

# AGENDA CITY OF CEDAR FALLS, IOWA CITY COUNCIL MEETING MONDAY, APRIL 15, 2019 7:00 PM AT CITY HALL

#### Call to Order by the Mayor

#### **Roll Call**

#### **Approval of Minutes**

1. Regular Meeting of April 1, 2019.

#### **Agenda Revisions**

#### **Special Order of Business**

- Public hearing on a proposed Agreement for Private Development and conveyance of certain cityowned real estate to Zuidberg NA, L.L.C.
  - a) Receive and file proof of publication of notice of hearing. (Notice published April 5, 2019)
  - b) Written communications filed with the City Clerk.
  - c) Oral comments.
- 3. Resolution approving and authorizing execution of an Agreement for Private Development and a Minimum Assessment Agreement with Zuidberg NA, L.L.C., and approving and authorizing execution of a Quit Claim Deed conveying title to certain real estate to Zuidberg NA, L.L.C.

#### **Old Business**

- 4. Pass Ordinance #2938, amending Section 26-118 (formerly 29-107) of the Code of Ordinances by removing property located at the southeast corner of West 12th Street and Union Road from the A-1, Agricultural District, and placing the same in the RP, Planned Residence District, upon its third & final consideration.
- 5. Pass Ordinance #2939, amending Chapter 26, Zoning, of the Code of Ordinances relative to the College Hill Neighborhood (CHN) Overlay Zoning District, upon its second consideration.

#### **New Business**

**Consent Calendar:** (The following items will be acted upon by voice vote on a single motion without separate discussion, unless someone from the Council or public requests that a specific item be considered separately.)

- 6. Approve the following recommendations of the Mayor relative to the appointment of members to Boards and Commissions:
  - a) MaryJane McCollum, Board of Rental Housing Appeals, term ending 05/01/2023.
  - b) Bruce Wingert, Board of Rental Housing Appeals, term ending 05/01/2023.
- 7. Receive and file the Committee of the Whole minutes of April 1, 2019 relative to the following items:

   a) Sustainability.
  - b) Bills & Payroll.
- 8. Receive, file and adopt the City Council Work Session minutes of April 1, 2019.

- 9. Receive and file a communication from the Civil Service Commission relative to a certified list for the position of Public Safety Officer.
- 10. Approve a request by Winnebago Boy Scouts of America for a permit to operate a Daisy BB Gun Range at Pheasant Ridge Golf Course, 3205 West 12th Street, on May 23, 2019.
- 11. Approve the following special event related requests:
  - a) Street closures, Shamrock Shuffle, April 27, 2019.
  - b) Street closures, UNI Triathlon, April 28, 2019.
  - c) Parking variance, Washington Street (Annual Friends of MercyOne Cedar Falls May Breakfast), May 14, 2019.
  - d) Street closures, Iowa Shrine Bowl Parade, July 20, 2019.
  - e) Street closures, College Hill Farmers Market, June 6, July 11, August 1, September 5 & October 3, 2019.
- 12. Approve the following applications for beer permits and liquor licenses:
  - a) Hy-Vee Clubroom, 6301 University Avenue, Special Class C liquor renewal.
  - b) Jorgensen Plaza (Table 1912, Diamond Event Center and Gilmore's Pub), 5307 Caraway Lane, Class C liquor, Class B wine & outdoor service renewal.
  - c) Mary Lou's Bar & Grill, 2719 Center Street, Class C liquor renewal.
  - d) The Horny Toad American Bar & Grille, 204 Main Street, Class C liquor renewal.
  - e) ZSAVOOZ, 206 Brandilynn Boulevard, Class C liquor & outdoor service renewal.
  - f) CVS/Pharmacy, 2302 West 1st Street, Class E liquor renewal.
  - g) Prime Mart, 2728 Center Street, Class E liquor renewal.

**Resolution Calendar:** (The following items will be acted upon by roll call vote on a single motion without separate discussion, unless someone from the Council or public requests that a specific item be considered separately.)

- 13. Resolution approving and authorizing execution of a Marco Relationship Agreement with Marco Technologies, LLC relative to a new phone system.
- 14. Resolution approving and authorizing execution of a lease relative to property vacated by the 2008 flood buyout programs.
- 15. Resolution approving and authorizing execution of a contract with Laser Line Striping relative to 2019 pavement marking services.
- 16. Resolution approving and authorizing the expenditure of funds for the purchase of a wheel loader.
- 17. Resolution approving and authorizing execution of four Owner Purchase Agreements, and approving and accepting two Permanent Drainage Easements and two Temporary Construction Easements, in conjunction with the Walnut Street Box Culvert Project.
- 18. Resolution approving and authorizing execution of two Owner Purchase Agreements, in conjunction with the Ridgeway Avenue Reconstruction Project Chancellor Drive to Nordic Drive.
- 19. Resolution receiving and filing the bids, and approving and accepting the low bid of Benton's Sand & Gravel, Inc., in the amount of \$202,362.40, for the 2019 Permeable Alley Project.
- 20. Resolution approving and authorizing execution of a Developmental Procedures Agreement with BJW Holdings, LLC relative to storm sewer oversizing for Park Ridge Estates Subdivision.
- 21. Resolution approving and authorizing execution of a Professional Service Agreement with Snyder & Associates, Inc. relative to the Cedar Heights Drive Reconstruction Project.
- 22. Resolution approving and accepting a Lien Notice and Special Promissory Note for property located at 1026 West 8th Street relative to the Rental to Single Family Owner Conversion Incentive Program.

- 23. Resolution approving and authorizing submission of a Certified Local Government National Register Nomination of the Cedar Falls Wild Historic District, as recommended by the Historic Preservation Commission.
- 24. Resolution approving a College Hill Neighborhood Overlay Zoning District site plan for façade improvements at 2020 College Street.
- 25. Resolution approving a College Hill Neighborhood Overlay Zoning District site plan for façade improvements at 2125 College Street.
- 26. Resolution approving a Central Business District Overlay Zoning District site plan for a commercial/residential mixed use redevelopment at 302 Main Street and 123 East 3rd Street/305 State Street, as recommended by the Planning & Zoning Commission.
- 27. Resolution approving and authorizing execution of a Service Agreement with Farmers State Bank relative to drawdowns of Community Development Block Grant (CDBG) funds.
- 28. Resolution approving and authorizing reimbursements and cancellation of one assessment relative to the 2018 Sidewalk Assessment Project, Zone 9, in conjunction with the 2019 Street Construction Project.
- 29. Resolution approving and adopting Small Cell Design Guidelines for the City of Cedar Falls.
- 30. Resolution approving and adopting a Small Wireless Facility Fee Schedule.
- 31. Resolution receiving and filing, and setting May 6, 2019 as the date of public hearing on, the proposed plans, specifications, form of contract & estimate of cost for the 100 Block Alley Reconstruction Project.
- 32. Resolution receiving and filing, and setting May 6, 2019 as the date of public hearing on, the proposed plans, specifications, form of contract & estimate of cost for the Walnut Street Box Culvert Replacement University Branch of Dry Run Creek Project.
- 33. Resolution receiving and filing, and setting May 6, 2019 as the date of public hearing on, the proposed plans, specifications, form of contract & estimate of cost for the Ridgeway Avenue Reconstruction Project Chancellor Drive to Nordic Drive.
- 34. Resolution setting May 6, 2019 as the date of public hearing on amendments to the City's FY19 Budget.

#### **Allow Bills and Payroll**

35. Allow Bills and Payroll of April 15, 2019.

#### **City Council Referrals**

#### **City Council Updates**

#### **Executive Session**

36. Executive Session to discuss Property Acquisition per Iowa Code Section 21.5(1)(j) to discuss the purchase or sale of particular real estate only where premature disclosure could be reasonably expected to increase the price the governmental body would have to pay for that property or reduce the price the governmental body would receive for that property, following Public Forum.

**Public Forum.** (Speakers will have one opportunity to speak for up to 5 minutes on topics germane to City business.)

#### Adjournment

# CITY HALL CEDAR FALLS, IOWA, APRIL 1, 2019 REGULAR MEETING, CITY COUNCIL MAYOR JAMES P. BROWN PRESIDING

The City Council of the City of Cedar Falls, Iowa, met in Regular Session, pursuant to law, the rules of said Council and prior notice given each member thereof, in the City Hall at Cedar Falls, Iowa, at 7:00 P.M. on the above date. Members present: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Absent: None.

52253 - It was moved by Green and seconded by Darrah that the minutes of the Regular Meeting of March 18, 2019 be approved as presented and ordered of record. Motion carried unanimously.

Mayor Brown read a proclamation declaring April 7-13, 2019 as Crime Victims' Rights Week. Glenda Husome with the Family and Children's Council spoke briefly and introduced Rosario with Riverview Center and Laura with the Department of Corrections.

The Mayor then read a proclamation declaring April 28-May 5, 2019 as Days of Remembrance, and University of Northern Iowa Director of the Center for Holocaust and Genocide Education Stephen Gaies commented and invited everyone to the Holocaust Remembrance Ceremony on April 23, 2019 at 7:00 P.M. at the Grout Museum District.

Mayor Brown recognized University of Northern Iowa student Drew Foster as a 2019 National Collegiate Athletic Association (NCAA) wrestling champion.

- 52254 City Clerk Danielsen announced that Item 28 was being removed from the Resolution Calendar.
- 52255 Mayor Brown announced that in accordance with the public notice of March 22, 2019, this was the time and place for a public hearing on the proposed plans, specifications, form of contract & estimate of cost for the 2019 Permeable Alley Project. It was then moved by deBuhr and seconded by Darrah that the proof of publication of notice of hearing be received and placed on file. Motion carried unanimously.
- 52256 The Mayor then asked if there were any written communications filed to the proposed plans, etc. Upon being advised that there were no written communications on file, the Mayor then called for oral comments. Principal Engineer Schrage commented briefly about the project. Jim Skaine, 2215 Clay Street, spoke opposed to the program. There being no one else present wishing to speak about the proposed plans, etc., the Mayor declared the hearing closed and passed to the next order of business.
- 52257 It was moved by Blanford and seconded by Miller that Resolution #21,469, approving and adopting the plans, specifications, form of contract & estimate of cost for the 2019 Permeable Alley Project, be adopted. Following questions by

Councilmembers Green, deBuhr and Wieland, and responses by Community Development Director Sheetz and Principal Engineer Schrage, the Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried. The Mayor then declared Resolution #21,469 duly passed and adopted.

- 52258 Mayor Brown announced that in accordance with the public notice of March 22, 2019, this was the time and place for a public hearing on proposed amendments to Section 26-181, CHN, College Hill Neighborhood Overlay Zoning District, of Chapter 26, Zoning, of the Code of Ordinances relative to certain provisions in the College Hill Neighborhood Overlay Zoning District. It was then moved by Wieland and seconded by Miller that the proof of publication of notice of hearing be received and placed on file. Motion carried unanimously.
- 52259 The Mayor then asked if there were any written communications filed to the proposed amendments. Upon being advised that there were no written communications on file, the Mayor then called for oral comments. Community Services Manager Howard provided a brief summary of the process and recommendations. College Hill Partnership Executive Director Kathryn Sogard spoke in support of the amendments. There being no one else present wishing to speak about the proposed amendments, the Mayor declared the hearing closed and passed to the next order of business.
- 52260 It was moved by Wieland and seconded by Darrah that Ordinance #2939, amending Chapter 26, Zoning, of the Code of Ordinances relative to the College Hill Neighborhood (CHN) Overlay Zoning District, be passed upon its first consideration. Following questions by Councilmembers Wieland and Kruse, and responses by Community Services Manager Howard and Community Development Director Sheetz, it was moved by Kruse and seconded by Green to amend the motion to remove language within 26-181(5)(a)(6) that states "For mixed-use buildings constructed prior to January 1, 2019, parking is not required for existing dwelling units." Following questions by Councilmembers Blanford and Miller, and responses by City Attorney Rogers and Community Services Manager Sheetz, the motion to amend failed 3-4 with Councilmembers Miller, Blanford, Darrah and Wieland voting nay.

It was then moved by Kruse and seconded by deBuhr to remove language within 26-181(5)(a)(6) that states "In addition, for mixed-used and commercial buildings constructed prior to January 1, 2019, parking is not required for upper floor space that is converted to residential use." Following questions by Councilmembers Kruse, deBuhr, Blanford, Miller and Green, and responses by Community Services Manager Howard, City Attorney Rogers and College Hill Partnership Executive Director Kathryn Sogard, the motion to amend failed 3-4 with Councilmembers Miller, Blanford, Darrah and Wieland voting nay.

It was then moved by Kruse and seconded by Green to table the motion until the College Hill parking study is completed. Following comments by Councilmembers Green, Miller and Blanford, and response by City Administrator Gaines, the motion to table failed 3-4 with Councilmembers Miller, Blanford, Darrah and

Wieland voting nay.

The Mayor then put the question on the original motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Blanford, Darrah, Wieland. Nay: Kruse, Green. Motion carried.

52261 - Following a brief explanation by City Attorney Rogers and comments by Councilmembers Blanford, deBuhr and Wieland, it was moved by deBuhr and seconded by Darrah that the rules requiring Ordinance #2937, adopting the Code of Ordinances for the City of Cedar Falls, to be considered at three separate meetings be suspended. The Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Darrah, Wieland, Green. Nay: Blanford. Motion carried.

It was then moved by Wieland and seconded by Miller that Ordinance #2937, adopting the Code of Ordinances for the City of Cedar Falls, be passed upon its third and final consideration. The Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried. The Mayor then declared Ordinance #2937 duly passed and adopted.

- 52262 It was moved by deBuhr and seconded by Wieland that Ordinance #2938, amending Section 29-107 of the Code of Ordinances by removing property located at the southeast corner of West 12th Street and Union Road from the A-1, Agricultural District, and placing the same in the RP, Planned Residence District, be passed upon its second consideration. Following due consideration by the Council, the Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried.
- 52263 Jeff Hansen, 806 Bluff Street, expressed concerns regarding snow levels in alleys and debris on roadside in his neighborhood.

It was moved by Wieland and seconded by Green that the following items and recommendations on the Consent Calendar be received, filed and approved:

Receive and file the resignation of Jayme Renfro as a member of the Art & Culture Board.

Receive and file communications from the Civil Service Commission relative to certified lists for the following positions:

- a) Arborist.
- b) Equipment Operator.

Receive and file Departmental Monthly Reports of February 2019.

Approve the request for a temporary sign on West 1st Street between the Rapp Gas Station and the Little Red School House for the Make-A-Wish Walk on April 24-27, 2019.

Approve a request for street closures for the Downtown Show and Shine, May 5, 2019.

Approve the following applications for liquor licenses:

- a) Lark Brewing, Deringer's Public Parlor & The Stuffed Olive, 314 Main Street, Class C liquor & outdoor service sidewalk café.
- b) Luxe Nail Bar, 5907 University Avenue, Class C liquor new.

Motion carried unanimously.

- 52264 It was moved by Darrah and seconded by Miller to receive and file the Committee of the Whole minutes of March 18, 2019 relative to Pavement Management and Bills & Payroll. Jim Skaine, 2215 Clay Street, commented and Councilmember Green raised point of order. Following a question by Councilmember Miller and response by City Attorney Rogers, the motion carried unanimously.
- 52265 It was moved by Darrah and seconded by Blanford to endorse the recommendations of the Library Board of Trustees, the Art & Culture Board and the Parks & Recreation Commission regarding use of the Berg and Ray Funds held by the Cedar Falls Community Foundation for the benefit of the Cedar Falls Public Library, the Hearst Center and the Recreation Center. Following a question by Rosemary Beech, 5018 Sage Road, and response by Finance & Business Operations Director Rodenbeck, the motion carried unanimously.
- 52266 It was moved by Miller and seconded by Green that the following resolutions be introduced and adopted:

Resolution #21,470, approving and accepting from the Municipal Electric and Gas Utilities the permanent transfers of \$3,372,681.00 to the General Fund and \$30,000.00 to the Economic Development Fund of the City of Cedar Falls.

Resolution #21,471, approving and authorizing execution of an Easement Agreement, in conjunction with a sidewalk café at 314 Main Street.

Resolution #21,472, approving the Gold Star Family Memorial Monument site plan concept and preliminary cost estimate, as recommended by the Parks & Recreation Commission.

Resolution #21,473, approving and adopting revised Bylaws for the Housing Commission.

Resolution #21,474, approving a Claim for Non-Residential Relocation Assistance Reimbursement, in conjunction with the West 1st Street Reconstruction Project.

Resolution #21,475, approving and accepting a Temporary Easement, in conjunction with the 2017 Levee/Floodwall System Improvements Project.

Resolution #21,476, approving and authorizing execution of a License

Agreement with Aureon Network Services relative to installing a fiber optic telecommunications system in the Greenhill Road public right-of-way.

