minimum Assessment Agreement; and

WHEREAS, it is contemplated that Developer will undertake the construction of Minimum Improvements (as described in the Development Agreement) on the Development Property, as provided in the Development Agreement; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, as amended, the City, and Developer desire to establish a Minimum Actual Value for the Development Property following completion of the Minimum Improvements by Developer pursuant to the Development Agreement; and

WHEREAS, the City and the Polk County Assessor have reviewed the preliminary plans and specifications for the Minimum Improvements that are contemplated to be constructed; and

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon substantial completion of construction of the Minimum Improvements, but in any event not later than January 1, 2024, the Minimum Actual Value fixed for assessment

purposes for the Development Property and Minimum Improvements in the aggregate shall be not less than Five Million Five Hundred Thousand Dollars (\$5,500,000). The Minimum Actual Value is the value before rollback. The Minimum Actual Value shall terminate and be of no further force or effect as of December 31, 2033 (“Assessment Termination Date”). Upon the Assessment Termination Date, this Minimum Assessment Agreement shall no longer control the assessment of the Development Property.

2. 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 and the Minimum Improvements pursuant to the provisions of this Minimum Assessment Agreement and the Development Agreement. Such tax payments shall be made without regard to any loss, complete or partial, to the Development Property or the Minimum Improvements, any interruption in, or discontinuance of, the use, occupancy, ownership or operation of the Minimum Improvements by Developer, or any other matter or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Development Property or the Minimum Improvements.

3. Developer agrees that its obligations to make the tax payments required hereby, to pay the other sums provided for herein, and to perform and observe its other agreements contained in this Minimum Assessment Agreement shall be absolute and unconditional obligations of Developer (not limited to the statutory remedies for unpaid taxes) and that Developer shall not be entitled to any diminution thereof, or set off therefrom, nor to any early termination of this Minimum Assessment Agreement for any reason.

4. Developer agrees that, prior to the termination of this Assessment Agreement, it will not:

(a) seek administrative review or judicial review of the applicability or constitutionality of any Iowa tax statute relating to the taxation of the Development Property determined by any tax official to be applicable to the Development Property, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

(b) seek any tax exemption, deferral, or abatement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other local, City, or State law or regulation, of the taxation of the Development Property; or

(c) request the Assessor to reduce the Minimum Actual Value for the Development Property; or

(d) appeal to the board of review of the County, State, District Court, or to the Director of Revenue of the State to reduce the Minimum Actual Value for the Development Property; or

(e) cause a reduction in the Minimum Actual Value for the Development Property through any other proceedings.

5. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Polk County, Iowa. Such filing shall constitute notice to any subsequent encumbrancer of the Development Property (or part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

6. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Development Agreement.

7. This Minimum Assessment Agreement shall not be assignable without the written consent of the City and shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

8. Nothing herein shall be deemed to waive the rights of Developer under Iowa Code Section 403.6(19) to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Values established herein during the term of this Agreement. This Minimum Assessment Agreement may be amended or modified and any of its terms, covenants, representations, warranties, or conditions waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance.

9. If any term, condition, or provision of this Minimum Assessment Agreement is for any reason held to be illegal, invalid, or inoperable, such illegality, invalidity, or inoperability shall not affect the remainder hereof, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained herein.

10. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate pursuant to the Assessment Termination Date set forth in Section 1 above.

11. Developer has provided a title opinion or lien or title search/certificate to City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders have signed a consent to this Assessment Agreement substantially in the form of the Lienholder Consent set forth in this Exhibit G, which consents are attached hereto and made a part hereof.

[Signatures Start on Next Page]

CITY OF WEST DES MOINES, IOWA,
an Iowa municipal corporation

Russ Trimble
Mayor

ATTEST:

Ryan T. Jacobson
City Clerk

STATE OF IOWA)
) ss:
COUNTY OF POLK)

On this ____ day of _____, 2023, before me a Notary Public in and for said County, personally appeared Russ Trimble 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 Roll Call No. _____, passed on the _____ day of _____, 2023, 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

**EXHIBIT G (Cont.)
CERTIFICATION OF ASSESSOR**

The undersigned, having reviewed the plans and specifications for the Minimum Improvements to be constructed, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Minimum Improvements on the Development Property described in the foregoing Minimum Assessment Agreement, certifies that the actual value assigned to the Development Property, including the Minimum Improvements on the Development Property (building and land value) in the aggregate upon substantial completion of the Minimum Improvements, but no later than January 1, 2024, shall be at least Five Million Five Hundred Thousand Dollars (\$5,500,000) until the Assessment Termination Date contained in Section 1 of the Assessment Agreement.

The Minimum Actual Value is the value before rollback.

Assessor for the County of Polk, Iowa

Date

STATE OF IOWA)
) SS
COUNTY OF POLK)

Subscribed and sworn to before me by _____, Assessor for the County of Polk, Iowa on this _____ day of _____, 20__.

Notary Public for the State of Iowa

EXHIBIT G (cont.)

Consistent with Iowa Code §403.6(19)(b), filed with this assessor certification is a copy of subsection 19 as follows:

19. a. A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than \$

b. This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue, or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

02073795-1\11333-411

RESOLUTION NO. _____

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF A DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF WEST DES MOINES AND VAB, LLC

WHEREAS, by Resolution No. 14-09-22-11, adopted September 22, 2014, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Val-Gate Urban Renewal Plan (the "Plan" or "Urban Renewal Plan") for the Val-Gate Urban Renewal Area (the "Area" or "Urban Renewal Area") described therein, which Plan is on file in the office of the Recorder of Polk County, and which Plan has been amended by an Amendment No. 1 to the Plan adopted on August 15, 2022; and

WHEREAS, it is desirable that properties within the Area be redeveloped as part of the overall redevelopment area covered by said Plan; and

WHEREAS, the City has received a proposal from VAB, LLC (the "Developer"), in the form of a proposed Development Agreement (the "Agreement") by and between the City and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the Urban Renewal Area as defined and legally described in the Agreement (the "Development Property") and consisting of the renovation of an historic music entertainment venue, together with all related site improvements, as outlined in the proposed Agreement; and

WHEREAS, the Agreement further proposes that the City will make up to ten (10) consecutive annual payments of Economic Development Grants to Developer consisting of 100% of the Tax Increments pursuant to Section 403.19, Code of Iowa, and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of (i) the sum of \$1,110,250 plus up to \$72,000 of the Developer's "Qualified Costs and Expenses" for certain "Building Fees" (as those terms are defined in the Agreement), or (ii) the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the Agreement also proposes that Developer will enter into a Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than \$5,500,000; and

WHEREAS, one of the obligations of Developer relates to employment retention and/or creation in the Minimum Improvements; and

WHEREAS, Chapters 15A and 403, Code of Iowa, authorize cities to make grants for economic development in furtherance of the objectives of an urban renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapters, and to levy taxes and assessments for such purposes; 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 Plan and the Urban Renewal Law 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 Chapters 15A and 403, Code of Iowa, taking into account any or all of the factors set forth in Chapter 15A, Code of Iowa, 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:

That the performance by the City of its obligations under the Agreement, including but not limited to making of grants to the Developer 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 in furtherance of the Plan and the Urban Renewal Law 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 Chapters 15A and 403, Code of Iowa, taking into account the factors set forth therein.

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 3rd day of January, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

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

6(f)

DATE: January 3, 2023

ITEM:

Public Hearing (5:35 p.m.)
Blue Creek Stormwater Detention Facilities
IDOT Project No. IMN-235-2(678)1--OE-77

FINANCIAL IMPACT:

The Engineering Estimate of Construction Cost was estimated to be \$3,751,007.00 for the Base Bid. Four (4) Alternates have been included with the Project to allow for alternate bidding of precast and cast-in-place reinforced concrete box (RCB) culverts, with two (2) of the Alternates needing to be selected as part of the contract award. Base Bid plus Alternate pricing was estimated to range between \$3,894,787.00 (all precast box culverts) and \$3,954,364.00 (all cast-in-place box culverts) for the Blue Creek Stormwater Detention Facilities. The Project was bid through IDOT. IDOT reported that four (4) bids were submitted with the low bid of \$2,588,000.00 being submitted by Elder Corporation of Des Moines, Iowa. Elder Corporation's low bid consisted of a \$2,391,674.00 Base Bid, \$94,407.00 bid for the precast 10'x6'x24' box culvert Alternate 'AA' Option 1, \$101,919.00 bid for the precast 14'x5'x20' box culvert Alternate 'BB' Option 1, for a total bid of \$2,588,000.00. Payments will be made from account no. 660.000.000.5250.490 with the ultimate funding intended to come from Stormwater Revenue. The City has recently applied for a 20-year low interest (1.75%-2.75%) loan through the Clean Water State Revolving Fund (SRF) and anticipate approval after a construction contract amount is known. The Iowa Department of Natural Resources (IDNR) administers the environmental and permitting aspects of the SRF program and the Iowa Finance Authority (IFA) manages the financial aspects of the SRF program. At the suggestion of the IDNR, the utility relocations associated with the project were bid separately to avoid additional state and federal requirements. All costs associated with the utility relocation bid package will not be eligible for funding as part of the SRF program.

BACKGROUND:

This project was originally bid through IDOT on September 20, 2022. Several bids were received at that time, but bidders did not follow directions in submission of the required SRF documents in advance of the bid letting making the bids unresponsive. A determination was made to reject all bids on October 3, 2022. Some scope revisions, SRF clarifications, and value engineering items were added to the bidding documents associated with this rebid.

This project includes clearing, grubbing, excavation, grading, reinforced concrete box culverts, storm sewer, traffic control, and restoration associated with the Blue Creek Stormwater Detention Facilities that generally fall within or adjacent to the Iowa Department of Transportation (IDOT) right-of-way adjacent to I-235 and along Blue Creek from Valley West Drive to 22nd Street. This project does not include any utility relocations as they were previously bid separately. In addition, the City will handle all necessary tree replanting under separate contract at the end of this project. The IDOT construction contract will be set up to allow for 140 working days with an anticipated completion no later than Fall 2023.