Resolution #21,477, approving and authorizing execution of a Professional Service Agreement with Robinson Engineering Company relative to the Ace Place Subwatershed Assessment Project.

Resolution #21,478, approving and authorizing execution of a Professional Service Agreement with Terracon Consultants, Inc. relative to 2019 Construction Testing Services.

Resolution #21,479, approving and accepting a Lien Notice and Special Promissory Note for property located at 925 West 15th Street relative to the Rental to Single Family Owner Conversion Incentive Program.

Resolution #21,480, approving and accepting the low bids, and authorizing execution of two Rehabilitation Contracts with Connerley Construction, Inc. relative to Community Development Block Grant (CDBG) housing rehabilitation projects.

Resolution #21,481, setting April 15, 2019 as the date of public hearing to consider entering into a proposed Agreement for Private Development and to consider conveyance of certain city-owned real estate to Zuidberg NA, L.L.C.

Following due consideration by the Council, the Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried. The Mayor then declared Resolutions #21,470 through #21,481 duly passed and adopted.

- 52267 It was moved by Darrah and seconded by Miller that Resolution #21,482, approving and authorizing execution of an Amended and Restated Developmental Procedures Agreement with James Benda relative to property located in the vicinity of University Avenue and McClain Drive, be adopted. Following a question by Councilmember Green and response by Planner II Lehmann, the Mayor put the question on the motion and upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried. The Mayor then declared Resolution #21,482 duly passed and adopted.
- 52268 It was moved by Kruse and seconded by Wieland that the bills and payroll of April 1, 2019 be allowed as presented, and that the Controller/City Treasurer be authorized to issue City checks in the proper amounts and on the proper funds in payment of the same. Upon call of the roll, the following named Councilmembers voted. Aye: Miller, deBuhr, Kruse, Blanford, Darrah, Wieland, Green. Nay: None. Motion carried.
- 52269 It was moved by Green and seconded by Blanford to refer to the Committee of the Whole a request to amend the consumer fireworks ban to allow a limited-use window. Following comments by Councilmembers Green, Blanford, Kruse,

Wieland and Darrah, the motion failed 2-5 with Councilmembers Miller, deBuhr, Kruse, Darrah and Wieland voting nay.

It was then moved by Darrah and seconded by Blanford to refer to a Work Session, Sustainability for the future of Cedar Falls. Motion carried unanimously.

- 52270 Mayor Brown announced a public workshop for the 'Downtown Visioning' on April 2, 2019 from 6-8 P.M. at the Cedar Falls Community Center.
- 52271 Eashaan Vajpei, 3831 Convair Lane, expressed appreciation for the process of three readings for ordinances and expressed concerns with code language that could "grandfather in" a current illegal use, and City Attorney Rogers responded to a related question by Councilmember Kruse.

Rosemary Beech, 5018 Sage Road, requested a consistent speed limit on South Main Street, improvements to the parking area near the trailhead on South Main Street, and expressed the need for improved audio in the Council Chambers. Community Services Director Sheetz responded about planned improvements to the referenced parking area in the 2020 CIP.

Councilmember Wieland recognized the University of Northern Iowa students in attendance at the meeting.

Jim Skaine, 2215 Clay Street, commented on cost of the University Avenue roundabouts.

52272 - It was moved by Wieland and seconded by Kruse that the meeting be adjourned at 8:35 P.M. Motion carried unanimously.

Jacqueline Danielsen, MMC, City Clerk

# R DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

MEMORANDUM MEMORANDUM

Planning & Community Services Division

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Shane Graham, Planner II

**DATE:** April 11, 2019

**SUBJECT:** Zuidberg NA, L.L.C. Economic Development Project

#### INTRODUCTION

For the past several months, staff has been working with officials with Zuidberg NA, L.L.C. toward the construction of a new 30,000 square foot building for their warehouse/office facility. The company is currently located in the industrial park at 3105 Capital Way within an existing 10,000 square foot space that they are currently leasing. Since the opening of their North American location in Cedar Falls in 2014, the company has seen growth that has led them to consider constructing and owning a larger building within the industrial park. The proposed project will occur on Lots 21 and 22 of West Viking Road Industrial Park Phase IV (3.54 acres total of which approximately 2.90 acres is buildable after setback and open space requirement). This new facility will have a minimum building valuation and permit valuation of \$2,750,000 and a total project minimum assessed valuation of \$2,980,000 (including land).

# **DESCRIPTION OF PROJECT**

As noted in the Introduction, the proposed building will be constructed and owned by Zuidberg NA, L.L.C., and will consist of a 30,000 square foot building to be located along Production Drive, just south of the Ashley Furniture distribution center in the West Viking Road Industrial Park. The proposed project will have a minimum building valuation of \$2,750,000, and a total project valuation including land of \$2,980,000. Zuidberg NA, L.L.C. will commence construction this spring/summer with completion anticipated within 9-12 months. The agreement also contains an option for 3 years on the lot immediately adjacent to the south (Lot 2 of West Viking Road Industrial Park Phase III). The company has indicated a desire for an option on that lot for possible future expansion opportunities.

#### **COMPANY PROFILE**

Zuidberg NA, LLC is a North American company doing business in Cedar Falls since 2014. The company is selling front hitches, power take offs and related components for the construction and agriculture equipment markets in North America. Their customer base includes John Deere, Case New Holland, AGCO, JCB and over 100 other customers throughout the USA. The company has now outgrown their rented space at 3105 Capital Way in the Cedar Falls Industrial Park and needs to have a larger building that provides room for expansion in the future. Zuidberg is owned by Zuidberg North America Inc. and has 7 employees in Cedar Falls but hopes to increase this in the near future as their business continues to grow starting in 2019.

Zuidberg NA, LLC is wholly owned by Zuidberg Frontline Systems BV based in Ens, The Netherlands and privately owned by Jeroen Emiel Zuidberg. Zuidberg Frontline Systems BV has been manufacturing front hitches and power take offs for over 35 years since the beginning of the company. The key markets are agricultural. Zuidberg Frontline Systems is now the global market leader producer of these products in the world. Zuidberg Frontline Systems BV is selling their products all over the world.

Zuidberg Frontline Systems BV employs over 375 people at the parent company in The Netherlands. More information about Zuidberg NA can be found at their company website www.zuidbergna.com.

# **ECONOMIC DEVELOPMENT INCENTIVES**

#### Land Incentive

For the proposed Zuidberg NA, L.L.C. project, the company would receive at no cost, Lots 21 and 22 of West Viking Road Industrial Park Phase IV (3.54 acres total of which approximately 2.90 acres is buildable after setback and open space requirement) in the West Viking Road Industrial Park. This land incentive is consistent with our general industrial economic incentive guidelines of providing one acre of non-restricted building area for each 10,000 +/- square feet of new building space being constructed having a minimum \$40 per square foot valuation. Therefore, staff feels that the proposed 30,000 square foot facility with a \$2,750,000 minimum building valuation is consistent with prior City land incentives for comparable projects.

#### Industrial Partial Property Tax Exemption

Consistent with our ongoing local economic development incentive guidelines, the City of Cedar Falls typically will consider a Five-Year Partial Property Tax Exemption on projects having a minimum assessed valuation of \$1,200,000+. Section 8.11 of the Agreement for Private Development references sections 21-48 through 21-57 of the Cedar Falls Code of Ordinances and Chapter 427B of the lowa Code with respect to the provisions of the applicable partial property tax exemption. For the proposed Zuidberg NA, L.L.C project, the following exemption schedule is estimated using the existing industrial tax rate/valuation and projecting annual property taxes of \$99,025:

Year	% Exemption	\$ Abated	\$ Amount Paid	\$ Total Taxes
1	75%	\$74,269	\$24,756	\$99,025
2	60%	\$59,415	\$39,610	\$99,025
3	45%	\$44,561	\$54,464	\$99,025
4	30%	\$29,708	\$69,318	\$99,025
5	15%	\$14,854	\$84,172	\$99,025
		\$222,807	\$272,320	\$495,127

It should be noted that following City Council consideration of the Agreement for Private Development, an actual Ordinance will be drafted and adopted implementing the proposed exemption schedule noted above. The Ordinance granting the applicable partial property tax exemption will be presented to City Council once construction of the new Zuidberg NA, L.L.C. facility has commenced.

# **Conclusion**

As this memorandum indicates, Zuidberg NA, L.L.C. is proposing to construct a new 30,000 square foot warehouse/office facility on Lots 21 and 22 of West Viking Road Industrial Park Phase IV (3.54 acres total of which approximately 2.90 acres is buildable after setback and open space requirement). The proposed new construction building project will have a minimum building permit valuation of \$2,750,000 and a total Minimum Assessed Valuation of \$2,980,000 including land. Construction would commence this spring/summer with completion anticipated in approximately 9-12 months.

The Agreement for Private Development by and between the City of Cedar Falls, Iowa, and Zuidberg NA, L.L.C. has been reviewed by Kevin Rogers, City Attorney, and is attached for your review and approval.

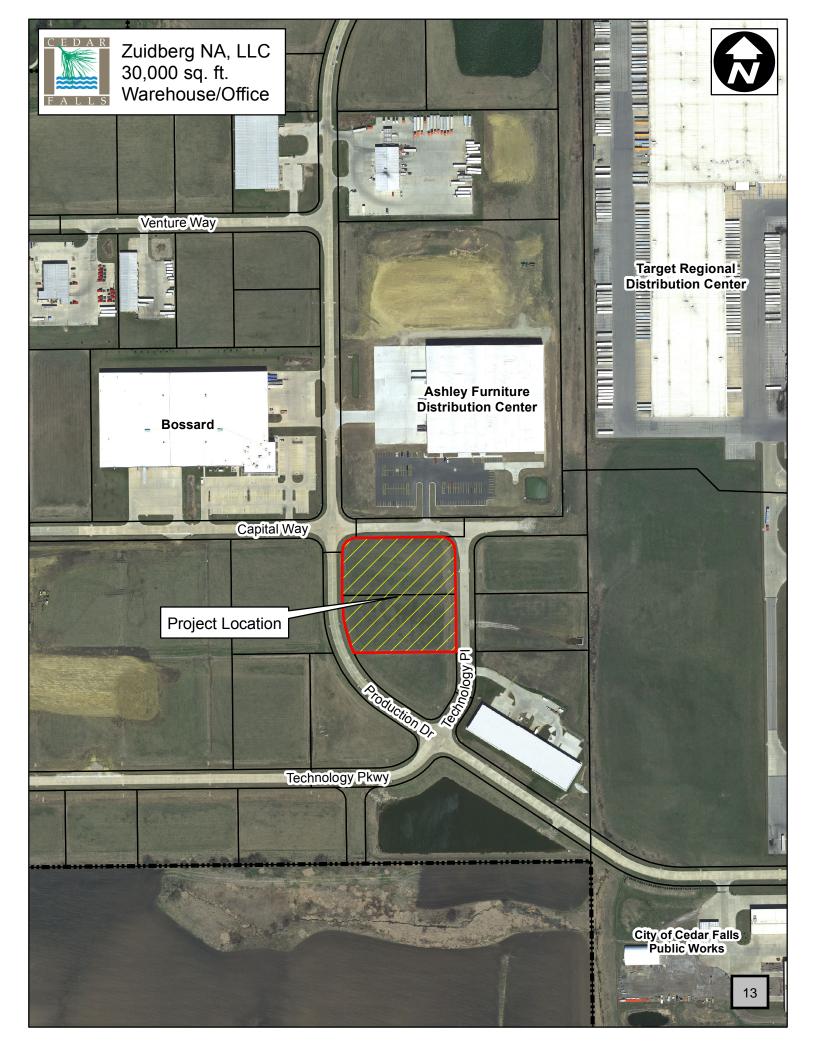
#### **RECOMMENDATION**

The Community Development Department recommends that the City Council adopt and approve the following:

1. Resolution approving and authorizing execution of an Agreement for Private Development and a Minimum Assessment Agreement by and between the City of Cedar Falls, Iowa, and Zuidberg NA, L.L.C., and approving and authorizing execution of a Quit Claim Deed conveying title to certain real estate to Zuidberg NA, L.L.C.

If you have any questions regarding the proposed Zuidberg NA, L.L.C. economic development project, please contact the Community Development Department.

xc: Stephanie Houk Sheetz, Director of Community Development Karen Howard, Planning & Community Services Manager



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RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT FOR PRIVATE DEVELOPMENT AND A MINIMUM ASSESSMENT AGREEMENT BY AND BETWEEN THE CITY OF CEDAR FALLS, IOWA, AND ZUIDBERG NA, L.L.C., AND APPROVING AND AUTHORIZING EXECUTION OF A QUIT CLAIM DEED CONVEYING TITLE TO CERTAIN REAL ESTATE TO ZUIDBERG NA, L.L.C..

WHEREAS, by Resolution No. 8196 approved and adopted on November 12, 1990 (Ordinance No. 1923), amended a first time by Resolution No. 10,224 on November 13, 1995 (Ordinance No. 2122), amended a second time by Resolution No. 13,862 on November 17, 2003 (Ordinance No. 2461), amended a third time by Resolution No. 18,377 on December 10, 2012 (Ordinance No. 2785), amended a fourth time by Resolution 19,263 on November 3, 2014, amended a fifth time by Resolution No. 19,963 on April 18, 2016, amended a sixth time by Resolution No. 21,079 on May 7, 2018 (Ordinance No. 2923), and amended a seventh time by Resolution No. 21,368 on December 17, 2018, the City Council has approved and adopted an urban renewal plan designated as the "Cedar Falls Unified Highway 58 Corridor Urban Renewal Plan" (the "Urban Renewal Plan"); and

WHEREAS, it is desirable that properties within the Urban Renewal Plan be developed as part of the overall development area covered by said Plan; and

WHEREAS, the City has received a proposal from Zuidberg NA, L.L.C. ("Developer"), in the form of a proposed Agreement for Private Development (the "Agreement") by and between the City of Cedar Falls, Iowa (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 Plan as legally described in the Agreement attached hereto and incorporated herein by this reference (defined in the Agreement as the "Development Property"), consisting of the construction of a Warehouse/Office Facility totaling at least 30,000 square feet of finished space, together with all related site improvements, as outlined in the proposed Development Agreement; and

WHEREAS, the Agreement further proposes that the City provide certain financial incentives for the urban renewal project under the terms and following satisfaction of the

conditions set forth in the Agreement, consisting of conveyance of title to the Development Property to the Developer, the Development Property being legally described as follows:

Lots 21 and 22, West Viking Road Industrial Park Phase IV, City of Cedar Falls, Black Hawk County, Iowa (Contains 3.54 acres more or less).

WHEREAS, Iowa Code Chapters 15A and 403 (the "Urban Renewal Law") authorize cities to make loans and grants and to convey real property to developers for economic development purposes in furtherance of the objectives of an urban renewal project and to appropriate such funds, make such expenditures and convey such real property as may be necessary to carry out the purposes of said Chapters, and to levy taxes and assessments for such purposes; and

WHEREAS, the Agreement further proposes that the City, the Developer and the Assessor of Black Hawk County, Iowa, enter into a Minimum Assessment Agreement (the "Minimum Assessment Agreement"), whereby the minimum actual taxable value of the improvements to be constructed thereon would be established at an amount not less than \$2,980,000.00 for a period through December 31, 2031; and

WHEREAS, the Council hereby finds and determines 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 Urban Renewal 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 403 and 15A of the Iowa Code, taking into account the factors set forth in Chapter 15A, to-wit:

- a) Businesses that add diversity to or generate new opportunities for the lowa 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 lowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds; and

WHEREAS, the Council hereby finds and determines that the requirements of Iowa Code Section 403.8 with respect to the transfer of property in an urban renewal area are satisfied insofar as the Development Property is being disposed of for the purpose of development of an industrial building (see Iowa Code Section 403.8(2)(b)), and because the

terms of the Minimum Assessment Agreement satisfy the safe harbor contained in Iowa Code Section 403.8(3).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CEDAR FALLS, IOWA:

Section 1. That the performance by the City of its obligations under the Agreement, including but not limited to conveyance of the Development Property 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 Urban Renewal 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 403 and 15A of the lowa Code, taking into account the factors set forth therein.

Section 2. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they are hereby 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, 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, including but not limited to execution and delivery of a Quit Claim Deed conveying title to the Development Property to the Developer.

Section 3. That the form and content of the Minimum Assessment Agreement, the provisions of which are incorporated herein by reference, be and the same are hereby in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they are hereby authorized, empowered and directed to execute, attest, seal and deliver the Minimum Assessment Agreement for and on behalf of the City in substantially the form and content now before this meeting, and that from and after the execution and delivery of the Minimum Assessment 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 Minimum Assessment Agreement, as executed.

PASSED AND APPROVED this	day of	_, 2019.
ATTEST:	James P. Brown, Mayor	
Jacqueline Danielsen, MMC, City Clerk		

# CERTIFICATE

STATE OF IOWA )
STATE OF IOWA ) ) SS: COUNTY OF BLACK HAWK: )
I, Jacqueline Danielsen, MMC, City Clerk of the City of Cedar Falls, Iowa, hereby
certify that the above and foregoing is a true and correct typewritten copy of Resolution
No duly and legally adopted by the City Council of said City on the day or
, 2019.
IN WITNESS WHEREOF, I have hereunto signed my name and affixed the
official seal of the City of Cedar Falls, Iowa this day of
2019.
Jacqueline Danielsen, MMC City Clerk of Cedar Falls Jowa

# AGREEMENT FOR PRIVATE DEVELOPMENT

# BY AND BETWEEN

THE CITY OF CEDAR FALLS, IOWA

AND

**ZUIDBERG NA, L.L.C.** 

# TABLE OF CONTENTS

# AGREEMENT FOR PRIVATE DEVELOPMENT

ARTICLE	I. DEFI	NITIONS	6
Sec	tion 1.1.	<u>Definitions</u>	6
		RESENTATIONS AND WARRANTIES	8
		Representations and Warranties of the City	8
Sec	tion 2.2.	Representations and Warranties of Developer	9
ARTICI F	III CO	NSTRUCTION OF MINIMUM IMPROVEMENTS	12
		Construction of Minimum Improvements	12
		Building Permit Valuation Amount	12
		Construction Plans	12
		Commencement and Completion of Construction	13
		Certificate of Completion.	13
		STRICTIONS UPON USE OF DEVELOPMENT PROPERTY	
Sec	tion 4.1.	Restrictions on Use	14
ARTICLE	V. INS	URANCE	15
		Insurance Requirements	15
		Condemnation	17
		Reconstruction or Payment	17
ADTICLE	371 A C	SESSMENT AGREEMENT AND OTHER COVENANTS	17
		Execution of Assessment Agreement	17
	tion 6.1.		18
	tion 6.3.		18
	tion 6.4.		18
	tion 6.4.	Real Property Taxes	19
	tion 6.6.	Sales Tax	19
	tion 6.7.	Utility Usage.	19
		Annual Certification.	20
		Use of Tax Increments.	20
		Opinion of Counsel.	20
		. Provisions To Be Included In Leases Covering Development	20
500		Property	20
Sec	tion 6.12	Relocation	20

ARTICLE VII. PROHIBITIONS AGAINST ASSIGNMENT AND	
TRANSFER	1
Section 7.1. Representation As to Development	1
Section 7.2. Prohibition Against Transfer of Property and	
Assignment of Agreement	2
Section 7.3. Approvals	4
Section 7.4. Transfer of Interest in Developer or Transfer of	
Interest in Development Property to Permitted	
Transferees24	4
ARTICLE VIII. CONVEYANCE OF DEVELOPMENT PROPERTY;	
CONDITIONS	4
Section 8.1. Conveyance of Development Property	4
Section 8.2. Form of Deed.	
Section 8.3. Condition of Property; Care and Maintenance	
Section 8.4. Environmental Matters	
Section 8.5. Survey and Platting	
Section 8.6. <u>Time and Place for Closing and Delivery of Deed</u>	
Section 8.7. Recordation of Deed.	
Section 8.8. Abstract of Title	
Section 8.9. Conditions Precedent to Conveyance of Property 26	
Section 8.10. Failure to Commence Construction 20	
Section 8.11. Partial Property Tax Exemption	
<u> </u>	_
ARTICLE IX. DEVELOPER'S OPTION	7
Section 9.1. Grant of Option	7
Section 9.2. Option to Acquire Option Property	
Section 9.3. Expiration of Option	
Section 9.4. Option Personal to Developer	
Section 9.5. Resale of Option Property Within Five Years	
ARTICLE X. INDEMNIFICATION	9
Section 10.1. Release and Indemnification Covenants	
ARTICLE XI. REMEDIES	0
Section 11.1. Events of Default Defined	0
Section 11.2. Remedies on Default	1
Section 11.3. No Remedy Exclusive 33	3
Section 11.4. No Implied Waiver	3
Section 11.5. Agreement to Pay Attorneys' Fees and Expenses 33	
ARTICLE XII. MISCELLANEOUS	3
Section 12.1. Conflict of Interest	3

Section 12.2	Non-Discrimination	34
Section 12.3	Notices	34
Section 12.4	Titles of Articles and Sections	34
Section 12.5	Provisions Not Merged With Deed	34
	Governing Law	35
Section 12.7	Entire Agreement	35
Section 12.8	Successors and Assigns	35
Section 12.9	Termination Date	35
Section 12.10	0. Memorandum of Agreement	35
Section 12.1	1. Immediate Undertaking	35
Section 12.12	2. No Partnership or Joint Venture	35
Section 12.13	3. <u>Captions</u>	35
Section 12.1	4. Number and Gender of Words	35
Section 12.1:	5. Invalid Provisions	35
Section 12.10	5. Multiple Counterparts	36
	7. Authorization	36
Section 12.13	8. <u>Time of the Essence</u>	36
Section 12.19	9. <u>Survival</u>	36
EXHIBIT A-1	Development Property	38
EXHIBIT A-2	Option Property	39
EXHIBIT B	Minimum Improvements	40
EXHIBIT C	Certificate of Completion	41
EXHIBIT D	Minimum Assessment Agreement	43
EXHIBIT E	Form of Legal Opinion	47
EXHIBIT F	Memorandum of Agreement for Private Development	49
EXHIBIT G	Form of Deed	52

#### AGREEMENT FOR PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT (hereinafter called "Agreement"), is made on or as of the \_\_\_\_\_ day of \_\_\_\_\_\_, 2019, by and between the CITY OF CEDAR FALLS, IOWA, a municipality (hereinafter called "City"), established pursuant to the Code of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2017 (Chapter 403 hereinafter called "Urban Renewal Act"); and ZUIDBERG NA, L.L.C, (hereinafter called the "Developer"), an Iowa limited liability company having its principal place of business at 3105 Capital Way, Suite 1, Cedar Falls, Iowa 50613.

#### WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Cedar Falls Unified Highway 58 Corridor Urban Renewal Area") as set forth in the Cedar Falls Unified Highway 58 Corridor Urban Renewal Plan, as amended ("Plan" or "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has been recorded among the land records in the office of the Recorder of Black Hawk County, Iowa; and

WHEREAS, the Developer desires to acquire certain real property located in the foregoing Urban Renewal Plan and as more particularly described in Exhibit A-1 annexed hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, the Developer is willing to develop the Development Property for and in accordance with the uses specified in the Urban Renewal Plan and in accordance with this Agreement by constructing certain Minimum Improvements (as hereafter defined) on the Development Property; and

WHEREAS, the City believes that the development of the Development Property pursuant to this Agreement and the fulfillment generally of this Agreement, are in the vital and best interests of the residents of the City, and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing project has been undertaken and is being assisted, including but not limited to Chapters 15A and 403 of the Code of Iowa.

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the others as follows:

#### ARTICLE I. DEFINITIONS

Section 1.1. <u>Definitions</u>. 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 appendices hereto, as the same may be from time to time modified, amended or supplemented.

Assessment Agreement means the Minimum Assessment Agreement substantially in the form of the agreement contained in Exhibit D attached hereto and hereby made a part of this Agreement, among the Developer, the City and the Assessor for the County, entered into pursuant to Article VI of this Agreement.

Assessor's Minimum Actual Value means the agreed minimum actual taxable value of the Minimum Improvements to be constructed on the Development Property for calculation and assessment of real property taxes as set forth in the Assessment Agreement.

<u>Certificate of Completion</u> means a certification in the form of the certificate attached hereto as Exhibit C and hereby made a part of this Agreement.

<u>City</u> or <u>Cedar Falls</u> means the City of Cedar Falls, Iowa, or any successor to its functions.

Code of Iowa means the Code of Iowa, 2017, as amended.

<u>Commencement Date</u> means the date of the issuance by the City of a City issued building permit for the Minimum Improvements.

Construction Plans means the plans, specifications, drawings and related documents of the construction work to be performed by the Developer on the Development Property; the plans (a) shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building inspector of the City, and (b) shall include at least the following: (1) site plan; (2) foundation plan; (3) basement plans; (4) floor plan for each floor; (5) cross sections of each (length and width); (6) elevations (all sides); and (7) landscape plan.

County means the County of Black Hawk, Iowa.

<u>Deed</u> means the form of Quit Claim Deed substantially in the form contained in Exhibit G attached hereto, by which the City shall convey the Development Property to the Developer.

Developer means Zuidberg NA, L.L.C.

<u>Development Property</u> means that portion of the Cedar Falls Unified Highway 58 Corridor Urban Renewal Area of the City described in Exhibit A-1 hereto.

Event of Default means any of the events described in Section 11.1 of this Agreement.

Minimum Improvements shall mean the construction of a Warehouse/Office Facility totaling at least 30,000 square feet of finished space, together with all related site improvements described in the Construction Plans, as outlined in Exhibit B hereto, including the land.

<u>Mortgage</u> means any mortgage or security agreement in which the Developer has granted a mortgage or other security interest in the Development Property, or any portion or parcel thereof, or any improvements constructed thereon.

<u>Net Proceeds</u> means any proceeds paid by an insurer to the Developer under a policy or policies of insurance required to be provided and maintained by the 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.

Option Property means that portion of the Northern Cedar Falls Industrial Park Urban Renewal Area of the City described in Exhibit A-2 hereto.

Ordinance shall mean Ordinance(s) of the City under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided, with a portion of said taxes to be paid into the Urban Renewal Tax Increment Revenue Fund, referred to and authorized by Section 403.19(2) of the Code of Iowa.

<u>Project</u> shall mean the construction and operation of the Minimum Improvements, as described in this Agreement and the Exhibits hereto.

State means the State of Iowa.

<u>Tax Increments</u> means the property tax increment revenues on the Minimum Improvements and Development Property divided and made available to the City for deposit in the Cedar Falls Unified Highway 58 Corridor Urban Renewal Tax Increment

Revenue Fund, under the provisions of Section 403.19 of the Code of Iowa and the Ordinance.

<u>Termination Date</u> means the date of expiration of the Assessment Agreement, as provided in Section 12.9 of this Agreement.

<u>Unavoidable Delays</u> means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the Party claiming the delay).

<u>Urban Renewal Area</u> means the area included within the boundaries of the Cedar Falls Unified Highway 58 Corridor Urban Renewal Area, as amended.

<u>Urban Renewal Plan</u> means the Urban Renewal Plan approved in respect of the Cedar Falls Unified Highway 58 Urban Corridor Renewal Area, described in the preambles hereof.

Warehouse/Office Facility means the Minimum Improvements.

#### ARTICLE II. REPRESENTATIONS AND WARRANTIES

Section 2.1. <u>Representations and Warranties of the City</u>. The City makes the following representations and warranties:

- (a) The City is a municipal corporation and political subdivision 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) This Agreement has been duly and validly authorized, executed and delivered by the City and, assuming due authorization, execution and delivery by the Developer, is in full force and effect and is a valid and legally binding instrument of the City enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.
- (c) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, nor will they result in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement

- or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.
- (d) The City has not received any notice from any State or federal official that the activities of the Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the Developer has previously been notified in writing). The City 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 the City 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.
- (e) The City will cooperate fully with the Developer in resolution of any building, traffic, parking, trash removal or public safety problems which may arise in connection with the design, construction and operation of the Minimum Improvements, including but not limited to any problems which may arise with respect to traffic at the intersections where access drives on the Development Property meet roadways or streets owned by the City.
- (f) The City would not undertake its obligations under this Agreement without the consideration being made to the City pursuant to this Agreement.
- (g) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City, and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.
- (h) The Development Property is zoned "M-1, P Planned Light Industrial District". The "M-1, P Planned Light Industrial District" zoning classification permits by right the construction, equipping and operation of the Minimum Improvements.
- Section 2.2. <u>Representations and Warranties of the Developer</u>. The Developer makes the following representations and warranties:
  - (a) The Developer is a limited liability company duly organized and validly existing under the laws of the State of Iowa, is properly authorized to conduct 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 the Agreement.
- (b) The Developer desires to construct a Warehouse/Office Facility ("Minimum Improvements") on the 3.54 acre Development Property, which is to be acquired by the Developer pursuant to this Agreement, and which is more particularly described in Exhibit A-1.
- (c) This Agreement has been duly and validly authorized, executed and delivered by the Developer and, assuming due authorization, execution and delivery by the other parties hereto, is in full force and effect and is a valid and legally binding instrument of the 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.
- (d) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, nor will they result in a violation or breach of, the terms, conditions or provisions of the certificate of organization and operating agreement, together with all amendments thereto, of the Developer or of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the Developer is now a party or by which it or its properties are bound, nor do they constitute a default under any of the foregoing.
- (e) There are no actions, suits or proceedings pending or threatened against or affecting the 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 the Developer or which in any manner raises any questions affecting the validity of the Agreement or the ability of Developer to perform its obligations under this Agreement.
- (f) The Developer will cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement, the Urban Renewal Plan and all local, State and federal laws and regulations, except for variances necessary to construct the Minimum Improvements contemplated in the Construction Plans.
- (g) The 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 which must be obtained or met before the Minimum Improvements may be lawfully constructed.
- (h) The construction of the Minimum Improvements will require a total investment of not less than Two Million Seven Hundred Fifty Thousand Dollars and no/100 Dollars (\$2,750,000.00), and a taxable valuation of Two Million Nine Hundred Eighty Thousand Dollars and no/100 Dollars (\$2,980,000) is reasonable for the Minimum Improvements and the land that together comprise the Development Property.
- official that the activities of the Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). The 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 the 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.
- (j) The Developer has equity funds and/or has commitments for financing in amounts sufficient to successfully complete the construction of the Minimum Improvements, in accordance with the Construction Plans contemplated by this Agreement.
- (k) The Developer will cooperate fully with the City in resolution of any traffic, parking, trash removal or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements, including but not limited to any problems which may arise with respect to traffic at the intersections where access drives on the Development Property meet roadways or streets owned by the City.
- (l) The Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be substantially completed by the 1<sup>st</sup> day of June, 2020.
- (m) The Developer would not undertake its obligations under this Agreement without the consideration being made to the Developer pursuant to this Agreement.
- (n) All covenants, stipulations, promises, agreements and obligations of the Developer contained herein shall be deemed to be the covenants, stipulations,

promises, agreements and obligations of the Developer, and not of any member, officer, agent, servant or employee of the Developer in the individual capacity thereof.

#### ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. <u>Construction of Minimum Improvements</u>. The Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City. The Developer agrees that the scope and scale of the Minimum Improvements to be constructed shall not be significantly less than the scope and scale of the Minimum Improvements as detailed and outlined in the Construction Plans, and shall in no event require a total investment of less than Two Million Seven Hundred Fifty Thousand Dollars and no/100 Dollars (\$2,750,000.00).

Section 3.2 <u>Building Permit Valuation Amount</u>. The Developer shall apply to the City for a building permit, and shall pay all necessary permit fees in connection with the construction of the Minimum Improvements on the Development Property, based upon a building permit valuation amount (hereinafter the "Building Permit Valuation Amount") of a minimum of Two Million Seven Hundred Fifty Thousand Dollars and no/100 Dollars (\$2,750,000.00), by no later than the 1<sup>st</sup> day of August, 2019.

Section 3.3. Construction Plans. The Developer shall cause Construction Plans to be provided for the Minimum Improvements which shall be subject to approval by the City as provided in this Section 3.3. The Construction Plans shall be in conformity with the Urban Renewal Plan, this Agreement, and all applicable federal, State and local laws and regulations, except for variances the Developer and the City agree are necessary to construct or operate the Minimum Improvements. The City shall approve the Construction Plans in writing if: (a) the Construction Plans conform to the terms and conditions of this Agreement; (b) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (c) to the best of City's knowledge, the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations and City permit requirements; (d) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements and (e) no Event of Default under the terms of this Agreement has occurred; provided, however, that any such approval of the Construction Plans pursuant to this Section 3.3 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 by the Developer 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 the Developer of any obligation to comply with the terms and provisions of this Agreement, or the provisions 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.

Section 3.4. Commencement and Completion of Construction. Subject to Unavoidable Delays, the Developer shall cause construction of the Minimum Improvements to be undertaken by no later than the 1st day of August, 2019, and completed (i) by no later than the 1st day of June, 2020, 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 the completion date by a number of days equal to the number of days lost as a result of Unavoidable Delays. However, an extension of the completion of the Minimum Improvements shall not affect the date upon which the Assessor's Minimum Actual Value shall become effective. All work with respect to the Minimum Improvements to be constructed or provided by the Developer on the Development Property shall be in conformity with the Construction Plans as submitted by the Developer and approved by the City. The Developer agrees that it shall permit designated representatives of the City to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction.

Section 3.5. <u>Certificate of Completion</u>. Upon written request of the Developer after issuance of an occupancy permit for the Minimum Improvements, the City will furnish the Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of the Developer to cause construction of the Minimum Improvements.