Reconstruction will be closely coordinated with IDOT. Night-time work is anticipated and adjacent property owners will be provided with advance notifications. IDOT has agreed to allow night-time closures of the westbound 22nd Street on-ramp and the westbound Valley West Drive off-ramp to accommodate night-time dirt hauling operations to lessen impacts to traffic on I-235 and local streets. These ramps will be reopened each day to accommodate normal daily traffic.

OUTSTANDING ISSUES:

None.

RECOMMENDATION:

City Council Adopt:

- Resolution adopting Plans, Specifications, Form of Contract, and Estimate of Costs for the Blue Creek Stormwater Detention Facilities;
- Motion receiving and filing Report of Bids;
- Resolution awarding the construction contract to Elder Corporation subject to concurrence from the Iowa Department of Transportation (IDOT).

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	Des Moines Register
Dates(s) Published	December 9, 2022

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services		
Date Reviewed	December 12, 2022		
Recommendation	Yes	No	Split

**RESOLUTION APPROVING ADOPTING PLANS, SPECIFICATIONS, FORM OF
CONTRACT, AND ESTIMATE OF COST**

WHEREAS, Plans, Specifications, Form of Contract, and Estimate of Cost were filed with the City Clerk for the following described public improvement:

**Blue Creek Stormwater Detention Facilities
Project No. 0510-048-2019
IDOT No. IMN-235-2(678)1--OE-77**

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 **3rd** day of **January, 2023**.

Russ Trimble, 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:

**Blue Creek Stormwater Detention Facilities
Project No. 0510-048-2019
IDOT No. IMN-235-2(678)1--OE-77**

and,

WHEREAS, bids have been received by the Iowa Department of Transportation and placed on file by the City Council; and,

WHEREAS, the bid of Elder Corporation in the amount of \$2,588,000.00 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 Blue Creek Stormwater Detention Facilities is hereby, subject to concurrence by the Iowa Department of Transportation, awarded to Elder Corporation in the amount of \$2,588,000.00.

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 3rd day of **January, 2023**.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

Select another proposal

Proposal 302--77-2352-678-A

Export CSV Export PDF

Refresh the page to see any bidding updates. If no bids are published, the agency may have chosen not to post them.

Letting ID
22/12/20

Letting date
Dec 20, 2022

Cut-off time
10:00:59 AM CST

77-2352-678-A

CALL ORDER: 302

POLK

GRADING

Bidder Name

ELDER CORPORATION

MCANINCH CORPORATION & AFFILIATES

REILLY CONSTRUCTION CO., INC.

MOYNA, C.J. & SONS, LLC.

Bid Amount

DBE%

\$2,588,000.00

0.00%

\$2,657,371.36

0.00%

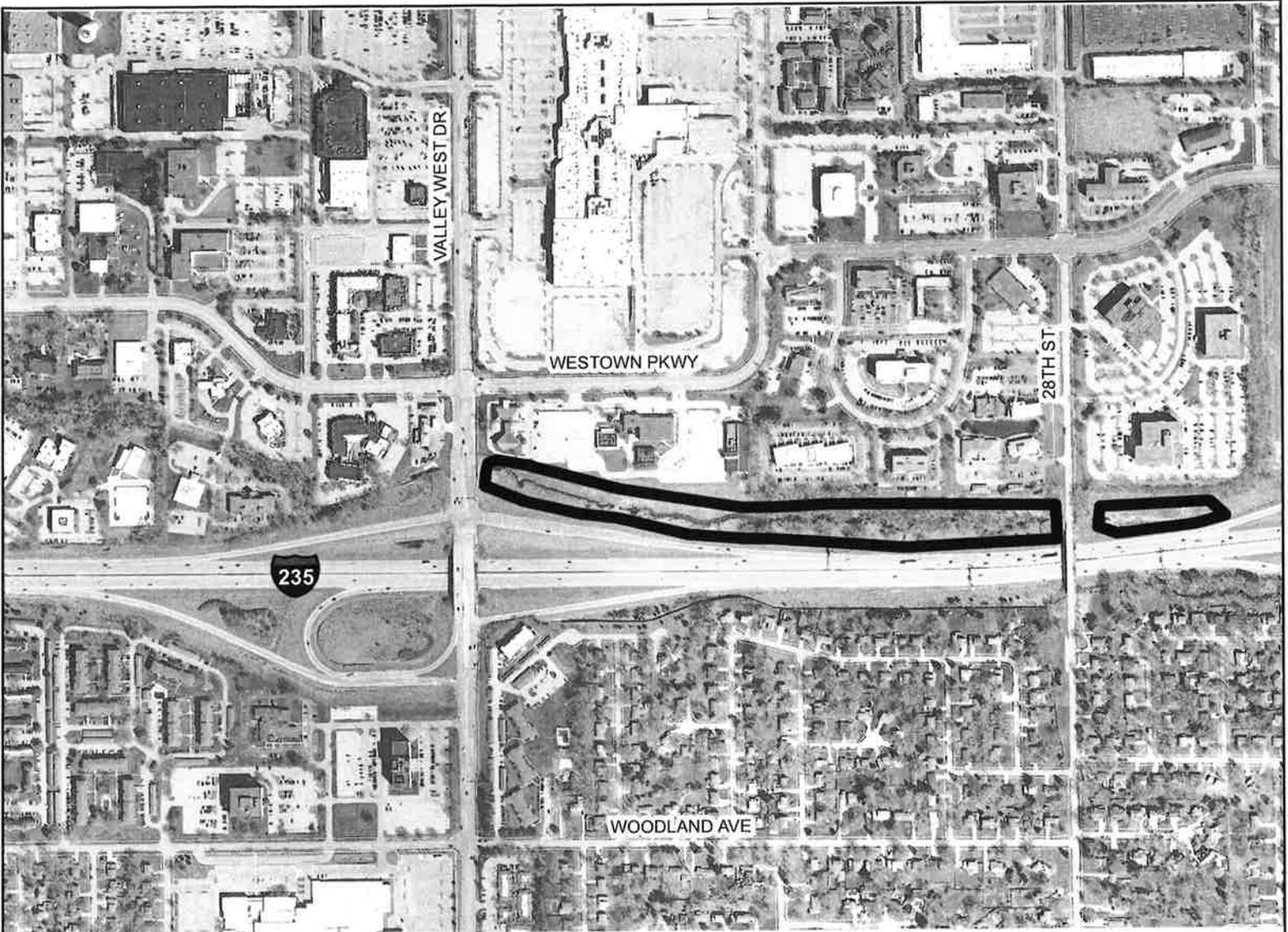
\$3,499,495.12

0.00%

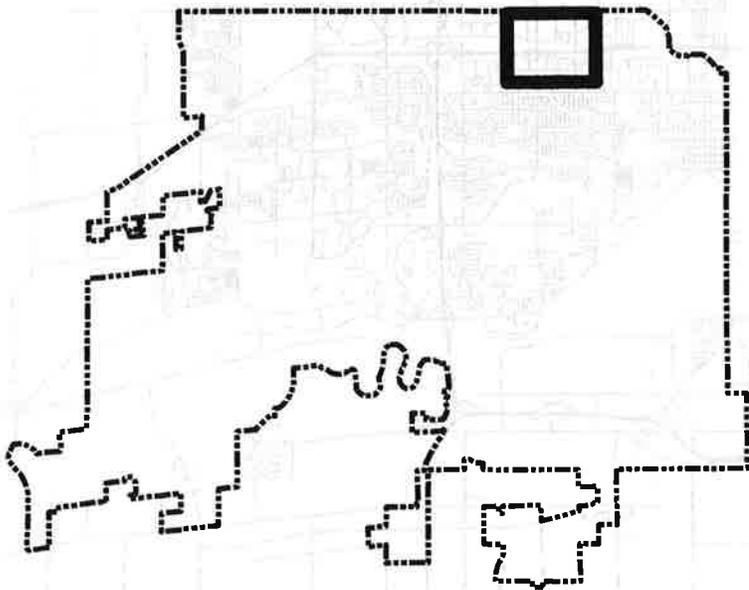
\$3,639,650.82

0.00%

Displaying 4 apparent bids and 0 withdrawn bids.



VICINITY MAP



LEGEND

PROJECT LOCATION



PROJECT:

Blue Creek Detention Facilities

LOCATION:

Exhibit "A"

DRAWN BY: JPM

DATE: 5/11/2022

PROJECT NUMBER/NAME: 0510-048-2019

SHT. 1 of 1

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

6(g)

DATE: January 3, 2023

ITEM:

Public Hearing (5:35 p.m.)
Public Safety Station No. 22 Sewer Rehabilitation

FINANCIAL IMPACT:

The Engineering Estimate of Construction Cost was estimated to be \$87,415.02 for the Base Bid, \$19,206.65 for Alternate #1 (Apparatus Bay Plumbing Replacement), and \$7,200.00 for Alternate #2 (Undersink Grease Trap) for a total of \$113,821.67 for the Public Safety Station No. 22 Sewer Rehabilitation. No bids were received by the City Clerk for this project. Payments for any work that will be completed will be made from account no. 500.000.000.5250.495 with funding intended to come from a combination of West Des Moines General Obligation Bonds and funds of the City of Clive. Each city will contribute their share as outlined in the 28E Agreement pertaining to Station 22.

BACKGROUND:

This project was to include repairs to the existing plumbing system inside the Public Safety Station No. 22 located at 1801 68th Street in West Des Moines. Historically, tuberculation and deterioration of the interior plumbing has been problematic and high maintenance. Repairs include removal and replacement of select sanitary piping and associated floor slab replacement, installation of cleanouts, and room finish replacement. If adequate funds were to be available, additional plumbing replacement within the Apparatus Bay (Alternate #1) as well as provisions to add an undersink grease trap in the Kitchen (Alternate #2) were desired. The project was anticipated to be completed by June 30, 2023.