The Certificate of Completion may be recorded in the Black Hawk County Recorder's office at the Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.5, the City shall, within twenty (20) days after written request by the Developer, provide to the Developer a written statement indicating in adequate detail in what respects the Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what

measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Completion.

#### ARTICLE IV. RESTRICTIONS UPON USE OF DEVELOPMENT PROPERTY

# Section 4.1. <u>Restrictions on Use</u>. The Developer shall:

- (a) Use the Development Property for any lawful use, and devote the Development Property to, and only to and in accordance with, the uses specified in the Cedar Falls Unified Highway 58 Corridor Urban Renewal Plan until the Termination Date; and
- (b) Not discriminate upon the basis of race, creed, color, sex, gender, sexual orientation, gender identity, religion, age, disability or national origin in the sale, lease, or rental or in the use or occupancy of the Development Property or any improvements erected or to be erected thereon, or any part thereof.
- (c) It is intended and agreed that the agreements and covenants provided in this Section shall be covenants running with the land and that they shall, in any event, and without regard to technical classification or designation, legal or otherwise, and except only as otherwise specifically provided in this Agreement, be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and enforceable by, the City, its successors and assigns, as against every successor in interest to the Development Property, or any part thereof or any interest therein, and as against any party in possession or occupancy of the Development Property or any part thereof. It is further intended and agreed that the agreements and covenants provided in subdivisions (a) and (b) of this Section shall remain in effect only through the Termination Date.
- (d) It is intended and agreed that the City and its successors and assigns shall be deemed beneficiaries of the agreements and covenants provided in this Section, both for and in its own right and also for the purposes of protecting the interests of the community and other parties, public or private, in whose favor or for whose benefit such agreements and covenants have been provided. Such agreements and covenants shall run in favor of the City, until the Termination Date, during which time such agreements and covenants shall be in force and effect, without regard to whether the City has at any time been, remains, or is an owner of any land or interest therein to or in favor of which such agreements and covenants relate. The City shall have the right, in the event of any breach of any such agreement or covenant, to exercise all the rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breach of agreement or

covenant, to which it or any other beneficiaries of such agreement or covenant may be entitled.

#### ARTICLE V. INSURANCE AND CONDEMNATION

# Section 5.1. <u>Insurance Requirements</u>.

- (a) The Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of coverage or payment of premiums on):
  - (i) Builder's risk insurance, written on the so-called "Builder's Risk -- Completed Value Basis", in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in nonreporting 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), together with an Owner's Contractor's Policy, with limits against bodily injury and property damage of at least \$2,000,000. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the Minimum Improvements and arising out of any act, error, or omission of the Developer, its members, managers, officers, contractors and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to the Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City. The policy shall also contain a Governmental Immunities endorsement.
  - (iii) Worker's compensation insurance, with statutory coverage.
- (b) Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, the Developer shall maintain, or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of coverage or the payment of premiums on) insurance as follows:

- Insurance against loss and/or damage to the Minimum Improvements (i) 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 \$25,000. 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 the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by the Developer and approved by the City.
- (ii) Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$2,000,000.
- (iii) Such other insurance, including worker's compensation insurance respecting all employees of the Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure.
- (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 the Developer which are authorized under the laws of the State to assume the risks covered thereby. The Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to the Developer and the 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, the Developer shall furnish the City evidence satisfactory to the City that the policy has been

renewed or replaced by another policy conforming to the provisions of this Article V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event the Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

- (d) Developer agrees to notify the City immediately in the case of damage exceeding \$25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to the 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, the 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. The provisions of this paragraph shall apply to casualties that occur prior to the Termination Date.
- (e) The 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.
- Section 5.2. <u>Condemnation</u>. In the event that title to and possession of the Minimum Improvements or any other material part thereof shall be taken in condemnation or by the exercise of the power of eminent domain by any governmental body or other person (except the City), so long as the Assessment Agreement shall remain in effect, the Developer or his successor shall, with reasonable promptness after such taking, notify the City as to the nature and extent of such taking.
- Section 5.3. <u>Reconstruction or Payment</u>. Upon receipt of any Condemnation Award or property insurance proceeds, the Developer shall use the entire Condemnation Award to reconstruct the Minimum Improvements (or, in the event only a part of Minimum Improvements have been taken, then to reconstruct such part) upon the Development Property or elsewhere within the Urban Renewal Area.

#### ARTICLE VI. ASSESSMENT AGREEMENT AND OTHER COVENANTS

Section 6.1. <u>Execution of Assessment Agreement</u>. The Developer shall agree to, and with the City shall execute, concurrently with the execution of this Agreement, an Assessment Agreement pursuant to the provisions of Section 403.19, Code of Iowa,

substantially in the form and content of Exhibit D attached hereto, specifying the Assessor's Minimum Actual Value for the Minimum Improvements to be constructed on the Development Property for calculation of real property taxes. Specifically, the Developer shall agree to a minimum actual taxable value for the Minimum Improvements and the land that together comprise the Development Property, which will result in a minimum actual taxable value upon substantial completion of the Minimum Improvements, but no later than January 1, 2021, of not less than Two Million Nine Hundred Eighty Thousand Dollars and no/100 Dollars (\$2,980,000.00) (such minimum actual taxable value at the time applicable is herein referred to as the "Assessor's Nothing in the Assessment Agreement shall limit the Minimum Actual Value"). discretion of the Assessor to assign an actual taxable value to the Minimum Improvements or the land, in excess of such Assessor's Minimum Actual Value nor prohibit the Developer or its successors from seeking through the exercise of legal or administrative remedies a reduction in such actual taxable value for property tax purposes; provided, however, that the Developer or its successors shall not seek a reduction of such actual taxable 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 the 31st day of December, 2031 (the "Termination Date"). The Assessment Agreement shall be certified by the Assessor for the County as provided in Section 403.19 of the Code of Iowa, and shall be filed for record in the office of the County Recorder of the County, and such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property (or part thereof), whether voluntary or involuntary, and such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, as well as any prior encumbrancer consenting thereto.

Section 6.2. <u>Maintenance of Properties</u>. The Developer will maintain, preserve and keep 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, until the Termination Date.

Section 6.3 <u>Maintenance of Records</u>. The Developer will keep at all times proper books of record and account in which full, true and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of the Developer in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and Developer will provide reasonable protection against loss or damage to such books of record and account. The provisions of this paragraph shall apply for all periods prior to the Termination Date.

Section 6.4. <u>Compliance with Laws</u>. The Developer will comply with all laws, rules and regulations relating to the Minimum Improvements, other than laws, rules and regulations the failure to comply with which or the sanctions and penalties resulting therefrom, would not have a material adverse effect on the Developer's business, property,

operations, or condition, financial or otherwise. The provisions of this paragraph shall apply for all periods prior to the Termination Date.

Section 6.5. <u>Real Property Taxes</u>. The Developer shall pay, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned by it.

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

- (a) It will not seek any tax exemption (except as may be granted under Section 8.8 of this Agreement), either presently or prospectively authorized under any State or federal 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. The foregoing shall not impair any rights to appeal the valuation set by the Black Hawk County Assessor as provided by law, but subject to the terms of the Assessment Agreement.
- (b) It will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, Minimum Improvements or to the Developer or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings.
- (c) It will not seek any tax deferral or abatement, except abatement, if any, that is specifically provided for in this Agreement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other local, State or federal law, of the taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date.

Section 6.6. <u>Sales Tax</u>. The Developer shall pay all sales tax payable with respect to the Minimum Improvements.

Section 6.7. <u>Utility Usage</u>. The Developer agrees for itself and its successors and assigns, specifically including all commercial tenants and all other persons, firms or other entities operating any business on the Development Property or any portion thereof, that for all periods up to the Termination Date that all utility needs for the Shop/Office Facility shall be furnished from City-owned utilities, including electricity, natural gas, water, sanitary sewer, cable television, internet and other fiber-optic communications, including telephony (if and when telephony is available through City-owned utilities). Although this shall be the sole source for such utility services, the Developer and its successors and assigns, as defined and described in this section, shall not, however, have any obligation

or duty to use or take any minimum amount, and shall have no obligation to pay any amount in excess of the generally applicable rates for like users based upon actual use.

Section 6.8. Annual Certification. To assist the City in monitoring and performance of Developer hereunder, a duly authorized officer of the Developer shall annually provide to the City: (a) proof that all ad valorem taxes on the Development Property have been paid for the prior fiscal year; and (b) certification that, to the best of such officer's knowledge during the preceding twelve (12) months, the Developer was not in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than November 1 of each year, commencing November 1, 2021, and ending on November 1, 2032, both dates inclusive.

Section 6.9. <u>Use of Tax Increments</u>. The City shall be free to use any and all Tax Increments collected in respect of the Development Property for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act; and the City shall have no obligations to the Developer with respect to the use of such increments.

Section 6.10. <u>Opinion of Counsel</u>. Concurrent with execution of this Agreement, Developer shall cause its counsel to execute and deliver to City an Opinion of Counsel substantially in the form and of the content of Exhibit E attached hereto.

Property. The Developer agrees to include provisions in each commercial lease agreement the Developer enters into with any tenant that will occupy the Development Property or operate a business thereon, for all periods up to the Termination Date, which provide as follows: (a) that tenant acknowledges that the leased premises are part of the Development Property and are subject to the terms and conditions of this Agreement; (b) that this Agreement is binding upon Developer's successors and assigns, specifically including all commercial tenants; (c) that certain of the terms and conditions of this Agreement specifically impact the tenant's use of and conduct of its business operations on the Development Property, which terms and conditions include, but are not necessarily limited to, Sections 4.1, 5.1(b), 6.2, 6.7, 7.2, 7.3 and 12.2; and (d) that the tenant agrees to operate its business and conduct its operations on the Development Property in a manner consistent with all of the terms and conditions of this Agreement.

Section 6.12. Relocation. Developer agrees and covenants that it shall not, absent

written consent from the City, sell or lease the Minimum Improvements or Development Property to any enterprise that is relocating ("Relocating") to the City from another part of Black Hawk County or a contiguous county during the term (the "Term") of this Relocation provision (the "Relocation Provision"). "Relocating" or "Relocation" means the closure or substantial reduction of an enterprise's existing operations in one area of the State and the initiation of substantially the same operation in the same county or a contiguous county in the State. The Term of this Relocation Provision will expire on the Termination Date as described in Section 12.9. In general, urban renewal incentives cannot be used for projects that involve a Relocating enterprise (whether the relocating enterprise is the developer, land owner, tenant, or otherwise) unless there is a written agreement regarding the use of economic incentives between the city where the business is currently located and the city to which the business is Relocating, either specific to this Project or in general (i.e., a fair play or neutrality agreement), or if the City finds that the use of tax increments in connection with the Relocation is in the public interest, which means that the business has provided a written affirmation that it is considering moving part or all of its operations out of the State and such action would result in either significant employment or wage loss in Iowa. Developer understands and agrees that if it sells or leases to a Relocating enterprise in violation of the Relocation Provision, as determined by the City in its sole discretion, such action shall be deemed an Event of Default under this Agreement, and, in addition to any remedies set forth in Section 11.2:

- (i) Developer shall be ineligible to receive any future property tax abatements that are provided for under Section 8.11 of this Agreement;
- (ii) Developer shall be responsible for paying the City an amount equal to the property tax abatements received by Developer under Section 8.11 of this Agreement, with interest thereon at the highest rate permitted by State law; and
- (iii) If Developer received all or a portion of the Development Property from the City for less than the full fair market value of the Development Property ("Full Value"), then the Developer shall pay the City the difference between the Full Value of the Development Property and what the Developer actually paid the City for such property. At the request of the City (which request need not be in writing), the Full Value of the Development Property shall be established by a licensed, certified appraiser to be selected by the City. Developer shall be responsible for paying any fees or costs associated with obtaining such appraisal.

#### ARTICLE VII. PROHIBITIONS AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Representation As to Development. The Developer represents and agrees that the purchase and improvement of the Development Property, and the other undertakings pursuant to this Agreement, are, and will be used, for the purpose of

development of the Development Property and not for speculation in land holding. The Developer further acknowledges:

- (a) the importance of the development of the Development Property to the general welfare of the community;
- (b) the substantial financing and other public aids that have been made available by law and by the City for the purpose of making such development possible; and
- (c) the fact that any act or transaction involving or resulting in a significant change of control of the development, is for practical purposes a transfer or disposition of the Development Property then owned and operated by the Developer, and the qualifications and identity of the Developer are of particular concern to the community and the City. The Developer further recognizes that it is because of such qualifications and identity that the City is entering into this Agreement with the Developer.
- Section 7.2. <u>Prohibition Against Transfer of Property and Assignment of Agreement</u>. Except as otherwise expressly provided for in Section 7.4, Transfer of Interest in Developer or Transfer of Development Property to Permitted Transferees, for the foregoing reasons the Developer represents and agrees for itself, and its successors and assigns, that in addition to the provisions of Section 6.12 of this Agreement, prior to termination of the Termination Date:
  - Except only for (i) the purpose of obtaining financing necessary to enable the Developer to perform its obligations with respect to making the Minimum Improvements under this Agreement, (ii) leases to commercial tenants for all or a portion of the Minimum Improvements, and (iii) any other purpose authorized by this Agreement, the Developer (except as so authorized) has not made or created, and that the Developer will not, prior to the Termination Date, make or create, or suffer to be made or created, any total or partial sale, assignment, or conveyance, or any trust or power, or transfer in any other mode or form of or with respect to this Agreement or the Development Property, or any part thereof or any interest therein, or any contract or agreement to do any of the same, without the prior written approval of the City.
    - (b) The City shall be entitled to require, except as otherwise provided in this Agreement, as conditions to any such approval that:
      - (1) Any proposed transferee shall have the qualifications and financial responsibility, as determined by the City, necessary and adequate to

fulfill the obligations undertaken in this Agreement by the Developer (or, in the event the transfer is of or relates to part of the Development Property, such obligations to the extent that they relate to such part).

- (2) Any proposed transferee, by instrument in writing satisfactory to the City and in form recordable among the land records, shall, for itself and its successors and assigns, and expressly for the benefit of the City, have expressly assumed all of the obligations of the Developer under this Agreement and shall have agreed to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to part of the Development Property, such obligations, conditions, and restrictions to the extent that they relate to such part): Provided, That the fact that any transferee of, or any other successor in interest whatsoever to, the Development Property, or any part thereof, shall, whatever the reason, not have assumed such obligations or so agreed, shall not (unless and only to the extent otherwise specifically provided in this Agreement or agreed to in writing by the City) relieve or exempt such transferee or successor of or from such obligations, conditions, or restrictions, or deprive or limit the City of or with respect to any rights or remedies or controls with respect to the Development Property or the construction of the Minimum Improvements; it being the intent of this provision, together with other provisions of this Agreement, that (to the fullest extent permitted by law and equity and excepting only in the manner and to the extent specifically provided otherwise in this Agreement) no transfer of, or change with respect to, ownership in the Development Property or any part thereof, or any interest therein, however consummated or occurring, and whether voluntary or involuntary, shall operate, legally or practically, to deprive or limit the City of or with respect to any rights or remedies or controls provided in or resulting from this Agreement with respect to the Development Property and the construction of the Minimum Improvements that the City would have had, had there been no such transfer or change.
- (3) Except leases to commercial tenants for all or a portion of the Minimum Improvements as provided in subsection (a)(ii) of this section, there shall be submitted to the City for review all instruments and other legal documents involved in effecting transfer; and if approved by the City, its approval shall be indicated to the Developer in writing.

Provided, further, that in the absence of specific written agreement by the City to the contrary, no such transfer or approval by the City thereof shall be deemed to relieve the Developer, or any other party bound in any way by this Agreement or otherwise with respect to the construction of the Minimum Improvements, from any of its obligations with respect thereto.

Section 7.3. Approvals. Any approval of a transfer of interest in the Developer, this Agreement, or the Development Property required to be given by the City under this Article VII may be denied only in the event that the City reasonably determines that the ability of the Developer to perform its obligations under this Agreement and its statutory duty, as owner, to pay ad valorem real property taxes assessed with respect to the Development Property, or the overall financial security provided to the City under the terms of this Agreement, or the likelihood of the Minimum Improvements being successfully constructed and operated pursuant to the terms of this Agreement, will be materially impaired by the action for which approval is sought.

Section 7.4. Transfer of Interest in Developer or Transfer of Interest in Development Property to Permitted Transferee. Notwithstanding the provisions of Sections 7.2 and 7.3, the City and the Developer agree that a transfer of ownership of the Development Property to a newly established corporation or limited liability company the ownership of which consists solely of the members of Developer (the "Permitted Transferee"), shall not trigger the provisions of Section 7.2 or Section 7.3, provided, however, that any transfer of the Development Property to the Permitted Transferee shall require the Permitted Transferee to agree in writing with the City (a) to expressly assume all of the obligations of the Developer under this Agreement, and (b) to agree to be subject to all of the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to only part of the Development Property, such obligations, conditions, and restrictions to the extent that they relate to such part). Upon execution of an agreement in writing by the Permitted Transferee that (a) assumes all of the obligations of the Developer under this Agreement and (b) agrees to be subject to all of the conditions and restrictions to which the Developer is subject, the transfer of the Development Property, or the part thereof, shall be deemed approved upon delivery of such written assumption agreement to the City Clerk of the City.