City Staff does not believe that rebidding the project will generate any additional interest in the project, unless there was a way to merge the work with some other larger project with similar work that the City was planning for, but currently there are no projects planned that fit the criteria. City Staff recommend soliciting quotations from at least three (3) plumbing contractors and work directly with them to complete the plumbing and concrete portions of the project. Any remaining room finishes could be addressed using the City's current on-call general contractor.

OUTSTANDING ISSUES:

None.

RECOMMENDATION:

City Council Adopt:

- Resolution adopting Plans, Specifications, Form of Contract, and Estimate of Costs for the Public Safety Station No. 22 Sewer Rehabilitation;
- Motion receiving and filing Report of Bids;

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	Des Moines Register
Dates(s) Published	December 16, 2022

SUBCOMMITTEE REVIEW (if applicable)

Committee	Public Services		
Date Reviewed	December 12, 2022		
Recommendation	Yes	No	Split

**RESOLUTION APPROVING ADOPTING PLANS, SPECIFICATIONS, FORM OF
CONTRACT, AND ESTIMATE OF COST**

WHEREAS, on December 5, 2022, Plans, Specifications, Form of Contract, and Estimate of Cost were filed with the City Clerk for the following described public improvement:

**Public Safety Station No. 22 Sewer Rehabilitation
Project No. 0510-025-2022**

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 3rd day of **January, 2023**.

Russ Trimble, Mayor

ATTEST:

Ryan T. Jacobson, City Clerk

SHIVEHATTERY

ARCHITECTURE + ENGINEERING

Client: City of West Des Moines
 Project Name: 0510-025-2022 - Public Safety Station No. 22 - Sewer Rehabilitation
 Bid Date & Time: December 21, 2022 at 2:00PM
 S-H Project No: 2142204930



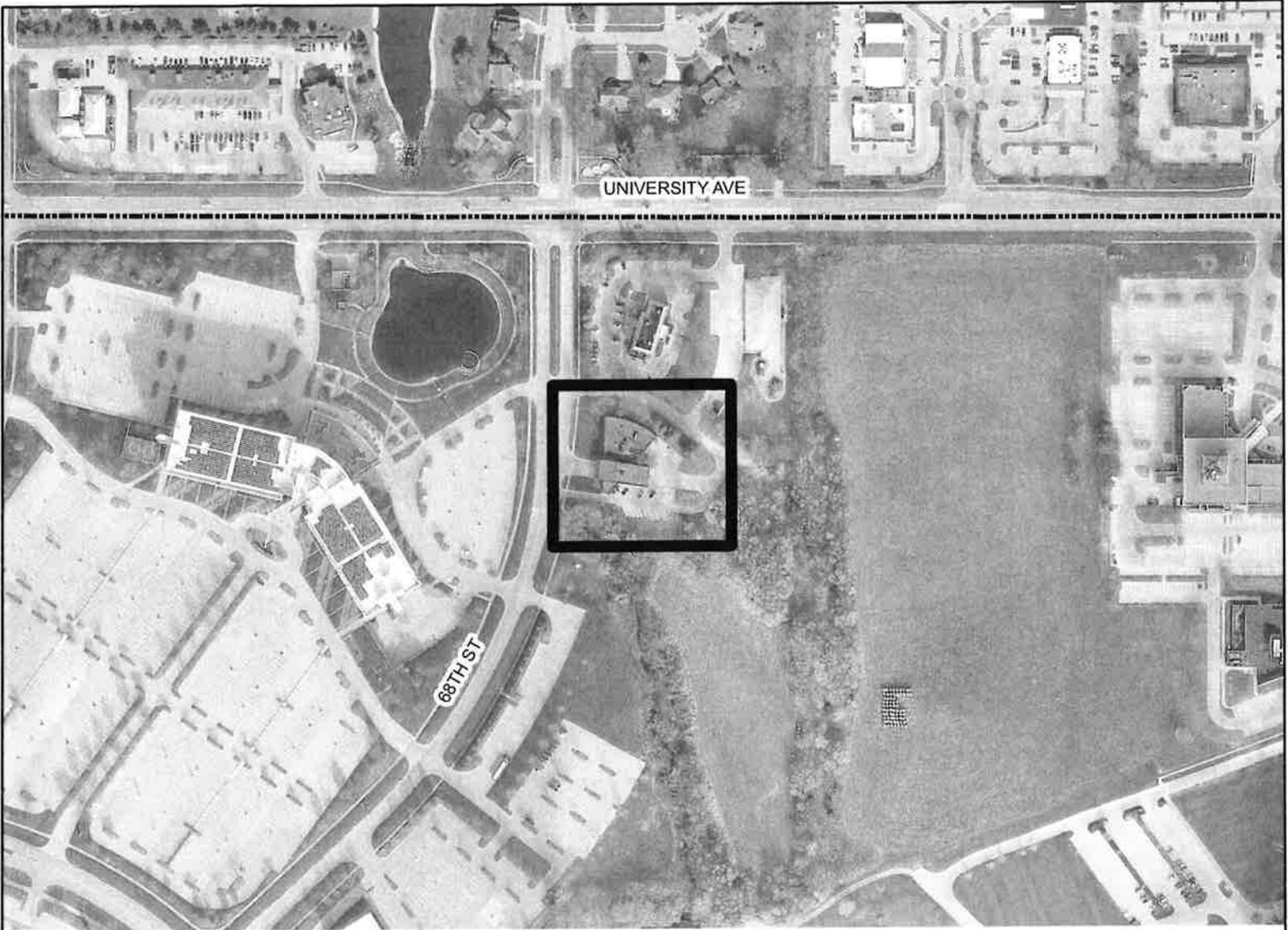
Karen Hardisty

Name: Karen E. Hardisty, PE

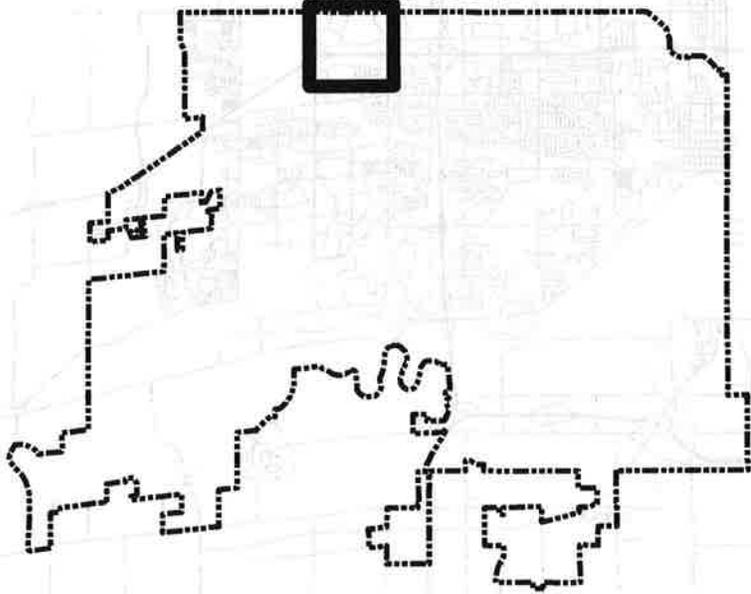
12/21/2022

Registration #: 22588

Bidder	BID SECURITY PROVIDED	ADDENDUM 1 ACKNOWLEDGED	BIDDER STATUS FORM	BASE BID	ALTERNATE 1 APPARATUS BAY PLUMBING REPLACEMENT	ALTERNATE 2 AUTOMATIC GREASE TRAP	TOTAL BID
Engineer's Estimate	-	-	-	\$87,415.02	\$19,206.65	\$7,200.00	\$113,821.67
No Bids Received							



VICINITY MAP



LEGEND

PROJECT LOCATION



PROJECT:

Public Safety Station No. 22 Sewer Rehabilitation

LOCATION:

Exhibit "A"

DRAWN BY: JPM

DATE: 8/1/2022

PROJECT NUMBER/NAME: 0510-025-2022

SHT. 1 of 1

**CITY OF WEST DES MOINES
STAFF REPORT COMMUNICATION**

Meeting Date: January 3, 2023

ITEM: Stonewood Plat 1, NE corner of Booneville Rd and S. Grand Prairie Pkwy – Accepting Surety and Approving and Releasing Final Plat to create 40 lots for Single-Family Residential development, 4 outlots and 4 street lots – Stonewood, Inc – FP-005766-2022

**RESOLUTION: ACCEPTING SURETY AND APPROVING AND RELEASING
FINAL PLAT**

Background: Jeff Gaddis with Civil Engineering Consultants, on behalf of the applicant, and property owner, Stonewood, Inc., requests approval of a Final Plat for the approximately 61.6-acre property generally located at the northeast corner of Booneville Rd and S. Grand Prairie Parkway. The applicant proposes to subdivide the property into forty (40) lots for single-family residential, two (2) outlots for storm water detention, one (1) outlot for storm water detention and development landscape sign, one (1) outlot for future development and four (4) street lots for dedication to the City.

Staff Review & Comment:

- **Financial Impact:** There is no city funding of the subdivision itself. The city did complete the reconstruction of Booneville Road along the south boundary of the subdivision and the construction of the initial lanes of S. Grand Prairie Parkway along the west boundary of the subdivision. There will be staff time for inspections during the construction of the homes.
- **History:** The obtainment of right-of-way for S. Grand Prairie Parkway resulted in small, orphaned pieces of ground on the east side of the then future roadway (now constructed). The property owners negotiated a land swap and the City Council approved three (3) Plats-of-Survey to accommodate the land swap and transfer of ownership: Parcel 21-63 (approved on July 19, 2021), Parcel 21-149 and Parcel 21-150 (approved on February 7, 2022). In March 2022, the City Council amended the Comprehensive Plan and Zoning Map to establish Single-Family (RS-14 & RS-30) and Medium Density Residential (RM-8) land use and zoning.

The associated Preliminary Plat was approved by the City Council on April 4, 2022. A revised Preliminary Plat modifying the buffer planting plan, detailing the development monument sign and adding a street name was approved by the Plan and Zoning Commission on October 24, 2022, and the City Council on November 7, 2022. This Final Plat has been determined to be consistent with the associated revised Preliminary Plat.

- **Traffic Analysis Findings:** Traffic Impact Studies are not conducted for Final Plats but instead are completed at the time of the associated Preliminary Plat. Per the study conducted as part of the original Preliminary Plat, the proposed subdivision will generate slightly more traffic than was previously anticipated; however, the street infrastructure within the area is sufficient to handle the anticipated increase in traffic generated.
- **Public Utility Easements (PUEs):** To reduce the visual clutter of utility boxes and pedestals along roadways, City Code Title 10: Subdivision Regulations, Chapter 3: Design

Standards and Required Improvements, Section 2: Improvements, Subsection C1 states: *“Residential Subdivisions: Utility cables shall, as a general rule, be placed at the rear or side of respective lots within an area of perpetual easements reserved for this purpose. Where, in the determination of the council, certain conditions of soil, topography, or other circumstances exist to make the aforementioned easement locations unreasonable or impractical, utility cables may be installed at the front of the lot in an area dedicated for perpetual easement or in the public right of way, provided said installation does not interfere with any other existing or proposed utilities.”*

Subsection C3 of the previously mentioned code section provides *“Where it is determined that this provision requiring the installation of underground utilities would not be practical because of unusual conditions and/or the installation would cause unnecessary hardship upon a developer and/or individual property owners, the council may, after receiving a recommendation from staff, waive this provision.”*

As can be seen on the included location map, the proposed subdivision is heavily wooded. The applicant is attempting to save as many trees as possible with the layout of the lots and infrastructure and thus requesting allowance for the placement of Public Utility Easements (PUEs) in the front yard of all lots within the plat. The developer has placed a ‘Conservation Easement’ across the rear portion of several lots within the subdivision to further enforce efforts for the preservation of the tree canopy. This easement is being executed in conjunction with approval and recordation of this Final Plat. Waiver to allow placement in the front yards was approved with the associated Preliminary Plats and is being confirmed as part of this Final Plat approval.

- Conditions of Approval:

- Buffers: The developer has already installed the vegetation required within the double-frontage lot buffers along Booneville Road and S. Grand Prairie Parkway. Due to the time of year, a site inspection to confirm installation of the landscaping per the buffer planting plan approved with the revised Preliminary Plat has not been completed. Staff recommends a condition of approval prohibiting the issuance of any Final Occupancy Permit for any dwelling within the subdivision until such time that there is confirmation that the required vegetation has been installed and is thriving.
- Public Improvements: The developer has been working to complete the public improvements associated with the subdivision. A recent inspection determined one panel of pavement did not pass inspection and will need to be replaced. This replacement cannot occur until warmer weather. The developer has provided surety to cover the cost of outstanding punch list items. Staff recommends a condition requiring the city’s acceptance of the associated subdivision public improvements prior to issuance of any occupancy permit, including temporary occupancy for any dwelling within the subdivision until the improvements are accepted.

West Des Moines Water Works has also indicated that there are outstanding punch list items related to water infrastructure. They have requested a condition of approval regarding the provision of water until the outstanding issues are resolved.

- Plat Validity: Per City Code, the Final Plat must be presented to the City Council for approval within 12 months of the approval of the associated Preliminary Plat if surety is being posted for Public Improvements; or, within 18 months if Public Improvements are

being constructed prior to Final Plat consideration. This Final Plat complies with the timelines stated in City Code.

Outstanding Issues: There are no outstanding issues not otherwise noted in the staff report.

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 public sanitary and storm, Thorne Dr, S. Stonewood Dr, Stonegate Dr, and S. Timber Lane, including all appurtenances associated with said improvements.
- A deed for Lots "A" (S. Stonewood Dr.), "B" (Stonegate Dr), "C" (S. Timber Ln) and "D" (Thorne Dr) to be dedicated as public street right-of-way.
- Legal documents to establish public easements for Buffers, Public Utility, Sanitary Sewer, Storm Sewer, Overland Flowage and Temporary Access.
- Surety for the installation of public sidewalks and completions of all public improvements.
- Parkland Dedication Agreement which specifies improvements required of the development.
- Storm Water Management Maintenance Facility Covenant and Permanent Easement Agreement for this property.

Recommendation: Accepting surety and approving and releasing the Final Plat, subject to the applicant meeting all City Code requirements, and the following conditions of approval:

1. No occupancy permit, including Temporary Occupancy Permits shall be issued until such time that the plat associated Public Improvements have been approved and accepted by the city.
2. No Final Occupancy Permits shall be issued for any dwelling within the plat until such time that the city confirms the required buffers have been installed compliant with the approved buffer planting plan and all vegetation is alive and thriving.
3. The City Council approving the placement of Public Utility Easements (PUEs) in the front yard of all lots within the single-family portion of the property.
4. The developer acknowledging and agreeing that the completion of the West Des Moines Water Works punch list and acceptance of the public water main in this plat by the West Des Moines Water Works Board of Trustees is required before West Des Moines Water Works will release a water meter for any dwelling in the plat. The developer further acknowledging the availability of water may impact the allowance for the placement of combustible materials within a home site, as well as the allowance for above ground construction.

Lead Staff Member: Lynne Twedt

Approval Meeting Dates:

Plan and Zoning Commission	n/a
City Council	January 3, 2023

Staff Report Reviews:

City Council	<input checked="" type="checkbox"/> Director	<input checked="" type="checkbox"/> Legal Department
	<input type="checkbox"/> Appropriations/Finance	<input checked="" type="checkbox"/> Agenda Acceptance <i>AT</i>

Publications (if applicable)

Published In:	Des Moines Register Community Section
Date(s) Published	n/a
Date(s) of Mailed Notices	n/a

Council Subcommittee Review (if applicable)

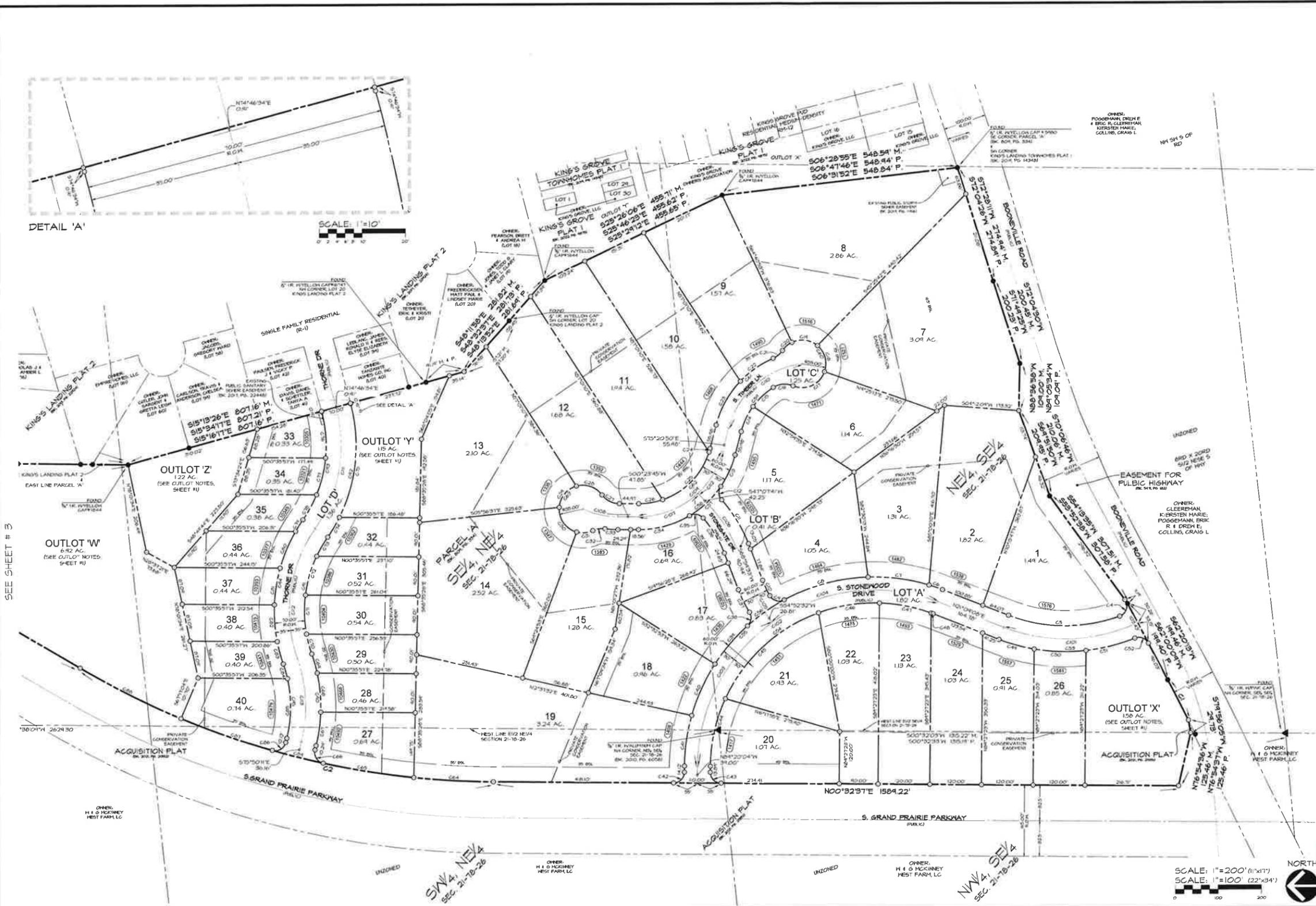
Subcommittee	Development & Planning			
Date Reviewed	12/19/22			
Recommendation	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Split <input type="checkbox"/>	No Discussion <input type="checkbox"/>

Location Map





SCALE: 1"=10'



SEE SHEET # 3

SCALE: 1"=200' (11"x17")
SCALE: 1"=100' (22"x34")



Civil Engineering Consultants, Inc.
2400 86th Street, Unit 12, Des Moines, Iowa 50322
515.276.4884
mail@cecinc.com