## ARTICLE VIII. CONVEYANCE OF DEVELOPMENT PROPERTY; CONDITIONS

Section 8.1 <u>Conveyance of Development Property.</u> Subject to hearing and authorization required under law, the City shall make a conveyance of title to the Development Property to Developer without any additional consideration other than the Developer's covenants as contained in this Agreement.

Section 8.2 <u>Form of Deed.</u> The City shall convey clear title to the Development Property to the Developer by Quit Claim Deed (hereinafter called the "Deed"). Such

conveyance and title shall be subject to the conditions, covenants and restrictions contained in the Urban Renewal Plan and this Agreement, shall be subject to restrictive covenants, ordinances, and limited access provisions of record, if any, and to existing easements of record, but shall otherwise be free and clear of all other liens and encumbrances of record.

Section 8.3. Condition of the Property; Care And Maintenance. As of Closing, Developer agrees to take the Development Property "As Is." The City makes no warranties or representations as to the condition of the Development Property. The City and Developer acknowledge and agree that City has undertaken no investigations with respect to the suitability of the Development Property for Developer's proposed uses, including but not limited to subsurface investigations regarding the soil conditions of the Development Property. Any geological or other inspection of the Development Property is the sole responsibility of the Developer (at its own cost). Developer waives all claims against the City as to the condition of the Development Property.

Section 8.4. Environmental Matters. At Closing, although not required by law, the City may file with the County Recorder's office a properly executed Groundwater Hazard Statement. Developer takes the property "As Is" with regard to any environmental matters. The City makes no warranties and representations as to the environmental condition of the Development Property, other than the information provided in any Groundwater Hazard Statement filed by the City at Closing. Developer shall be responsible for securing and paying for all inspections, remediation efforts, or documentation required by the county board of health in order to lawfully transfer the Development Property to Developer. Developer agrees to indemnify, release, defend and hold harmless the City for all claims, damages or costs relating to the Development Property that arise after the Closing Date.

Section 8.5. <u>Survey and Platting.</u> Developer shall be responsible for all survey and platting of the Development Property. The City authorizes Developer and/or its agents and contractors access to the Development Property for survey and platting purposes.

Section 8.6 <u>Time and Place for Closing and Delivery of Deed.</u> The City shall deliver the Deed and possession of the Development Property to the Developer on or before the 1<sup>st</sup> day of June, 2019, or on such other date as the parties hereto may mutually agree in writing (the "Closing Date").

Section 8.7 <u>Recordation of Deed.</u> The Developer shall promptly file the Deed for recordation among the land records in the office of the Recorder of the County. The Developer shall pay all costs for so recording the Deed.

Section 8.8 <u>Abstract of Title.</u> The City shall provide an abstract of title continued only to the date of filing of the plat. It shall be the Developer's responsibility to pay to

have the abstract updated. This abstract shall become the property of the Developer at the time of delivery of the Deed.

Section 8.9 <u>Conditions Precedent to Conveyance of Property.</u> The City's obligation to convey title and possession of the Development Property to the Developer on the Closing Date shall be subject to satisfaction of the following conditions precedent:

- (a) The Developer shall be in material compliance with all the terms and provisions of this Agreement;
- (b) The Developer shall have furnished the City with evidence, in a form reasonably satisfactory to the City (such as a letter of commitment from a bank or other lending institution), that the Developer has firm commitments for financing for the Project in an amount sufficient, together with equity commitments, to complete the Project in conformance with the Construction Plans, or the City shall have received such other evidence of the Developer's financial ability as in the reasonable judgment of the City is required for the Project;
- (c) Execution of an Assessment Agreement by the City, the County and the Developer pursuant to Section 6.1 of this Agreement; and
- (e) Receipt of an opinion of counsel to the Developer in the form attached hereto as Exhibit E.

Section 8.10 Failure to Commence Construction of Minimum Improvements. In the event the Developer has not made substantial progress towards commencement of construction of the Minimum Improvements on the Development Property by no later than August 1, 2019, and commencement of construction does not appear imminent by no later than August 1, 2019, then Developer shall have committed an Event of Default within the meaning of Article XI and Section 11.1 of this Agreement, and shall convey title to the Development Property to the City as provided in Section 11.2(d) of this Agreement by no later than October 1, 2019.

Section 8.11. Partial Property Tax Exemption. Subject to Developer's compliance with all of the terms and conditions of this Agreement, City agrees that the Developer may apply to Black Hawk County, Iowa, and to City, for a partial exemption from taxation of industrial property as may be provided by the Cedar Falls Code of Ordinances, and by Chapter 427B, Code of Iowa, with respect to the actual value added by the Minimum Improvements. Subject to Developer's timely application and qualification under Sections 25-36 through 25-45 of the Cedar Falls Code of Ordinances, and Chapter 427B, Code of Iowa, the partial property tax exemption shall be according to the following schedule:

- (a) For the first assessment year after the Minimum Improvements are fully assessed -75% exemption of the actual value added.
- (b) For the second assessment year after the Minimum Improvements are fully assessed -60% exemption of the actual value added.
- (c) For the third assessment year after the Minimum Improvements are fully assessed 45% exemption of the actual value added.
- (d) For the fourth assessment year after the Minimum Improvements are fully assessed -30% exemption of the actual value added.
- (e) For the fifth assessment year after the Minimum Improvements are fully assessed -15% exemption of the actual value added.

#### ARTICLE IX. DEVELOPER'S OPTION

Section 9.1. <u>Grant of Option</u>. As additional consideration for Developer's covenants as contained in this Agreement, and upon performance by Developer of all of its obligations to the City under the terms and conditions of this Agreement, but only for so long as Developer is not in default under this Agreement, the City hereby grants Developer an irrevocable option (hereinafter the "Option") to acquire the property described in Exhibit A-2 attached to this Agreement (hereinafter the "Option Property"), on the terms and conditions set forth in this Article.

Section 9.2. Option to Acquire Option Property. The Developer's option to acquire the Option Property under this Article shall be on the following terms:

- (a) The Option shall commence on the effective date of this Agreement set forth on page 5 hereof (the "Effective Date of this Agreement").
- (b) The Option shall be irrevocable until December 31, 2022 (hereinafter the "Option Expiration Date.").
- (c) The Option shall be effective only if the Developer shall have performed all of its obligations to the City as set forth in this Agreement and any agreements referenced in this Agreement, including without limitation the Minimum Assessment Agreement, and only for so long as Developer shall not be in default thereunder.
- (d) To exercise its option to acquire the Option Property, Developer shall send a notice in writing to the City that it desires to exercise its Option to acquire the Option Property and that it will do so in the following way:

- 1) By purchasing the Option Property for a purchase price of Eighty Five Thousand and no/100 Dollars (\$85,000.00) (the "Option Cash Purchase Price"), and on terms as are provided for in subsection 9.2(f) of this Agreement.
- (e) The following procedure shall apply in the event that Developer exercises its Option under subsection 9.2(d)(1), after proper notice has been given by Developer:
  - 1) The City shall provide the Developer with a complete abstract of title to the Option Property, continued to a date subsequent to the date of Developer's notice of exercise of the Option by the Developer, that shows that title to the Option Property is vested in the City, free and clear of all liens and encumbrances of record as provided in subsection (2), all at the City's sole cost and expense.
  - 2) The City shall convey clear title to the Option Property to the Developer by Quit Claim Deed upon compliance with legally required public proceedings, and upon payment to the City by the Developer of the Option Cash Purchase Price. Such conveyance and title shall be subject to restrictive covenants, ordinances, and limited access provisions of record, if any, and existing easements of record, but shall otherwise be free and clear of all other liens and encumbrances of record, other than compliance with the terms and conditions of this Agreement.
  - 3) The City shall deliver the Quit Claim Deed of the Option Property to the Developer within sixty (60) days of the date the City receives Developer's notice of Developer's intent to exercise its Option to acquire the Option Property.
  - 4) The Developer shall promptly file the Quit Claim Deed for recordation among the land records in the Office of the Recorder of the County. The Developer shall pay all costs for recording the Quit Claim Deed. Any revenue stamps or transfer tax on the Quit Claim Deed shall be paid for by the City.

Section 9.3. Expiration of Option. If the Developer fails to notify the City in a timely manner of the exercise of its Option to acquire the Option Property by the means described in subsection 9.2(d)(1) by the Option Expiration Date, Developer's Option shall expire on the Option Expiration Date, and Developer shall have no further rights in and to

the Option Property. The City shall thereafter own the Option Property free and clear of any right, title, interest or claim of the Developer.

Section 9.4. Option Personal to Developer. The rights of Developer as described in this Article IX are personal to Developer, and may not be assigned or transferred to any third party under any circumstances. Any attempted assignment, transfer, or conveyance of the rights of Developer under this Article without the express written consent of the City shall cause an immediate termination of all of the Developer's rights described in this Article.

Section 9.5. Resale of Option Property Within Five Years. In the event that Developer, having acquired the Option Property by payment of the Option Cash Purchase Price under subsection 9.2(d)(1), sells the Option Property to any third party at any time within five (5) years of the date of the City's delivery of the Quit Claim Deed conveying the Option Property to the Developer, the Developer shall pay to the City an amount equal to fifty percent (50%) of the amount by which the sale price of the Option Property exceeds the Option Cash Purchase Price of \$85,000.00, which amount shall be paid in cash in full to the City immediately upon the happening of the sale of the Option Property by the Developer. Failure to pay said amount shall constitute a default under this Agreement. For purposes of this subsection, the term "sell" shall include any voluntary of involuntary sale, exchange, or transfer of title to the Option Property, or any part thereof, to any person or entity whatsoever other than the City; provided, however, that Developer may grant a mortgage on the Option Property as security for a loan made to or guaranteed by the Developer, and the same shall not, in and of itself, constitute a sale of the Option Property within the meaning of this subsection.

#### ARTICLE X. INDEMNIFICATION

## Section 10.1. Release and Indemnification Covenants.

- (a) The Developer releases the City and the governing body members, officers, agents, servants and employees thereof (hereinafter, for purposes of this Article X, 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.
- (b) Except for any willful misrepresentation, or any willful or wanton misconduct, or any unlawful act, or any negligent act or omission 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 any violation of any agreement or condition of this Agreement by the Developer, including but not limited to claims for the construction, installation, ownership, and operation of the Minimum Improvements.

- (c) The indemnified parties shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, servants or employees or any other person who may be about the Minimum Improvements due to any act of negligence, including a negligent failure to act, of any person, other than any act of negligence on the part of any such indemnified party or its officers, agents, servants or employees.
- (d) The provisions of this Article X shall survive the termination of this Agreement.

#### ARTICLE XI. REMEDIES

Section 11.1. <u>Events of Default Defined</u>. 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:

- (a) Failure by the Developer to cause the construction of the Minimum Improvements to be commenced and completed pursuant to the terms, conditions and limitations of Article III of this Agreement, subject to Unavoidable Delays;
- (b) Failure by the Developer or its successors to cause the Minimum Improvements to be reconstructed when required pursuant to Article III of this Agreement;
- (c) Failure by the City to cause the Development Property to be conveyed to the Developer pursuant to the terms, conditions and limitations of Section 8.1 of this Agreement, subject to Unavoidable Delays;
- (d) Transfer of the Developer's ownership interest in the Development Property or any interest of Developer in this Agreement, or the assets of Developer in violation of the provisions of Article VII of this Agreement, until the Termination Date;
- (e) Failure by the Developer until the Termination Date, to pay ad valorem taxes on the Development Property (except as may be specifically excluded by exemption under Section 8.11 of this Agreement);

- (f) Failure by the Developer until the Termination Date to substantially observe or perform any other covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement;
- (g) 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;
- (h) Sale or lease of the Minimum Improvements or Development Property in violation of the provisions of Section 6.12, Relocation, of this Agreement;
- (j) The 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 a bankrupt or insolvent; or if a petition or answer proposing adjudication as a bankrupt or 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 the Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against the Developer and shall not be discharged within ninety (90) days after such appointment, or if the Developer shall consent to or acquiesce in such appointment; or
- (k) Any obligation, representation or warranty made by any party to this Agreement, any Exhibit hereto, or made by any party in any written statement or certificate 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 11.2. <u>Remedies on Default</u>. Whenever any Event of Default referred to in Section 11.1 of this Agreement occurs and is continuing, any party not in default may take

any one or more of the following actions after the giving of thirty (30) days' written notice to the party in default, and the holder of the Mortgage, of the Event of Default, but only if the Event of Default has not been cured within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and the party in default does not provide assurances reasonably satisfactory to the party giving notice that the Event of Default will be cured as soon as reasonably possible:

- (a) The party giving notice may suspend its performance under this Agreement until it receives assurances from the party in default, deemed adequate by the party giving notice, that the party in default will cure the default and continue performance under this Agreement;
- (b) The party who is not in default may withhold the Certificate of Completion;
- (c) The party who is not in default may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to recover damages proximately caused by the Default, or to enforce performance and observance of any obligation, agreement, or covenant, under this Agreement.
- In the event the Developer fails to perform any one or more of the material (d) obligations described in Article III of this Agreement in a timely manner, Developer shall thereupon immediately convey title to the Development Property to the City, free and clear of all liens and encumbrances, but subject to restrictive covenants, ordinances, and limited access provisions of record, if any, and to existing easements, if any. Developer shall also establish to the satisfaction of City and its legal counsel that no labor has been performed and no materials have been furnished by any contractor, subcontractor, or any other person, firm or entity, in connection with any improvements made to the Development Property within the ninety (90) days immediately preceding the date of said conveyance. Developer shall also deliver to City an abstract of title covering the Development Property, certified to a date subsequent to the date of said conveyance, showing that marketable title to the Development Property is vested in Developer and complies with the requirements of this subsection. Developer shall pay to City all general property taxes and special assessments, if any, due or to become due with respect to the Development Property, continuing until the Development Property is assessed to the City and is exempt from assessment for general property taxes by reason of its conveyance to and ownership by the City as a tax-exempt governmental body. Developer shall pay for all costs associated with conveyance of the Development Property to the City, including, but not limited to, abstracting, recording fees, and reasonable attorneys' fees. In the event the Developer fails to comply with the terms and conditions of this subsection (d) within the thirty (30) day period described in Section 11.2 of this Article, then the City may

proceed as provided in Section 11.2(c) of this Article, to obtain a decree of specific performance against Developer for the conveyance of the Development Property to the City or, in lieu thereof, at the City's sole discretion, to obtain a judgment for monetary damages to compensate the City for the Developer's default, plus attorneys' fees and expenses as provided in Section 11.5.

Section 11.3. <u>No Remedy Exclusive</u>. No remedy herein conferred upon or reserved to the parties 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 11.4. <u>No Implied Waiver</u>. 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 11.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and a party not in default shall employ attorneys or incur other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of a party in default herein contained, the party in default agrees that it shall, on demand therefor, pay to the party not in default the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the party not in default in connection therewith.

#### ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. Developer agrees that, to its best knowledge and belief, no member, officer or employee of the City, or its 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, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of this Project at any time during or after such person's tenure.

Section 12.2. <u>Non-Discrimination</u>. In carrying out the construction and operation of the Minimum Improvements, the Developer shall not discriminate against any employee or applicant for employment because of race, creed, color, gender, sexual orientation, gender identity, religion, sex, national origin, age or disability. The Developer shall insure that applicants for employment are employed, and the employees are treated during employment, without regard to their race, creed, color, gender, sexual orientation, gender identity, religion, sex, national origin, age or disability.

Section 12.3. <u>Notices</u>. Whenever this Agreement requires or permits any consent, approval, notice, request, proposal, or demand (collectively, "<u>Notice</u>") from one party to another, the Notice must be in writing and shall be effective upon actual receipt by the intended recipient, at the following addresses:

**DEVELOPER:** 

Mr. Ryan Holden President/Manager Zuidberg NA, L.L.C. 3105 Capital Way, Suite 1 Cedar Falls, Iowa 50613

With a copy to:

Patrick Burk

Brick Gentry, P.C.

6601 Westown Parkway, Suite 100 West Des Moines, Iowa 50266

**CITY** 

City of Cedar Falls, Iowa

City Administrator 220 Clay Street

Cedar Falls, IA 50613

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. Any party entitled to receive a Notice hereunder may change the address which it previously had specified for receiving the same, at any time and from time to time, by delivering a written change notice in accordance with the above provisions to the other parties at least five (5) business days prior to the effective date of such change.