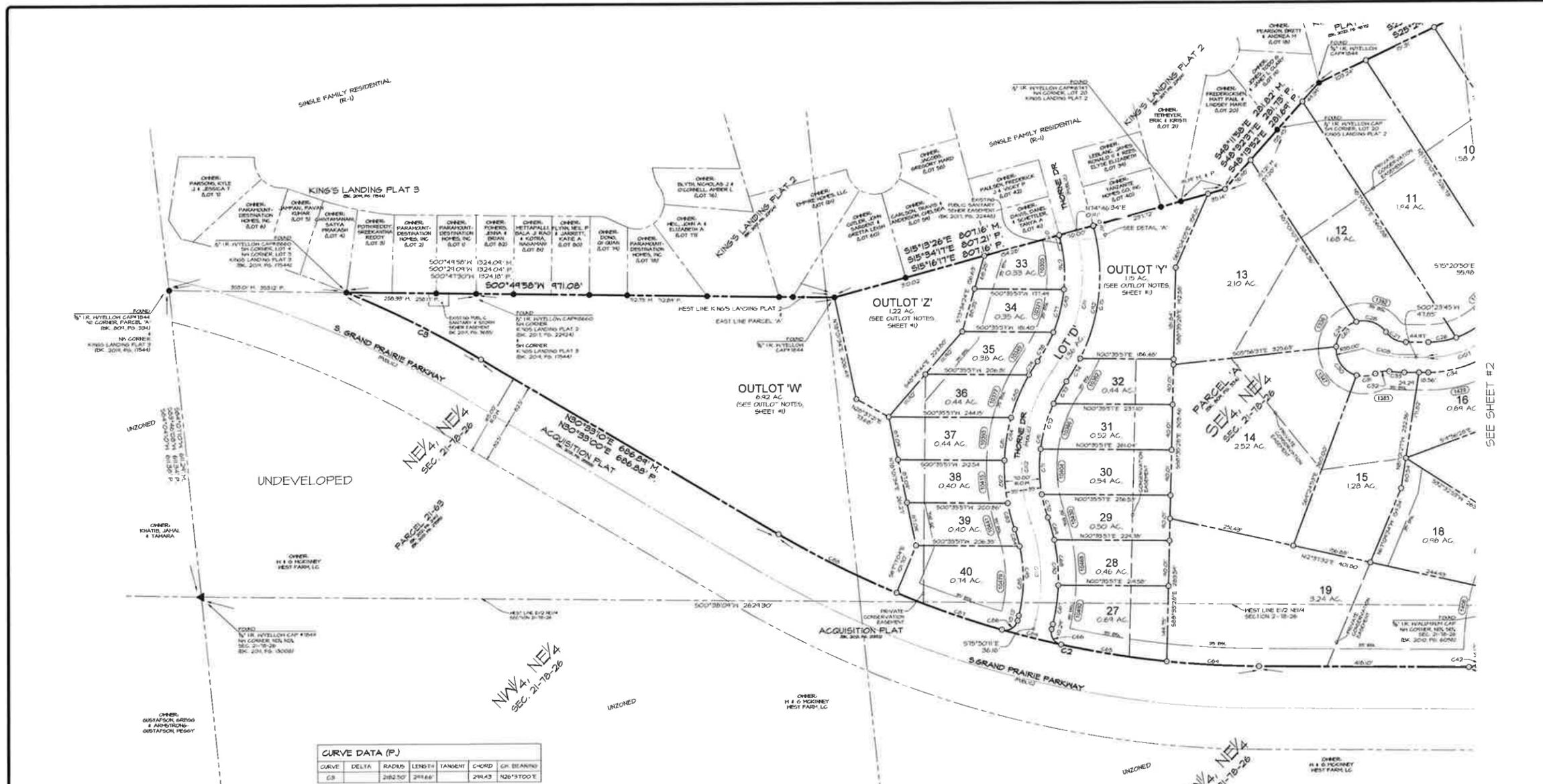


DATE:	DEC. 30, 2022
DEC. OR. 2022:	DEC. 08, 2022
DATE OF SURVEY:	OCT. 03, 2022
DESIGNED BY:	PERMANENT 21, 2022
DRAWN BY:	JAS.

STONEWOOD PLAT I
WEST DES MOINES, IOWA

SHEET
2
OF 6
A-2042

DIMENSION PLAN (SOUTH)



CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C3	180.00	282.50	344.64	294.43	294.43	N20°51'00"E

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C1	170°25'	3650.00	104.16	52.39	104.16	N62°14'05"E
C2	301°00'33"	187.50	1004.31	515.98	419.21	N57°32'54"E
C3	75°55'	282.50	294.61	150.04	244.31	N26°31'01"E
C4	106°13'23"	25.00	46.35	39.31	34.94	S12°31'44"E
C5	40°40'55"	310.00	262.71	131.13	251.23	N00°14'22"E
C6	41°52'21"	440.00	32.64	16.35	32.64	N11°01'24"E
C7	18°36'21"	440.00	142.81	12.05	142.21	N07°35'28"E
C8	26°21'48"	440.00	205.22	103.46	201.42	N14°56'39"E
C9	86°58'11"	25.00	38.11	24.51	35.00	S56°52'05"E
C10	81°08'48"	210.00	34.10	11.62	34.10	S61°50'08"E
C11	20°46'21"	330.00	18.64	6.04	18.64	S56°36'22"E
C12	18°28'02"	25.00	33.31	14.10	30.44	S56°21'13"E
C13	20°02'04"	230.00	80.42	40.83	80.01	N63°11'48"E
C14	21°33'20"	10.00	63.86	32.38	63.56	N64°13'41"W
C15	21°33'20"	10.00	64.45	32.81	64.55	N42°50'50"E
C16	54°51'50"	50.00	41.10	25.84	45.91	N04°51'05"W
C17	18°20'21"	35.00	64.60	30.50	60.02	N03°51'33"E
C18	64°05'36"	35.00	66.48	31.48	62.57	S14°41'25"E
C19	65°28'44"	25.00	62.86	31.56	54.44	S07°25'05"E
C20	50°13'26"	35.00	24.33	15.02	28.48	S40°35'35"E

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C21	32°48'00"	50.00	20.62	14.72	20.23	S14°28'03"E
C22	28°14'12"	250.00	43.08	41.81	42.44	S14°31'38"E
C23	21°05'35"	230.00	88.71	54.67	105.54	S60°48'02"E
C24	27°52'50"	110.00	8.55	4.21	8.55	S13°14'23"E
C25	35°45'56"	110.00	84.44	56.16	103.71	S45°15'22"E
C26	11°06'24"	110.00	36.69	28.46	36.43	S04°10'30"E
C27	53°11'22"	50.00	46.53	25.11	44.81	S21°03'26"E
C28	64°14'52"	55.00	66.41	31.86	62.50	S14°05'46"E
C29	10°22'28"	50.00	61.56	30.10	63.94	S50°43'04"E
C30	14°00'03"	50.00	70.64	43.34	64.81	S04°33'30"E
C31	40°13'34"	50.00	38.42	20.03	31.65	N64°50'33"E
C32	32°48'02"	50.00	20.62	14.72	20.23	N08°32'00"E
C33	1°28'17"	230.00	24.84	15.02	24.81	N04°10'13"E
C34	30°41'26"	230.00	123.60	63.93	122.12	N44°50'50"E
C35	18°22'44"	25.00	34.22	20.40	31.61	N08°44'11"E
C36	20°12'08"	210.00	70.48	48.46	85.40	N08°48'56"E
C37	10°24'27"	330.00	36.02	24.04	31.75	N63°51'14"E
C38	74°18'26"	25.00	34.54	20.17	31.80	S01°28'41"E
C39	07°07'00"	140.00	166.04	58.30	157.70	N44°12'38"E
C40	11°02'36"	140.00	130.84	65.11	130.36	N45°26'36"E

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C41	87°22'20"	440.00	88.05	54.58	111.70	N01°38'54"E
C42	84°32'46"	25.00	34.22	24.45	35.32	S44°23'43"E
C43	40°07'11"	25.00	34.32	25.05	35.31	S45°36'11"E
C44	24°14'48"	380.00	160.20	81.62	161.60	N11°12'42"E
C45	45°21'05"	380.00	300.18	158.11	292.81	N42°24'49"E
C46	21°44'48"	380.00	148.50	72.82	143.04	N08°53'22"E
C47	18°24'24"	380.00	122.84	61.86	122.11	N11°12'12"E
C48	07°42'08"	380.00	4.65	2.33	4.65	N00°48'05"E
C49	11°44'43"	430.00	84.40	42.33	84.26	N03°34'46"E
C50	16°02'41"	430.00	120.43	60.61	120.09	N01°53'01"E
C51	05°32'58"	430.00	116.10	58.11	116.34	N13°54'51"E
C52	84°01'33"	25.00	36.66	22.52	33.46	N00°11'21"E
C53	42°50'28"	430.00	321.52	168.61	314.08	N00°16'06"E
C54	10°41'05"	380.00	126.12	54.05	121.74	N34°26'31"E
C55	10°24'18"	440.00	648.40	634.10	122.31	N34°05'28"E
C56	13°13'59"	440.00	104.69	52.58	104.44	N34°21'31"E
C57	24°55'05"	230.00	100.08	50.82	91.24	N42°51'14"E
C58	18°44'39"	230.00	304.05	158.81	283.24	N31°20'32"E
C59	43°26'40"	110.00	128.07	61.73	123.64	N63°13'30"E
C60	25°18'44"	80.00	248.27	111.67	251.03	S13°28'48"E