Section 12.4. <u>Titles of Articles and Sections</u>. 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 12.5. <u>Provisions Not Merged With Deed.</u> None of the provisions of this Agreement shall be merged by reason of the delivery of the Deed, and the Deed shall not be deemed to affect or impair the provisions and covenants of this Agreement.

- Section 12.6. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.
- Section 12.7. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement between 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 12.8. <u>Successors and Assigns</u>. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.
- Section 12.9. <u>Termination Date of Assessment Agreement</u>. This Agreement shall terminate and be of no further force or effect with respect to the Minimum Improvements on the termination of the Minimum Assessment Agreement, as provided in Section 6.1 of this Agreement and in the Minimum Assessment Agreement, the form of which is attached hereto as Exhibit D.
- Section 12.10. <u>Memorandum of Agreement</u>. 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. Developer shall pay all costs of recording.
- Section 12.11. <u>Immediate Undertaking</u>. All parties agree to undertake immediately upon execution of this Agreement all of those obligations which require immediate action.
- Section 12.12. <u>No Partnership or Joint Venture</u>. The relationship herein created between the parties is contractual in nature and is in no way to be construed as creating a partnership or joint venture between the Developer and any or all of the other parties.
- Section 12.13. <u>Captions</u>. The captions, headings, and arrangements used in this Agreement are for convenience only and shall not in any way affect, limit, amplify, or modify the terms and provisions hereof.
- Section 12.14. <u>Number and Gender of Words</u>. Whenever herein the singular number is used, the same shall include the plural where appropriate, and words of any gender shall include each other where appropriate.
- Section 12.15. <u>Invalid Provisions</u>. If any provision of this Agreement or any agreement contemplated hereby is held to be illegal, void, invalid, or unenforceable under

present or future laws effective during the term of such agreement; then: (i) such provision shall be fully severable; (ii) such agreement shall be construed and enforced as if such illegal, void, invalid, or unenforceable provision had never comprised a part of such agreement; and (iii) the remaining provisions of such agreement shall remain in full force and effect and shall not be affected by the illegal, void, invalid, or unenforceable provision or by its severance from such agreement. Furthermore, in lieu of such illegal, void, invalid, or unenforceable provision there shall be added automatically as a part of such agreement a provision as similar in terms to such illegal, void, invalid, or unenforceable provision as may be legal, valid, and enforceable, whether or not such a substitute provision is specifically provided for in such agreement. Notwithstanding the foregoing, in the event any provision involving material consideration by the City for the benefit of the Developer shall be held illegal, void, invalid or unenforceable, then the Developer shall have the right to cancel this Agreement, and upon such cancellation, this Agreement, in its entirety, shall be rendered null and void; however, in that event, Developer shall proceed as described in Section 11.2(d) of this Agreement.

Section 12.16. <u>Multiple Counterparts</u>. This Agreement has been executed in a number of identical counterparts, each of which is to be deemed an original for all purposes and all of which constitute collectively one agreement, but in making proof of this Agreement it shall not be necessary to produce or account for more than one such counterpart.

Section 12.17. <u>Authorization</u>. Each party hereto represents that prior to its execution hereof all necessary company, governmental or other appropriate action, as applicable, including without limitation resolutions of their governing boards or bodies, has been taken to authorize the execution of this Agreement and the performance by such party of its respective obligations hereunder.

Section 12.18. <u>Time of the Essence</u>. Time is of the essence with respect to all matters described in this Agreement and related documents.

Section 12.19. <u>Survival</u>. Each provision of this Agreement shall survive the occurrence of the other provisions of this Agreement to the extent necessary to ensure full performance of said surviving provision.

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

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# CITY OF CEDAR FALLS, IOWA

By:	
<b>▼</b> 359	James P. Brown, Mayor
ATTEST:	
By:	
Zuidberg NA, L.L.C., an Iowa limited liability company By: Zuidberg North America, Inc.	
By: Ryan Holden, President/Manager  DEVELOPER	
STATE OF IOWA, COUNTY OF BLACK H	AWK ss.
This record was acknowledged before me 2019, by James P. Brown as Mayor, and Jacque Cedar Falls, Iowa.	
Notary Public	c in and for Black Hawk County, Iowa
STATE OF IOWA, COUNTY OF BLACK H	AWK, ss.
by Ryan Holden, President/Manager, Zuidb company.	e on the Al day of MMh, 2019, erg NA, L.L.C., an Iowa limited liability

#### EXHIBIT A-1

## **DEVELOPMENT PROPERTY**

The Development Property is described as consisting of all that certain parcel or parcels of land located generally in the City of Cedar Falls, County of Black Hawk, State of Iowa, more particularly described as follows:

Lots 21 and 22, West Viking Road Industrial Park Phase IV, City of Cedar Falls, Black Hawk County, Iowa (Contains 3.54 acres more or less).

## **EXHIBIT A-2**

## **OPTION PROPERTY**

The Option Property is described as consisting of all that certain parcel or parcels of land located generally in the City of Cedar Falls, County of Black Hawk, State of Iowa, more particularly described as follows:

Lot 2, West Viking Road Industrial Park Phase III, City of Cedar Falls, Black Hawk County, Iowa (Contains 1.30 acres more or less).

#### **EXHIBIT B**

## MINIMUM IMPROVEMENTS

The Minimum Improvements shall consist of the construction of a Warehouse/Office Facility totaling at least 30,000 square feet of finished space, all as set forth in the Construction Plans and being as more particularly shown and in substantially the same configuration and scope as the Site Plans attached hereto and made a part hereof.

The Developer agrees to connect to the sanitary sewer, storm sewer, natural gas, electricity, water, underground telephone cable, internet and any other utilities services from their present locations to such location or locations on the Development Property as Developer deems appropriate, at its cost. The Developer also agrees to construct any driveway approaches and other paving, at its cost, in accordance with City ordinances.

The Developer also agrees to perform or cause to be performed all necessary grading, land preparation and all necessary building improvements, landscaping, storm water detention, signage, and all other site improvements, in all respects in entire conformity with all applicable codes and ordinances of the City, all at the Developer's cost. The submittal to City of plans for the construction of said improvements shall be in substantial conformity with the following schedule:

## Schedule of Performance

Activity to be Completed	Completion Date
Issuance of Building Permit	August 1, 2019
Substantial Completion	June 1, 2020
Issuance of Occupancy Permit	June 1, 2020

#### **EXHIBIT C**

## **CERTIFICATE OF COMPLETION**

WHEREAS, the CITY OF CEDAR FALLS, IOWA, a municipality (hereinafter called "City"), established pursuant to the Code of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2015 (Chapter 403 hereinafter called "Urban Renewal Act"); and Zuidberg NA, L.L.C., (hereinafter called the "Developer"), an Iowa limited liability company having its principal place of business at 3105 Capital Way, Suite 1, Cedar Falls, Iowa 50613; did on or about the \_\_\_\_\_ day of \_\_\_\_\_, 2019, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

Lots 21 and 22, West Viking Road Industrial Park Phase IV, City of Cedar Falls, Black Hawk County, Iowa (Contains 3.54 acres more or less).

(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 Developer to construct certain Minimum Improvements (as defined therein) in accordance with the Agreement; and

WHEREAS, Developer performed said covenants and conditions insofar as they relate to the construction of said Minimum Improvements in a manner deemed by the City to be in conformance with the approved building plans to permit the execution and recording of this certification.

NOW, THEREFORE, pursuant to the Agreement, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Minimum Improvements have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Black Hawk 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.

All other provisions of the Agreement shall otherwise remain in full force and effect until termination as provided therein.

(SEAL)	THE CITY OF CEDAR FALLS, IOWA
ATTEST:	By: James P. Brown, Mayor
By:	MC, City Clerk
STATE OF IOWA COUNTY OF BLACK HAW	) ) ss: /K )
	wledged before me on the day of Mayor, and Jacqueline Danielsen as City Clerk, of the City of
	Notary Public in and for Black Hawk County, Iowa

#### EXHIBIT D

#### MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT, dated as of this	day of
, 2019, by and among the CITY OF CEDAR FALLS, IOWA, (the "Cit	y"), and
Zuidberg NA, L.L.C., an Iowa limited liability company, (the "Developer"), and the Co	OUNTY
ASSESSOR for the County of Black Hawk, State of Iowa (the "Assessor").	

#### WITNESSETH:

Lots 21 and 22, West Viking Road Industrial Park Phase IV, City of Cedar Falls, Black Hawk County, Iowa (Contains 3.54 acres more or less).

(the "Development Property"); and

WHEREAS, it is contemplated that pursuant to said Agreement, the Developer will undertake the development of the Development Property, which is within the Cedar Falls Unified Highway 58 Corridor Urban Renewal Plan; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, 2017, as amended, the City and the Developer desire to establish a minimum actual taxable value for the facilities thereon to be constructed by the Developer pursuant to the Agreement (defined therein as the "Minimum Improvements"); and

WHEREAS, the City and the Assessor have reviewed the preliminary plans and specifications for the Minimum Improvements which it is contemplated will be erected.

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 above-referenced Minimum Improvements by the Developer, but no later than January 1, 2021, the minimum actual taxable value which shall be fixed for assessment purposes for the Minimum Improvements to be constructed on the Development Property by the Developer and the land that together comprise the Development Property, shall be not less than Two Million Nine Hundred Eighty Thousand Dollars and no/100 Dollars (\$2,980,000.00) (hereafter referred to as the "Minimum Actual Value") until termination of this Minimum Assessment Agreement. The parties hereto expect that the construction of the above-referenced Minimum Improvements will be completed on or before June 1, 2020.

Nothing herein shall be deemed to waive the Developer's rights under Iowa Code Section 403.6(19) to contest that portion of any actual taxable value assignment made by the Assessor in excess of the Minimum Actual Value established herein, or any actual taxable value assignment made by the Assessor to the Minimum Improvements or to the 3.54 acres of land, which together comprise the Development Property. In no event, however, shall the Developer seek to reduce the actual taxable value assigned below the Minimum Actual Value established herein during the term of this Agreement.

- 2. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on December 31, 2031.
- 3. This Minimum Assessment Agreement shall be promptly recorded by the Developer with the Recorder of Black Hawk County, Iowa. The Developer shall pay all costs of recording.
- 4. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Agreement between the City and the Developer.
- 5. This Minimum Assessment Agreement shall inure to the benefit of and be binding upon the successors and assigns of the parties, and all holders of mortgages upon or security interests in the Development Property, including the land and the Minimum Improvements, to secure any loans with respect to the Development Property, including the land and the Minimum Improvements.

	THE (	CITY OF CEDAR FALLS, IOWA
	Ву:	James P. Brown, Mayor
ATTEST:		
Jacqueline Danielsen, MMC, City Clerk		
DEVELOPER:		
Zuidberg NA, L.L.C. An Iowa limited liability company  By: Zuidberg North America, Inc.  By:  Ryan Holden, President/Manager		

STATE OF IOWA	)
COUNTY OF BLACK HAWK	) ss: )
This record was acknowled 2019, by James P. Brown as Mag Cedar Falls, Iowa.	dged before me on the day of, yor, and Jacqueline Danielsen as City Clerk, of the City of
	Notary Public in and for Black Hawk County, Iowa
STATE OF IOWA)	) ags
COUNTY OF BLACK HAWK	) ss: )
	owledged before me on the AU day of MWM, t/Manager, Zuidberg NA, L.L.C., an Iowa limited liability
COURTNEY FISHER Commission Number 810743 My Commission Expires May 25, 2021	Notary Public in and for the State of Iowa

#### CERTIFICATION OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the Minimum Improvements to be constructed and the market value assigned to such Minimum Improvements, 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 property described in the foregoing Minimum Assessment Agreement, upon completion of Minimum Improvements to be made on it and in accordance with the Minimum Assessment Agreement, certifies that the actual taxable value assigned to such Minimum Improvements and the 3.54 acres of land on which such Minimum Improvements are to be constructed, which together comprise the Development Property, upon completion shall not be less than \$2,980,000.00, until termination of this Minimum Assessment Agreement pursuant to the terms hereof.

	County Assessor for Black Hawk County, Iowa
	Date
STATE OF IOWA	)
COUNTY OF BLACK HAWK	) ss.
Subscribed and sworn to be County Assessor for Black Hawk	
	Notary Public in and for the State of Iowa
	Date

#### **EXHIBIT E**

## FORM OF LEGAL OPINION

City of Cedar Falls Attn: City Clerk City Hall 220 Clay Street Cedar Falls, Iowa 50613

RE: Agreement for Private Development by and between the City of Cedar Falls, Iowa and Zuidberg NA, L.L.C., an Iowa limited liability company

#### Gentlemen:

As counsel for Zuidberg NA, L.L.C. (the "Developer"), and in connection with the execution and delivery of a certain Development Agreement (the "Development Agreement") between the Developer and the City of Cedar Falls, Iowa (the "City") dated as of \_\_\_\_\_\_\_, 2019, we hereby render the following opinion:

We have examined the original certified copy, or copies otherwise identified to our satisfaction as being true copies, of the following:

- (a) The certificate of organization and operating agreement, together with all amendments thereto, of the Developer;
- (b) Resolutions of the members of the Developer at which action was taken with respect to the transactions covered by this opinion;
- (c) The Development Agreement;

and such other documents and records as we have deemed relevant and necessary as a basis for the opinions set forth herein.

Based on the pertinent law, the foregoing examination and such other inquiries as we have deemed appropriate, we are of the opinion that:

1. The Developer has been duly organized and is validly existing as a limited liability company under the laws of the State of Iowa and is authorized to do business in the State of Iowa. The Developer has full power and authority to execute, deliver and perform in full the Development Agreement and the Minimum Assessment Agreement; and the Development Agreement and the Minimum Assessment Agreement have been

duly and validly authorized by action of the members, have been executed and delivered by an authorized manager of the Developer and, assuming due authorization, execution and delivery by the City, are in full force and effect and are valid and legally binding instruments of the Developer enforceable in accordance with their terms, except as the same may be limited by bankruptcy, insolvency, reorganization or other laws relating to or affecting creditors' rights generally.

- 2. The execution, delivery and performance by the Developer of the Development Agreement, the Minimum Assessment Agreement, and the carrying out of the terms thereof, will not result in violation of any provision of, or in default under, the certificate of organization and operating agreement of the Developer or any indenture, mortgage, deed of trust, indebtedness, agreement, judgment, decree, order, statute, rule, regulation or restriction to which the Developer is a party or by which it or its property is bound or subject.
- 3. To our knowledge and after inquiry to Developer, there are no actions, suits or proceedings pending or threatened against or affecting the 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 the Developer or which in any manner raises any questions affecting the validity of the Development Agreement, the Minimum Assessment Agreement, or the Developer's ability to perform its obligations thereunder.

Very truly yours,

BRICK GENTRY, P.C.

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

Patrick Burk, Attorney at Law
6601 Westown Parkway, Suite 100

West Des Moines, IA 50266

#### **EXHIBIT F**

## MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the CITY OF CEDAR FALLS, IOWA, a municipality (hereinafter
called "City"), established pursuant to the Code of the State of Iowa and acting under the
authorization of Chapters 15A and 403 of the Code of Iowa, 2017 (Chapter 403
hereinafter called "Urban Renewal Act"); and Zuidberg NA, L.L.C., (hereinafter called
the "Developer"), an Iowa limited liability company having its principal place of business
at 3105 Capital Way, Suite 1, Cedar Falls, Iowa 50613, did on or about the day of
, 2019, make, execute and deliver, each to the other, an Agreement for
Private Development (the "Agreement"), wherein and whereby Developer agreed, in
accordance with the terms of the Agreement and the Cedar Falls Unified Highway 58
Corridor Urban Renewal Plan (the "Plan"), to develop certain real property located within
the City and within the Cedar Falls Unified Highway 58 Corridor Urban Renewal Area
and as more particularly described as follows:

Lots 21 and 22, West Viking Road Industrial Park Phase IV, City of Cedar Falls, Black Hawk County, Iowa (Contains 3.54 acres more or less).

(the "Development Property"), and

WHEREAS, the term of the Agreement commenced on the \_\_\_\_ day of \_\_\_\_\_, 2019, and terminates on the 31st day of December, 2031, with respect to the Development Property, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the Parties 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 conveyance, development and use of the Development Property and the improvements located and operated on such Development Property, and contains provisions dealing with the dollar amount of the minimum taxable value of the Development Property for general property tax purposes, and the length of time during which said minimum assessed value continues in effect, as provided for in Section 403.6(19), Code of Iowa.
- 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.

any, shall be maintained on file for public inspection during ordinary business hours in the

That a copy of the Agreement and any subsequent amendments thereto, if

3.

office of the City Clerk, City Hall,	, Cedar Falls, Iowa.
IN WITNESS WHEREOF Agreement for Private Developme 2019.	f, the Parties have executed this Memorandum of ent on the day of
(SEAL)	CITY OF CEDAR FALLS, IOWA
ATTEST:	By:  James P. Brown, Mayor
By: Jacqueline Danielsen, MMC,	, City Clerk
Zuidberg NA, L.L.C. an Iowa limited liability company.	
By: Zuidberg North America, Inc. By:	
Ryan Holden, President/Man	
STATE OF IOWA, COUNTY OF	BLACK HAWK, ss:
	ged before me on the day of, or, and Jacqueline Danielsen as City Clerk, of the City of
— N	Jotary Public in and for Black Hawk County Towa

STATE OF IOWA	)
COUNTY OF BLACK HAWK	) ss: )
	d before me on the day of, 2019 ger, Zuidberg NA, L.L.C., an Iowa limited liability
company.	Chutpen Lustre
No.	otary Public in and for the State of Iowa
***	COURTNEY FISHER Commission Number 810743 My Commission Expires May 25, 2021



# QUIT CLAIM DEED THE IOWA STATE BAR ASSOCIATION

Official Form No. 106

**Recorder's Cover Sheet** 

**Preparer Information:** (Name, address and phone number)

Kevin Rogers, 220 Clay Street, Cedar Falls, Iowa 50613

Phone: (319) 273-8600

**Taxpayer Information:** (Name and complete address)

Zuidberg NA, LLC, 3105 Capital Way, Suite 1, Cedar Falls, IA 50613

**Return Document To:** (Name and complete address)

Zuidberg NA, LLC, 3105 Capital Way, Suite 1, Cedar Falls, IA 50613 Attn: Jeroen E. Zuidberg

Grantors: Grantees:

City of Cedar Falls, Iowa Zuidberg NA, L.L.C.

**Legal description:** See Page 2

Document or instrument number of previously recorded documents:



# **QUIT CLAIM DEED**

For the consideration of	One	Dolla:	r(s) and other valuable
consideration, City of Cedar Falls, I	owa		1 1 1
Quit Claim to Zuidberg NA, L.L.C.			do hereby
Quit Claim to Zuidocig 1771, E.E.C.		all c	our right, title, interest,
estate, claim and demand in the followard contained in the Unified Highway 58 Contained in the Unified	estrial Park Phase IV, Cirrestrictions contained in ee herein, and further subortidor Urban Renewal ID. 8196 approved and addon No. 10,224 on Noveron November 17, 2003 (c), 2012 (Ordinance No. 2 a fifth time by Resolutio 7, 2018 (Ordinance No. further subject to restricting easements of record Code 428A.2(6). reby relinquishes allords and phrases herein	state in Black Have y of Cedar Falls, Black Have that certain Agreement for bject to the conditions, cool an approved by opted on November 12, 19 and 1995 (Ordinance Ordinance No. 2461), amended a fourth time on No. 19,963 on April 18 (2923), and amended a sevice covenants, ordinances on the coverage of the coverage	wk County, Iowa: awk County, Iowa; or Private Development venants and restrictions  190 (Ordinance No. No. 2122), amended a onded a third time by me by Resolution No. 1, 2016, amended a sixth menth time by Resolution 1, and limited access  estead and distributive gment hereof, shall be
City of Cedar Falls, Iowa (G	rantor)		(Grantor)
(G	rantor)		(Grantor)
(G	rantor)		(Grantor)
STATE OF IOWA This record was acknowledge as Mayor and Jacqueline Danielsen,			, by <u>James P. Brown</u> alls, <u>Iowa</u> .
		Signature of 1	Notary Public

#### ORDINANCE NO. 2938

AN ORDINANCE REPEALING SECTION 26-118,
DISTRICT BOUNDARIES OF DIVISION I GENERALLY
OF ARTICLE III DISTRICT AND DISTRICT
REGULATIONS OF CHAPTER TWENTY-SIX (26)
ZONING, OF THE CODE OF ORDINANCES, OF THE
COTY OF CEDAR FALLS, IOWA, AND RE-ENACTING
SAID SECTION 26-118 OF SAID ORDINANCE, AS
AMENDED, SO AS TO APPLY AND INCLUDE TO THE
CHANGE IN THE ZONING MAP OF THE CITY OF
CEDAR FALLS, IOWA, AS PROVIDED BY THIS ORDINANCE

WHEREAS, the City Planning and Zoning Commission of the City of Cedar Falls, Iowa, finds that the rezoning is consistent with the adopted Comprehensive Plan of the City of Cedar Falls and therefore has recommended to the City Council of the City of Cedar Falls, Iowa, that all that area described as follows shall be removed from the A-1 Agricultural Zoning District and placed in the RP Planned Residence Zoning District, as follows:

A PARCEL IN LOT 2 OF ROBINSON'S MINOR PLAT OF PART OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 89 NORTH, RANGE 14 WEST OF THE 5TH P.M., BLACK HAWK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

#### COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION;

THENCE NORTH 89°49'32" EAST (ASSUMED BEARING), 75.00 FEET ALONG THE NORTH LINE OF SAID SECTION TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 2 OF ROBINSON'S MINOR PLAT OF PART OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE SOUTH 00°00'06" EAST, 33.00 FEET ALONG SAID WEST EXTENSION LINE TO THE NORTHWEST CORNER OF SAID LOT 2 AND THE POINT OF BEGINNING; THENCE NORTH 89°49'32" EAST, 795.34 FEET ALONG THE NORTH LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF LOT 1 IN SAID MINOR PLAT; THENCE SOUTH 00°09'12" EAST, 275.63 FEET; THENCE NORTH 89°48'38" EAST, 223.37 FEET; THENCE SOUTH 00°10'46" EAST, 307.88 FEET; THENCE SOUTH 35°48'01" EAST, 410.89 FEET; THENCE NORTH 89°49'48" EAST, 813.81 FEET; THENCE SOUTH 00°02'24" EAST, 898.69

FEET, ALL ALONG THE EASTERLY LINE OF SAID LOT 2; THENCE NORTH 50°48'28" WEST, 1,057.40 FEET; THENCE SOUTH 01°16'33" WEST, 145.20 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION AS SHOWN ON SAID MINOR PLAT; THENCE SOUTH 89°47'16" WEST, 1,252.41 FEET ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION AS SHOWN ON SAID MINOR PLAT TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 00°00'06" WEST, 1,291.49 FEET TO THE POINT OF BEGINNING;

CONTAINING 42.345 ACRES, SUBJECT TO EASEMENTS OF RECORD.

And

WHEREAS, the City Council of the City of Cedar Falls, Iowa, deems it to the best interests of the City of Cedar Falls, Iowa, that said proposal be made and approved; and

WHEREAS, the said Section 26-118, District Boundaries of Division I, Generally, of Article III, Districts and District Regulations, of Chapter Twenty-six (26), Zoning, of the Code of Ordinances of the City of Cedar Falls, Iowa, provides that the zoning map of the City of Cedar Falls, Iowa, attached thereto, is incorporated into and made a part of said Ordinance;

WHEREAS, notice of public hearing has been published, as provided by law, and such hearing held on the proposed amendment; now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR FALLS, IOWA:

Section 1. That the following described real estate:

A PARCEL IN LOT 2 OF ROBINSON'S MINOR PLAT OF PART OF THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 89 NORTH, RANGE 14 WEST OF THE 5TH P.M., BLACK HAWK COUNTY, IOWA, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF SAID SECTION;

THENCE NORTH 89°49'32" EAST (ASSUMED BEARING), 75.00 FEET ALONG THE NORTH LINE OF SAID SECTION TO THE NORTHERLY EXTENSION OF THE WEST LINE OF LOT 2 OF ROBINSON'S MINOR PLAT OF PART OF THE NORTHWEST QUARTER OF SAID SECTION; THENCE SOUTH 00°00'06" EAST, 33.00 FEET ALONG SAID WEST EXTENSION LINE TO THE NORTHWEST CORNER OF SAID LOT 2 AND THE POINT OF BEGINNING; THENCE NORTH 89°49'32" EAST, 795.34 FEET ALONG THE NORTH LINE OF SAID LOT 2 TO THE NORTHWEST CORNER OF LOT 1 IN SAID MINOR PLAT; THENCE SOUTH 00°09'12" EAST, 275.63 FEET; THENCE NORTH 89°48'38" EAST, 223.37 FEET; THENCE SOUTH 00°10'46" EAST, 307.88 FEET; THENCE SOUTH 35°48'01" EAST, 410.89 FEET; THENCE NORTH 89°49'48" EAST, 813.81 FEET; THENCE SOUTH 00°02'24" EAST, 898.69 FEET, ALL ALONG THE EASTERLY LINE OF SAID LOT 2; THENCE NORTH 50°48'28" WEST, 1,057.40 FEET; THENCE SOUTH 01°16'33" WEST, 145.20 FEET TO THE NORTHWEST CORNER OF THE SOUTHEAST QUARTER OF THE NORTHWEST QUARTER OF SAID SECTION AS SHOWN ON SAID MINOR PLAT; THENCE SOUTH 89°47'16" WEST, 1,252.41 FEET ALONG THE SOUTH LINE OF THE NORTHWEST QUARTER OF THE

NORTHWEST QUARTER OF SAID SECTION AS SHOWN ON SAID MINOR PLAT TO THE WEST LINE OF SAID LOT 2; THENCE NORTH 00°00'06" WEST, 1,291.49 FEET TO THE POINT OF BEGINNING;

CONTAINING 42.345 ACRES, SUBJECT TO EASEMENTS OF RECORD.

Be and the same is hereby removed from the A-1 Agricultural District and added to the RP Planned Residence District.

Section 2. That the zoning map of the City of Cedar Falls, Iowa, be and the same is hereby amended to show the property described in Section 1, above, as now being in the RP Planned Residence District, and the amended map is hereby ordained to be the zoning map of the City of Cedar Falls, Iowa, as amended.

Section 3. That said Section 26-118, District Boundaries of Division I, Generally, of Article III, Districts and District Regulations, of Chapter Twenty-six (26), Zoning, of the Code of Ordinances of the City of Cedar Falls, Iowa, be and the same is hereby repealed and hereby renacted in the identical language as the same now is, in order that the same shall apply to and include the change hereby made in the zoning map of the City of Cedar Falls, Iowa.

INTRODUCED:	March 18, 2019
PASSED 1 <sup>ST</sup> CONSIDERATION:	March 18, 2019
PASSED 2 <sup>ND</sup> CONSIDERATION:	April 1, 2019
PASSED 3 <sup>RD</sup> CONSIDERATION:	
ADOPTED:	
ATTEST:	James P. Brown, Mayor
Jacqueline Danielsen MMC City Clerk	

#### **ORDINANCE NO. 2939**

AN ORDINANCE REPEALING AND REPLACING SECTION 26-181 (FORMERLY 29-160), CHN, COLLEGE HILL NEIGHBORHOOD OVERLAY ZONING DISTRICT, OF DIVISION 2, SPECIFIC DISTRICTS, OF ARTICLE III, DISTRICTS AND DISTRICT REGULATIONS, OF CHAPTER 26 (FORMERLY 29), ZONING OF THE CODE OF ORDINANCES OF THE CITY OF CEDAR FALLS, IOWA (Case # TA19-001)

WHEREAS, it is the purpose of the College Hill Neighborhood Overlay Zoning District to regulate development and land uses within the College Hill Neighborhood and to provide guidance for building and site design standards, maintenance and development of the residential and business districts in a manner that complements the University of Northern Iowa campus, promotes community vitality and safety, and strengthens commercial enterprise; and

WHEREAS, these amendments add a definition of "mixed-use building" and establish standards for said mixed-use buildings, including parking requirements and building design standards to encourage new development and revitalization of the College Hill business district and areas immediately adjacent to the University of Northern Iowa campus; and

WHEREAS, these amendments delete ambiguous language from the College Hill Overlay Zoning District standards that have created uncertainty in the market and in the community regarding parking requirements for upper floor residential dwelling units within mixed-use buildings;

WHEREAS, these amendments provide consistency between the parking requirements for mixed-use buildings in the C-3 (College Hill Business District) and multiple dwelling buildings in the R-3 and R-4 Zoning Districts located within the College Hill Overlay District;

WHEREAS, the Planning and Zoning Commission has reviewed the proposed changes to the ordinance and recommends approval; and now, therefore:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CEDAR FALLS, IOWA:

That Section 26-181, CHN, College Hill Neighborhood Overlay Zoning District, of Division 2, Specific Districts, of Article III, Districts and District Regulations, of Chapter 26, Zoning is hereby repealed in its entirety and the following Section 26-181, is enacted in lieu thereof, as follows:

Sec. 26-181. CHN College Hill Neighborhood Overlay Zoning District.

In the College Hill Neighborhood Overlay Zoning District, the following provisions, regulations and restrictions shall apply:

- (1) Boundaries. The College Hill Neighborhood Overlay Zoning District (CHN district) boundaries are shown in the College Hill neighborhood master plan and legally described in attachment A. (Said attachment is not set out at length herein but is on file in the office of the city planner.)
- (2) Purpose and intent.
  - a. The purpose of the College Hill Neighborhood Overlay Zoning District is to regulate development and land uses within the College Hill neighborhood and to provide guidance for building and site design standards, maintenance and development of the residential and business districts in a manner that complements the University of Northern Iowa campus, promotes community vitality and safety and strengthens commercial enterprise. New structures, including certain types of fences, certain modifications to existing structures and certain site improvements and site maintenance shall conform to this section.
  - b. The provisions of this section shall apply in addition to any other zoning district regulations and requirements in which the land may be classified. In the case of conflict, the most restrictive provisions shall govern unless otherwise expressly provided in this section.
- (3) *Definitions*. The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Bedroom means a room unit intended for sleeping purposes containing at least 70 square feet of floor space for each occupant. Neither closets nor any part of a room where the ceiling height is less than five feet shall be considered when computing floor area.

Change in use means and include residential uses changed from single-unit to two-unit or two-unit to multi-unit or to any increase in residential intensity within a structure (i.e., change from duplex to fraternity house). The term "change in use" shall also apply to changes in use classifications (i.e., residential to commercial).

Fraternity/sorority means residential facilities provided for college students and sponsored by university affiliated student associations. Such facilities may contain individual or common sleeping areas and bathroom facilities but shall provide common kitchen, dining, and lounging areas. Such facilities may contain more than one unit.

*Greenway* means open landscaped area maintained for floodplain protection, stormwater management and public access. Such area may contain pedestrian walkways or bicycle pathways but is not intended for regular or seasonal usage by motorized recreational vehicles.

Landscaped area means an area not subject to vehicular traffic, which consists of living landscape material including grass, trees and shrubbery.

Lot split, property transfer means not a subdivision plat where a new lot is being created; includes any transfer of small segments of property or premises between two abutting properties, whether commonly owned or owned by separate parties, where one property (the "sending property") is dedicating or deeding additional land to another abutting property (the "receiving property").

Mixed-Use Building means a building designed for occupancy by a minimum of two different uses. Uses generating visitor or customer traffic (such as retail, restaurants, personal services) are typically located on the ground floor facing the street, whereas uses generating limited pedestrian activity (such as office or residential uses) are typically located on upper floors or behind street-fronting commercial uses.

Neighborhood character. The College Hill neighborhood area is one of the city's oldest and most densely populated neighborhoods. As the University of Northern Iowa has grown the original single-unit residential neighborhood surrounding the campus area has been transformed into a mixture of single-unit, duplex and multiple unit dwelling units along with a few institutional uses and other university-related uses such as fraternities and sorority houses. These various uses are contained in a variety of underlying zoning districts (i.e., R-2, R-3, R-4 Residential and C-3 Commercial Districts). Architectural styles vary significantly among existing building structures while differing land uses and building types are permitted in different zoning districts. When references are made in this article to preservation of neighborhood character, uniformity of building scale, size, bulk and unusual or widely varying appearance are of primary concern regardless of the nature of the proposed building use.

New construction, including significant improvements to existing structures, shall be of a character that respects and complements existing neighborhood development. The following variables or criteria shall be used in determining whether a newly proposed construction or building renovation is in keeping with the character of the neighborhood:

- Overall bulk/size of the building;
- 2. Overall height of the building;
- 3. Number of proposed dwelling units in comparison to surrounding properties;
- 4. Lot density (lot area divided by number of dwelling units);
- 5. Off-street parking provision;
- 6. Architectural compatibility with surrounding buildings.

Parking area means that portion of a parcel of land that is improved and designated or commonly used for the parking of one or more motor vehicles.

Parking lot means that area improved and designated or commonly used for the parking of three or more vehicles.

Parking space (also parking stall) means an area measuring at least nine feet wide and 19 feet long for all commercial, institutional or manufacturing uses or eight feet wide and 18 feet long for residential uses only, connected to a public street or alley by a driveway not less than ten feet wide, and so arranged as to permit ingress and egress of motor vehicles without moving any other vehicle parked adjacent to the parking space.

*Premises* means a lot, plot or parcel of land including all structures thereon.