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C61	52°16'48"	230.00	204.86	102.81	202.66	S44°12'28"E
C62	18°14'45"	360.00	224.18	132.11	208.12	S37°28'32"E
C63	25°54'08"	360.00	248.21	132.11	208.12	S37°28'32"E
C64	37°50'05"	360.00	344.21	174.06	344.01	S34°01'59"E
C65	61°22'38"	360.00	466.21	233.06	466.21	S04°14'04"E
C66	11°44'23"	25.00	40.03	25.11	39.81	S58°11'31"E
C67	12°02'22"	360.00	18.18	9.24	18.04	N0°55'22"E
C68	14°10'10"	360.00	102.61	40.51	102.44	S04°15'56"E
C69	17°01'48"	360.00	46.00	23.06	46.03	S14°11'18"E
C70	4°08'42"	240.00	41.26	23.83	41.51	S13°56'30"E
C71	11°22'35"	240.00	40.40	40.56	40.06	S08°32'20"E
C72	16°02'42"	240.00	43.85	41.32	43.41	N13°44'52"E
C73	41°13'48"	240.00	10.44	25.55	50.88	N04°44'42"E
C74	11°53'38"	360.00	53.06	26.51	53.01	S01°03'42"E
C75	42°01'55"	360.00	208.98	141.36	203.95	N04°12'28"E
C76	20°45'22"	240.00	101.95	34.58	101.36	S03°01'03"E
C77	16°15'30"	240.00	81.68	44.16	81.31	N16°02'18"E
C78	12°40'41"	240.00	65.44	33.11	65.81	N01°28'13"E
C79	47°10'05"	360.00	31.61	15.81	31.80	N01°24'21"E
C80	34°10'45"	360.00	42.14	46.31	46.30	N01°03'23"E

CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C81	13°24'38"	360.00	86.15	43.28	85.44	N00°56'04"E
C82	18°18'45"	360.00	85.50	42.10	85.31	S00°42'14"E
C83	61°20'42"	360.00	53.60	26.85	53.55	S14°52'31"E
C84	61°42'48"	240.00	34.42	17.48	34.40	S14°03'54"E
C85	26°44'51"	240.00	134.12	10.85	134.66	N04°12'31"E
C86	11°53'38"	25.00	40.10	25.84	35.83	S21°53'22"E
C87	61°31'50"	111.50	222.85	115.34	222.11	S41°23'12"E
C88	17°01'41"	111.50	262.24	131.33	262.08	S26°36'03"E
C89	37°21'31"	360.00	214.16	106.62	214.01	S01°53'24"E
C90	54°21'58"	240.00	202.16	103.01	212.21	N02°08'31"E
C91	50°11'33"	360.00	329.02	172.15	329.15	N00°04'31"E
C92	54°21'58"	360.00	354.81	184.48	354.29	N02°06'31"E
C93	33°21'31"	240.00	114.03	64.58	114.51	S01°25'54"E

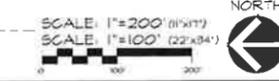
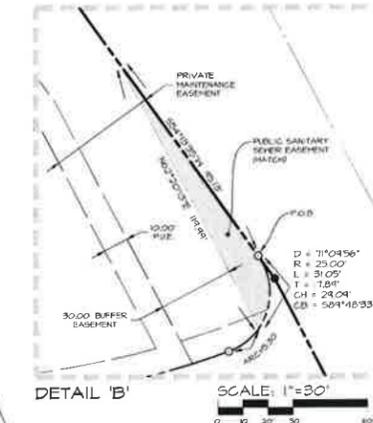
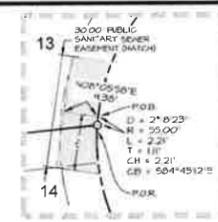
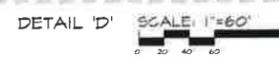
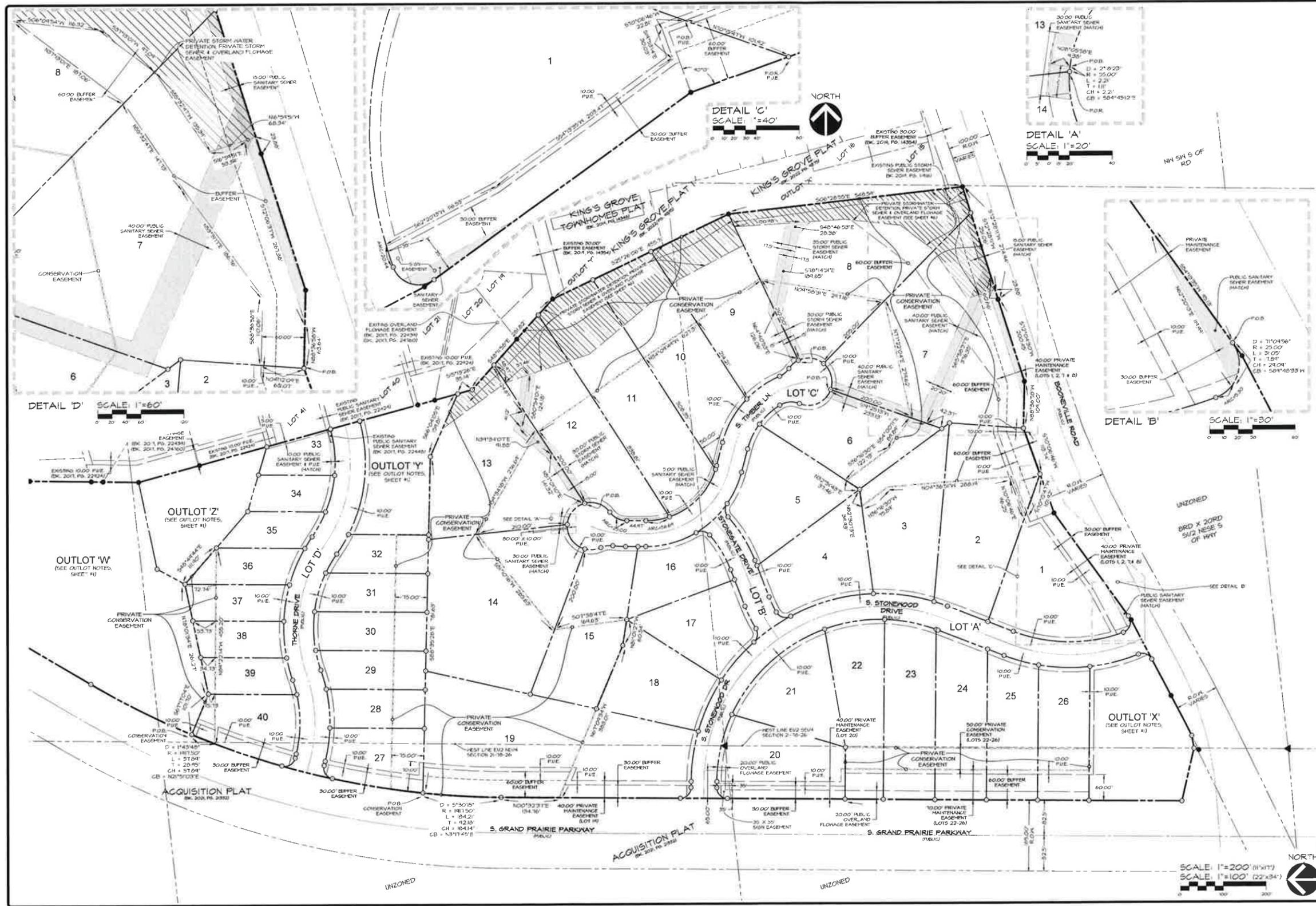
CURVE	DELTA	RADIUS	LENGTH	TANGENT	CHORD	CH. BEARING
C94	43°56'40"	400.00	316.43	168.11	313.00	N01°13'13"E
C95	10°24'11"	400.00	180.62	140.86	179.00	N02°05'28"E
C96	54°12'35"	410.00	301.42	150.85	313.41	S02°13'46"E
C97	56°16'36"	410.00	402.11	214.21	386.11	S06°51'10"E
C98	34°21'25"	200.00	131.13	11.12	135.02	S11°11'55"E
C99	28°59'40"	200.00	83.38	42.50	85.01	S12°23'35"W
C100	15°44'35"	200.00	264.34	155.54	245.56	S11°26'32"E
C101	68°48'11"	200.00	240.17	136.93	228.00	S40°58'44"E
C102	50°11'33"	333.00	242.30	156.32	283.00	S00°04'34"E
C103	36°11'18"	200.00	126.67	65.54	124.56	S01°12'12"E
C104	54°21'58"	333.00	353.97	171.00	304.25	S02°06'51"E
C105	33°21'31"	333.00	144.41	100.00	141.12	N01°25'54"E



Civil Engineering Consultants, Inc.
 2400 86th Street, Unit 12, Des Moines, Iowa 50322
 515.276.4884, mail@cecinc.com

CEC
 DEC. 20, 2022
 REV. 08, 2022
 DATE OF SURVEY: FEBRUARY 17, 2022
 DRAWN BY: L.J.

STONEWOOD FLAT I
 WEST DES MOINES, IOWA
 DIMENSION PLAN (NORTH)
 SHEET 6 OF 6
 A-2042



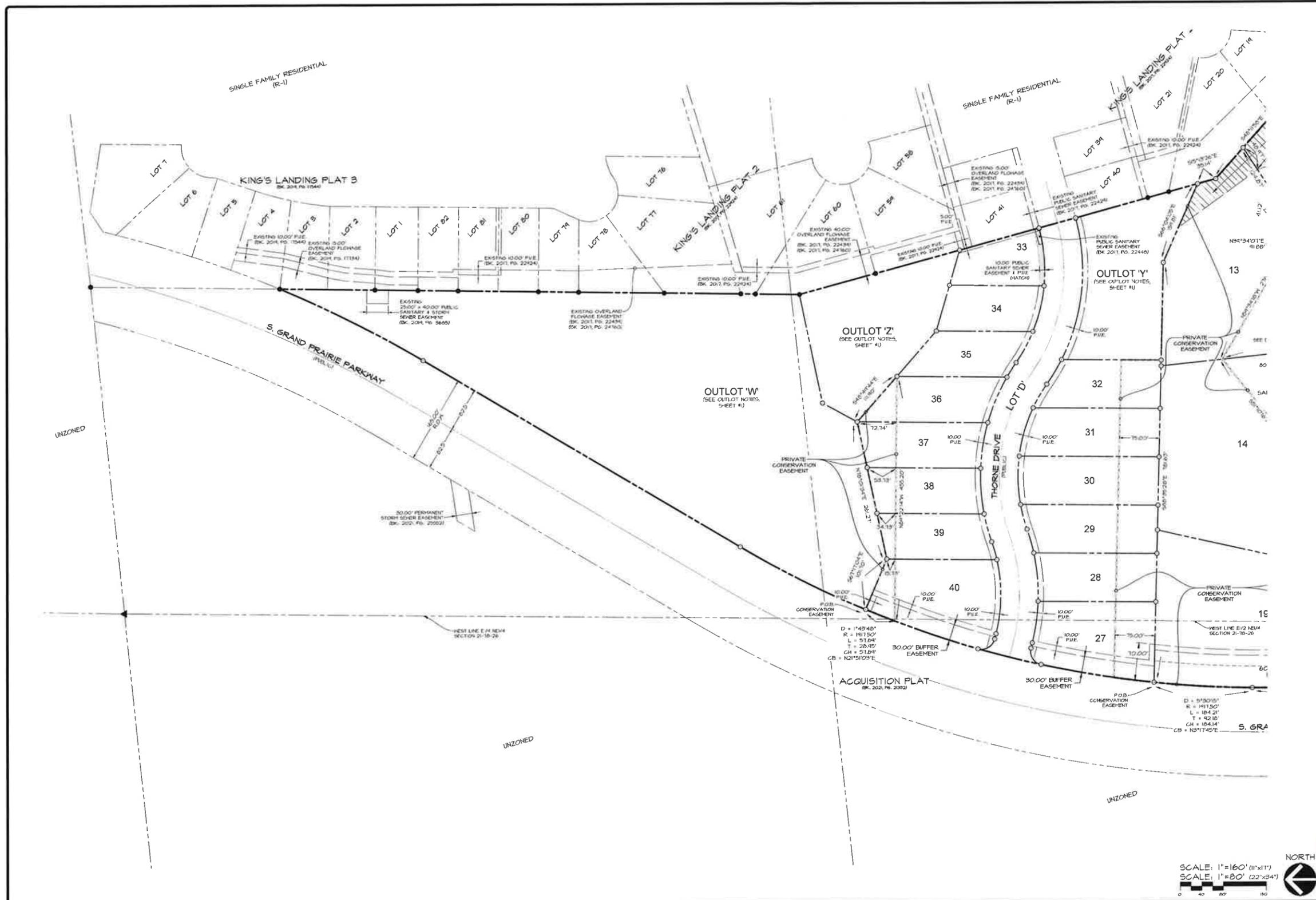
Civil Engineering Consultants, Inc.
 2400 86th Street, Unit 12, Des Moines, Iowa 50322
 515.276.4884 mail@cecinc.com



DATE:	DEC. 30, 2022
DATE OF SURVEY:	DEC. 08, 2022
DESIGNED BY:	SEP. 12, 2022
DRAWN BY:	FEBRUARY 02, 2023
SCALE:	AS SHOWN

STONEHOOD FLAT I
 NEST DES MOINES, IOWA
EASEMENT PLAN (SOUTH)

SHEET 4 OF 6
 A-2042



Civil Engineering Consultants, Inc.
 2400 86th Street, Unit 12, Des Moines, Iowa 50322
 515.276.4884 mail@cecilac.com

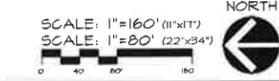
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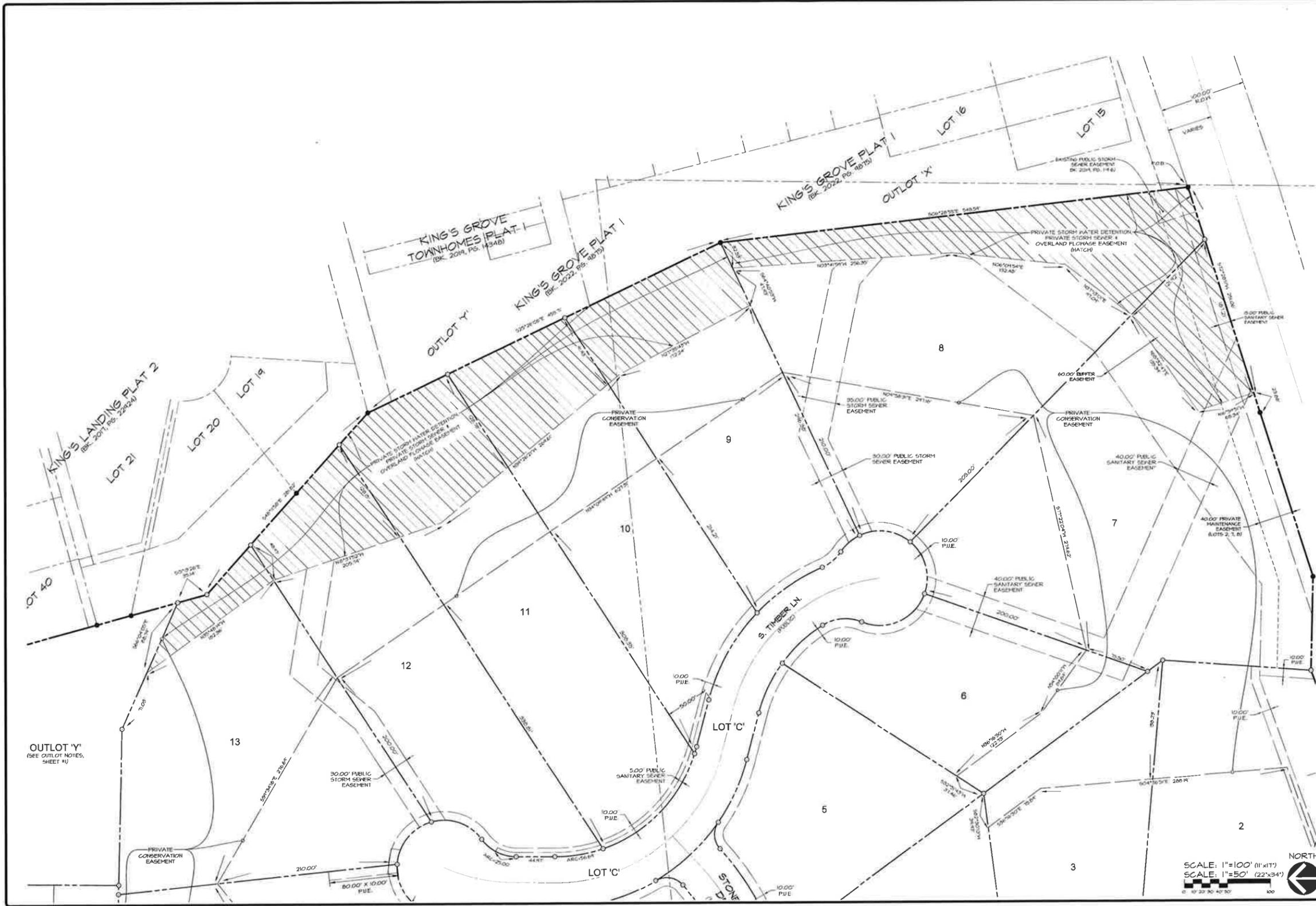
DATE:	DEC. 30, 2022
DATE OF SURVEY:	DEC. 08, 2022
DESIGNED BY:	PERBURN J. JAC
DRAWN BY:	LA

STONEWOOD PLAT I
 WEST DES MOINES, IOWA
EASEMENT PLAN (NORTH)

SHEET 6 OF 6

A-2042





OUTLOT 'Y'
(SEE OUTLOT NOTES,
SHEET #1)

SCALE: 1"=100' (11"x17")
SCALE: 1"=50' (22"x34")



CEC Civil Engineering Consultants, Inc.
2400 86th Street, Unit 12, Des Moines, Iowa 50322
515.276.4884 | mail@cecinc.com

DATE:	DEC 20, 2022
DEC. ON 2022:	DEC. 08, 2022
OCT. ON 2022:	OCT. 17, 2022
STATE OF SURVEY:	MISSOURI, 19, 2022
DESIGNED BY:	JL
CHECKED BY:	JL

STONEWOOD PLAT I
WEST DES MOINES, IOWA
EASEMENT DETAIL

SHEET
OF 6
A-2042

Prepared by: Lynne Twedt, City of West Des Moines Development Services Dept., PO Box 65320,
West Des Moines, Iowa 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 OF THE CITY COUNCIL OF THE CITY OF WEST DES MOINES, ACCEPTING SURETY AND APPROVING AND RELEASING THE STONEWOOD PLAT 1 FINAL PLAT FOR THE PURPOSE OF CREATING FORTY (40) LOTS FOR SINGLE-FAMILY DEVELOPMENT, FOUR (4) OUTLOTS AND FOUR (4) STREET LOTS

WHEREAS, pursuant to the provisions of Title 9, Zoning and Title 10, Subdivision Regulations, of the West Des Moines Municipal Code, the applicant and property owner, Stonewood, Inc., request approval of a Final Plat for the approximately 61.6-acre property generally located at northeast corner of Booneville Road and S. Grand Prairie Parkway and legally described in attached Exhibit 'B'. The applicant proposes to subdivide the property into forty (40) lots for single-family residential, two (2) outlots for storm water detention, one (1) outlot for storm water detention and development landscape sign, one (1) outlot for future development and four (4) street lots for dedication to the City; and

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, this Final Plat complies with Iowa Code Chapters 354 and 414, the Comprehensive Plan and City Code; and

WHEREAS, the West Des Moines Plan and Zoning Commission reviewed the associated Preliminary Plat and recommended approval on May 28, 2022, and approved a revised Preliminary Plat on November 7, 2022; and

WHEREAS, this Final Plat has been reviewed and determined to be generally consistent with the associated Preliminary Plat that was approved by the City Council on April 4, 2022, with a revised Preliminary Plat approved by the City Council on November 7, 2022; and

WHEREAS, on this day the City Council held a duly noticed meeting to consider the Final Plat application; and

WHEREAS, the City Council is accepting surety in lieu of constructing public improvements within the plat boundaries associated with the construction of public sanitary sewer, public storm sewer, Thorne Drive, S. Stonewood Drive, Stonegate Drive and S. Timber Lane, including all appurtenances associated with said improvements; and

WHEREAS, the necessary easements have been established for Buffers, Public Utility, Sanitary Sewer, Storm Sewer, Overland Flowage and Temporary Access; and

WHEREAS, the applicant has supplied a deed to the City of West Des Moines for Street Lots "A" (S. Stonewood Dr.), "B" (Stonegate Dr), "C" (S. Timber Ln) and "D" (Thorne Dr) to be dedicated as public street right-of-way; and

WHEREAS, the applicant has provided a Parkland Dedication Agreement which specifies improvements required of the development; and

WHEREAS, the City Council is accepting surety for the construction of sidewalks and completion of public improvements within the plat; and

WHEREAS, the City Council is accepting the Storm Water Management Facility Maintenance Covenant and Permanent Easement Agreement for this property; and

WHEREAS, the City Council approves of the following address assignment(s);

Lot 1	1576 S. Stonewood Dr
Lot 2	1538 S. Stonewood Dr
Lot 3	1482 S. Stonewood Dr
Lot 4: corner lot - access from west	1464 S. Stonewood Dr
Lot 4: corner lot - access from north	10354 Stonegate Dr
Lot 5: corner lot - access from east	1455 S. Timber Ln
Lot 5: corner lot - access from north	10378 Stonegate Dr
Lot 6	1471 S. Timber Ln
Lot 7	1527 S. Timber Ln
Lot 8	1516 S. Timber Ln
Lot 9	1490 S. Timber Ln
Lot 10	1468 S. Timber Ln
Lot 11	1444 S. Timber Ln
Lot 12	1392 S. Timber Ln
Lot 13	1336 S. Timber Ln
Lot 14	1347 S. Timber Ln
Lot 15	1383 S. Timber Ln
Lot 16: corner lot - access from east	1429 S. Timber Ln
Lot 16: corner lot - access from south	10369 Stonegate Dr
Lot 17: corner lot - access from west	1436 S. Stonewood Dr
Lot 17: corner lot - access from south	10385 Stonegate Dr
Lot 18	1422 S. Stonewood Dr
Lot 19	1408 S. Stonewood Dr
Lot 20	1417 S. Stonewood Dr
Lot 21	1451 S. Stonewood Dr
Lot 22	1475 S. Stonewood Dr
Lot 23	1493 S. Stonewood Dr
Lot 24	1529 S. Stonewood Dr

Lot 25	1557 S. Stonewood Dr
Lot 26	1581 S. Stonewood Dr
Lot 27	10492 Thorne Dr
Lot 28	10468 Thorne Dr
Lot 29	10430 Thorne Dr
Lot 30	10404 Thorne Dr
Lot 31	10386 Thorne Dr
Lot 32	10362 Thorne Dr
Lot 33	10305 Thorne Dr
Lot 34	10321 Thorne Dr
Lot 35	10349 Thorne Dr
Lot 36	10377 Thorne Dr
Lot 37	10393 Thorne Dr
Lot 38	10415 Thorne Dr
Lot 39	10441 Thorne Dr
Lot 40	10479 Thorne Dr

WHEREAS, property subject of this action is zoned Residential Single-Family (RS-14 and RS-30) and Medium Density Residential (RM-8) and meets all requirements of the City's Zoning Code.

NOW, THEREFORE, the City Council does approve the Stonewood Plat 1 Final Plat (FP-005766-2022), subject to compliance with all of the conditions of approval, including any conditions added at the meeting, 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. This resolution does release the Final Plat for recordation. The City Council of West Des Moines, Iowa directs the City Clerk to release said document for recordation.

PASSED AND ADOPTED on January 3, 2023.

Russ Trimble, Mayor

ATTEST:

Ryan 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 January 3, 2023, by the following vote.

Exhibit A: Conditions of Approval

1. No occupancy permit, including Temporary Occupancy Permits shall be issued until such time that the plat associated Public Improvements have been approved and accepted by the city.
2. No Final Occupancy Permits shall be issued for any dwelling within the plat until such time that the city confirms the required buffers have been installed compliant with the approved buffer planting plan and all vegetation is alive and thriving.
3. The City Council approving the placement of Public Utility Easements (PUEs) in the front yard of all lots within the single-family portion of the property.
4. The developer acknowledging and agreeing that the completion of the West Des Moines Water Works punch list and acceptance of the public water main in this plat by the West Des Moines Water Works Board of Trustees is required before West Des Moines Water Works will release a water meter for any dwelling in the plat. The developer further acknowledging the availability of water may impact the allowance for the placement of combustible materials within a home site, as well as the allowance for above ground construction.

Exhibit B: Legal Description

A PARCEL OF LAND IN PARCEL 'A' OF THE E1/2 NE1/4 AND THE NE1/4 SE1/4 OF SECTION 21, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH P.M., CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA , AN OFFICIAL PARCEL RECORDED IN BOOK 809, PAGE 334 AT THE DALLAS COUNTY RECORDER'S OFFICE AND PART OF NW1/4 SE1/4 AND THE SW1/4 NE1/4 OF SAID SECTION 21 LYING EAST OF THE WARRANTY DEED AND ACQUISITION PLATS RECORDED IN BOOK 2021, PAGE 21332 AND BOOK 2021, PAGE 25553 AT THE DALLAS COUNTY RECORDER'S OFFICE, ALL BEING IN SAID SECTION 21, TOWNSHIP 78 NORTH, RANGE 26 WEST OF THE 5TH P.M., CITY OF WEST DES MOINES, DALLAS COUNTY, IOWA THAT IS MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID PARCEL 'A', SAID SE CORNER ALSO BEING ON THE NORTH RIGHT-OF-WAY LINE OF BOONEVILLE ROAD AS IT IS PRESENTLY ESTABLISHED; THENCE S72°28'11"W, 274.94 FEET ALONG THE SOUTH LINE OF SAID PARCEL 'A' AND SAID NORTH RIGHT-OF-WAY LINE TO A POINT; THENCE S72°04'30"W, 200.45 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE N88°36'58"W, 109.00 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S70°06'46"W, 210.06 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S54°13'35"W, 307.51 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE S62°20'13"W, 199.46 FEET ALONG SAID SOUTH LINE TO A POINT; THENCE WESTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 5680.00 FEET AND A CHORD BEARING S62°41'08"W, AN ARC LENGTH OF 104.78 FEET ALONG SAID SOUTH LINE TO THE EAST CORNER OF THE WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2021, PAGE 25551 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S79°56'05"W, 29.73 FEET ALONG THE NORTH LINE OF SAID WARRANTY DEED AND ACQUISITION PLAT TO A POINT ON THE WEST LINE OF SAID PARCEL 'A', SAID WEST LINE ALSO BEING THE EAST LINE OF THE NW1/4 SE1/4 OF SAID SECTION 21 AND ALSO BEING ON THE EAST LINE OF EXHIBIT 011-06-F3 OF SAID WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2021, PAGE 21332; THENCE N76°54'36"W, 125.46 FEET ALONG SAID EAST LINE OF EXHIBIT 011-06-F3 TO A POINT; THENCE N00°32'37"E, 1589.22 FEET ALONG THE EAST LINE OF SAID EXHIBIT 011-06-F3 AND EXHIBIT 011-06-F5 OF SAID WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2021, PAGE 21332 TO A POINT OF CURVATURE; THENCE NORTHEASTERLY ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1917.50 FEET AND A CHORD BEARING N15°32'54"E, AN ARC LENGTH OF 1004.31 FEET ALONG THE EAST LINE OF SAID EXHIBIT 011-06-F5 AND THE EAST LINE OF EXHIBIT 011-05-F2 & 011-05-F3 OF SAID WARRANTY DEED AND ACQUISITION PLAT RECORDED IN BOOK 2021, PAGE 25553 TO A POINT OF TANGENCY; THENCE N30°33'10"E, 686.89 FEET ALONG SAID EAST LINE OF EXHIBIT 011-05-F3 TO A POINT OF CURVATURE; THENCE NORTHERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS 2182.50 FEET AND A CHORD BEARING N26°37'13"E, AN ARC LENGTH OF 299.61 FEET ALONG SAID EAST LINE TO A POINT ON THE EAST LINE OF SAID PARCEL 'A', SAID EAST LINE COINCIDES WITH THE WEST LINE OF KINGS LANDING PLAT 3, AN OFFICIAL PLAT RECORDED BOOK 2019, PAGE 17544 AT THE DALLAS COUNTY RECORDER'S, AND KINGS LANDING PLAT 2, AN OFFICIAL PLAT RECORDED BOOK 2017, PAGE 22424 AT THE DALLAS COUNTY RECORDER'S, AND KING'S GROVE TOWNHOMES PLAT 1, AN OFFICIAL PLAT RECORDED IN BOOK 2019, PAGE 14348 AT THE DALLAS COUNTY RECORDER'S OFFICE; THENCE S00°49'58"W, 971.08 FEET ALONG SAID EAST LINE OF PARCEL 'A' TO A POINT; THENCE S15°13'26"E, 807.16 FEET ALONG SAID EAST LINE TO A POINT; THENCE S48°11'58"E, 281.82 FEET ALONG SAID EAST LINE TO A POINT, SAID POINT ALSO BEING THE NW CORNER OF SAID KING'S GROVE TOWNHOMES PLAT 1; THENCE S25°26'06"E, 455.71 FEET ALONG SAID EAST LINE OF PARCEL 'A' AND THE WEST LINE OF SAID KING'S GROVE TOWNHOMES PLAT 1 TO A POINT; THENCE S06°28'55"E, 548.59 FEET ALONG SAID EAST LINE TO THE POINT OF BEGINNING AND CONTAINING 61.63 ACRES MORE OR LESS.