Residential Building: Any building that is designed and/or used exclusively for residential purposes, but not including a tent, cabin or travel trailer.

Residential conversion means the alteration or modification of a residential structure that will result in an increase in the number of rooming units or dwelling units within the residential structure. The addition or creation of additional rooms within an existing rooming unit or dwelling unit does not constitute a residential conversion.

Structural alteration means any alteration, exterior or interior that alters the exterior dimension of the structure. This provision shall apply to residential, commercial and institutional uses including churches or religious institutions.

Substantial improvement means any new construction within the district or any renovation of an existing structure, including the following:

1. Any increase in floor area or increased external dimension of a residential or commercial structure. Additional bedrooms proposed in an existing duplex or multi-unit residence shall

- be considered a substantial improvement. Bedroom additions to single-unit residences shall not be considered to be a substantial improvement.
- Any modification of the exterior appearance of the structure by virtue of adding or removing exterior windows or doors. Repair or replacement of existing windows or doors which does not result in any change in the size, number or location of said windows and doors shall not be considered to be a substantial improvement.
- 3. Any structural alteration that increases the number of bedrooms or dwelling units. Interior room additions, including bedroom additions, may be made to single-unit residential structures without requiring additional on-site parking.
- 4. All facade improvements, changes, alterations, modifications or replacement of existing facade materials on residential or commercial structures. Routine repair and replacement of existing siding materials with the same or similar siding materials on existing structures shall be exempt from these regulations.
- 5. Any new, modified or replacement awnings, signs or similar projections over public sidewalk areas.
- 6. Any increase or decrease in existing building height and/or alteration of existing roof pitch or appearance. Routine repair or replacement of existing roof materials that do not materially change or affect the appearance, shape or configuration of the existing roof shall not be considered a substantial improvement.
- 7. Any construction of a detached accessory structure measuring more than 300 square feet in base floor area for a residential or commercial principal use.
- 8. Any increase in area of any existing parking area or parking lot or any new construction of a parking area or parking lot, which existing or new parking area or parking lot contains or is designed to potentially accommodate a total of three or more parking stalls.
- Any proposed property boundary fence, which utilizes unusual fencing materials such as stones, concrete blocks, logs, steel beams or similar types of atypical or unusual fence materials. Standard chain-link fences, wooden or vinyl privacy fences shall be exempt from these provisions.
- 10. Demolition and removal of an entire residential, commercial or institutional structure on a property shall not be considered a substantial improvement.

#### (4) Administrative review.

- a. Applicability. The provisions of this section shall constitute the requirements for all premises and properties that lie within the boundaries of the College Hill neighborhood overlay zoning district. This section and the requirements stated herein shall apply to all new construction, change in use, structural alterations, substantial improvements or site improvements including:
  - 1. Any substantial improvement to any residential, commercial or institutional structure, including churches.
  - 2. Any new construction, change in use, residential conversion or structural alteration, as defined herein, for any structure.
  - 3. Any new building structure including single-unit residences.
- b. Emergency repairs. In the case of emergency repairs required as the result of unanticipated building or facade damages due to events such as fire, vandalism, flooding or weather-related damages, site plan review by the planning and zoning commission and the city council will not be required for completion of said emergency repairs, provided that the extent of damages and

cost of said repairs are less than 50 percent of the value of the structure. However, said emergency repairs along with cost estimates related to the extent of building structural damages shall be verified by the city planner in conjunction with the city building inspector. Said emergency repairs, to the extent possible, shall repair and re-establish the original appearance of the structure. In the event that said emergency repairs result in dramatic alteration of the exterior appearance of the structure as determined by the city planner, the owner of the property shall make permanent repairs or renovations that re-establish the original appearance of the structure with respect to facade features, window and door sizes, locations and appearances of said windows and doors within six months following completion of said emergency repairs. Said emergency repairs shall not alter the number, size or configuration of pre-existing rooms, bedrooms or dwelling units within the structure.

- c. Submittal requirements. Applicants for any new construction, change in use, structural alteration, facade alteration, residential conversion, substantial improvement, parking lot construction or building enlargement shall submit to the city planning division an application accompanied by such additional information and documentation as shall be deemed appropriate by the city planner in order for the planning division to properly review the application. The required application for any project may include one or more of the following elements depending upon the nature of the application proposal. Some applications will require submittal of more information than other types of applications. The city planner will advise the applicant which of these items need to be submitted with each application with the goal of providing sufficient information so that decision makers can make an informed decision on each application.
  - 1. Written description of building proposal, whether a new structure, facade improvement, parking lot improvement, building addition, etc. The name and address of the property owner and property developer (if different) must be provided;
  - Building floor plans;
  - 3. Building materials;
  - 4. Dimensions of existing and proposed exterior building "footprint":
  - 5. Facade details/exterior rendering of the structure being modified, description of proposed building design elements including, but not limited to, building height, roof design, number and location of doors and windows and other typical facade details;
  - 6. Property boundaries, existing and proposed building setbacks;
  - 7. Parking lot location, setbacks, parking stall locations and dimensions along with parking lot screening details;
  - 8. Lot area and lot width measurements with explanation if any portion of an adjacent lot or property is being transferred to the property under consideration;
  - 9. Open green space areas and proposed landscaping details with schedule for planting new landscaping materials;
  - 10. Trash dumpster/trash disposal areas;
  - 11. Stormwater detention/management plans.

Following submittal of the appropriate application materials as determined by the city planner, said application materials shall be reviewed by the city planning and zoning commission and the city council to determine if the submittal meets all chapter requirements and conforms to the standards of the comprehensive plan, recognized principles of civic design, land use planning and landscape architecture. The commission may recommend and the city council may approve the application as

submitted, may deny the application, or may require the applicant to modify, alter, adjust or amend the application as deemed necessary to the end that it preserves the intent and purpose of this section to promote the public health, safety and general welfare.

#### (5) District requirements and criteria for review.

- a. Minimum on-site parking requirements. The following standards shall apply in the College Hill Neighborhood Overlay District and shall govern if different from the requirements listed in Section 26-220, Off-street parking spaces.
  - 1. Single-unit Dwelling: Two parking stalls per dwelling.
  - 2. Single-unit Dwelling, renter-occupied: Two parking stalls per dwelling unit plus one additional parking stall for each bedroom in excess of two bedrooms.
  - 3. Two-unit Dwelling: Two stalls per dwelling units plus one additional stall for each bedroom in each dwelling unit in excess of two bedrooms.
  - 4. Multiple Dwelling: Two stalls per dwelling unit plus one additional stall for each bedroom in excess of two bedrooms. One additional stall shall be provided for every five units in excess of five units for visitor parking.
  - 5. Non-residential uses in the C-3 District: No parking required.
  - 6. Dwelling units within Mixed-Use Buildings in the C-3 District: One parking stall per bedroom, but not less than one stall per dwelling unit, except as follows. For mixed-use buildings constructed prior to January 1, 2019, parking is not required for existing dwelling units. In addition, for mixed-use and commercial buildings constructed prior to January 1, 2019, parking is not required for upper floor space that is converted to residential use.
  - 7. Dwelling units within Mixed-Use Buildings in zones other than the C-3 District: Two stalls per dwelling unit plus one additional stall for each bedroom in excess of two bedrooms. One additional stall shall be provided for every five units in excess of five units for visitor parking.
  - 8. Boardinghouse/roominghouse: Five stalls plus one stall for every guest room in excess of four guest rooms.
  - 9. Fraternity/sorority: Five parking stalls plus one stall for every two residents in excess of four residents.
  - 10. Where fractional spaces result, the number required shall be the next higher whole number.
  - 11. Bicycle accommodations: All new multi-unit residential facilities are encouraged to provide for the establishment of bicycle racks of a size appropriate for the anticipated residential occupancy of the facility. A general suggested bike parking standard is two bike stalls per residential unit. For commercial projects, if lot area is available, bike racks are encouraged to be installed in conjunction with the commercial project.

#### b. Parking lot standards.

1. All newly constructed or expanded parking lots (three or more parking stalls) shall be hard surfaced with concrete or asphalt, provided with a continuous curb, be set back a minimum five feet from adjacent property lines or public right-of-way with the exception of alleyways, in which case a three foot permeable setback will be required, and otherwise conform to all parking guidelines as specified in this section and in section 26-220. Alternative parking lot surfaces may be considered to the extent that such surfaces provide adequate stormwater absorption rates, subject to city engineering review and

- approval, while providing an acceptable surface material and finished appearance. Gravel or crushed asphalt parking lots will not be permitted. However, other types of ecologically sensitive parking lot designs will be encouraged and evaluated on a case-by-case basis.
- 2. Landscaping in parking lots shall be classified as either internal or peripheral. The following coverage requirements shall pertain to each classification:
  - Peripheral landscaping. All parking lots containing three or more parking spaces shall provide peripheral landscaping. Peripheral landscaping shall consist of a landscaped strip not less than five feet in width, exclusive of vehicular obstruction, and shall be located between the parking area and the abutting property lines. One tree for each 25 lineal feet of such landscaping barrier or fractional part thereof shall be planted in the landscaping strip. At least one tree shall be planted for every parking lot (such as a three-stall parking lot) regardless of the lineal feet calculation. In addition to tree plantings, the perimeter of the parking lot shall be screened with shrubbery or similar plantings at least three-feet in height as measured from the finished grade of the parking lot at the time of planting for purposes of vehicular screening. The vegetative screen should present a continuous, effective visual screen adjacent to the parking lot for purposes of partially obscuring vehicles and also deflecting glare from headlights. If landscaped berms are utilized, the berm and vegetative screening must achieve at least a 3-foot tall screen at the time of installation as measured from the grade of the finished parking lot. Each such planting area shall be landscaped with grass, ground cover or other landscape material excluding paving, gravel, crushed asphalt or similar materials, in addition to the required trees, shrubbery, hedges or other planting material. Existing landscaping upon abutting property shall not be used to satisfy the requirements for said parking lot screening requirements unless the abutting land use is a parking lot.

#### (ii) Exceptions.

- A. Peripheral landscaping shall not be required for single-unit or two-unit residential structures where the primary parking area is designed around a standard front entrance driveway and/or attached or detached residential garage. However, if an open surface parking lot containing three or more parking stalls is established in the rear yard of a two-unit residential structure, the perimeter landscaping/screening requirements as specified herein shall apply.
- B. Peripheral landscaping shall not be required for parking lots that are established behind building structures where the parking lots do not have any public street or alley frontage or is not adjacent to any open properties such as private yards, parks or similar open areas. Examples of such a parking lot would be one designed with a multiple unit apartment facility where the parking lot is encircled with building structures within the project site and where the parking lot is completely obscured from public view by building structures.
- C. Underground or under-building parking lots.
- D. Aboveground parking ramps shall provide perimeter screening as specified herein around the ground level perimeter of the parking structure.
- (iii) Internal landscaping. All parking lots measuring 21 parking stalls or more shall be required to landscape the interior of such parking lot. At least one overstory tree shall be established for every 21 parking stalls. Each tree shall be provided sufficient open planting area necessary to sustain full growth of the tree. Not less than five percent of the proposed paved area of the interior of the parking lot shall be provided as open space, excluding the tree planting areas. These additional open space areas must be

- planted with bushes, grasses or similar vegetative materials. Each separate open green space area shall contain a minimum of 40 square feet and shall have a minimum width dimension of a least five feet.
- (iv) Exceptions. Internal landscaping shall not be required for vehicular storage lots, trucking/warehousing lots or for automobile sales lots. However, perimeter landscaping/screening provisions, as specified herein, shall be required for all such parking areas when they are installed or enlarged in area.
- (v) Parking garages or parking ramps. All such facilities where one or more levels are established for parking either below ground or above ground and where structural walls provide for general screening of parked vehicles, internal landscaping shall not be provided.
- (vi) Open green space; landscape areas. It is the intent of this regulation that in parking development sites open green space and landscape areas should be distributed throughout the parking development site rather than isolated in one area or around the perimeter of the parking lot. Trees and shrubs planted within parking areas shall be protected by concrete curbs and provide adequate permeable surface area to promote growth and full maturity of said vegetation.
- 3. Parking stalls must provide a minimum separation of four feet from the exterior walls of any principal structure on the property as measured from the vehicle (including vehicular overhang) to the nearest wall of the structure. No vehicular parking stall shall be so oriented or positioned as to block or obstruct any point of egress from a structure, including doorways or egress windows.
- 4. No portion of required front or side yards in any residential (R) zoning district shall be used for the establishment of any parking space, parking area, or parking lot, except for those driveways serving a single- or two-unit residence. For all other uses, a single driveway no more than 18 feet in width may be established across the required front and side yards, provided that side yard driveway setbacks are observed, as an access to designated rear yard parking areas, unless said lot is dedicated entirely to a parking lot, in which case a wider driveway access will be allowed across the required yard area to access said parking lot.
- 5. When a driveway or access off a public street no longer serves its original purpose as access to a garage or parking lot due to redevelopment of the property or is replaced with an alternative parking lot or parking arrangement with an alternate route of access, the original driveway access shall be re-curbed by the owner at the owner's expense and the parking/ driveway area shall be returned to open green space with grass plantings or other similar landscaping materials.
- 6. Routine maintenance of existing parking areas and parking lots, including resurfacing of said areas with similar materials or with hard surfacing will be permitted without requiring review by the planning and zoning commission and city council, provided that no increase in area of said existing parking area or parking lot, or any new construction of a parking area or parking lot, which existing or new parking area or parking lot contains or is designed to potentially accommodate a total of three or more parking stalls, occurs. Any newly paved or hard surfaced parking lot, excluding those existing hard surface parking lots that are merely being resurfaced, must satisfy minimum required setbacks from the property line or alley and must provide a continuous curb around the perimeter of said improved parking lot. Hard surfacing of any existing unpaved parking area or parking lot will require an evaluation by the city engineering division regarding increased stormwater runoff/possible stormwater detention.

#### c. Stormwater drainage.

- 1. Stormwater detention requirements as outlined in section 24-338 and in section 26-94 shall apply to all newly developed parking lots and new building uses. In addition, said requirements shall apply to any existing parking lot that is resurfaced, reconstructed or enlarged subject to review by the city engineer. In those cases where no municipal storm sewer is readily available to serve a particular property or development site, the use of the property will be limited. The maximum allowable use that shall be permitted on any particular property or development site which is not served by a municipal storm sewer shall be limited to the following uses in Residential zoning districts: a parking lot; a single-unit residence; a two-unit residence; or a multi-unit residence. Provided, however, that the applicant shall be required to submit calculations, which shall be subject to review and approval by the city engineering division, that verify that the total impervious surface area on the particular property or development site that will exist immediately following completion of the proposed new development shall be no greater than the total impervious surface area on the particular property or development site that existed immediately prior to the proposed new development.
- 2. Soil erosion control. At the time of new site development, including parking lot construction, soil erosion control measures must be installed on the site in conformance with city engineering standards. Said soil erosion measures must be maintained until the site is stabilized to the satisfaction of the city engineering division.

#### d. Open space/landscaping requirements.

- 1. Principal permitted uses within the district shall provide minimum building setbacks as required in the zoning chapter. With the exception of construction periods said required front and side setback areas (required yards) shall be maintained with natural vegetative materials and shall not be obstructed with any temporary or permanent structure, on site vehicular parking including trailers or recreational vehicles, nor disturbed by excavations, holes, pits or established recreational areas that produce bare spots in the natural vegetation.
- Driveways measuring no more than 18 feet in width, sidewalks and pedestrian access ways measuring no more than six feet in width may be established across the required front and side yard areas.
- 3. All newly constructed office or institutional buildings in the R-3 or R-4 districts and all newly constructed single unit dwelling, two-unit dwelling, or multiple dwelling in residential or commercial districts shall provide on-site landscaping within the required yard areas or in other green space areas of the property at the rate of 0.04 points per square foot of total lot area of the site under consideration for the proposed residential development or improvement. Landscaping shall consist of any combination of trees and shrubbery, subject to review and approval by the planning and zoning commission and the city council. In addition to these requirements, parking lot plantings and/or screening must be provided as specified herein. Plantings must be established within one year following issuance of a building permit. This provision shall not apply to commercial or mixed-use buildings established in the C-3 Commercial District.
- 4. Measured compliance. The following landscaping point schedule applies to required landscaping in all zoning districts within the College Hill neighborhood overlay district with the exception of commercial uses in the C-3 Commercial District, and shall be used in determining achieved points for required plantings. The points are to be assigned to plant sizes at time of planting/installation.

Overstory Trees:				
4-inch caliper or greater	100 points			
3-inch caliper to 4-inch caliper	90 points			
2-inch caliper to 3-inch caliper	80 points			
1-inch caliper to 2-inch caliper	60 points			
Understory Trees:				
2-inch caliper or greater	40 points			
1½-inch caliper to 2-inch caliper	30 points			
1-inch to 1½-inch caliper	20 points			
Shrubs:				
5-gallon or greater	10 points			
2-gallon to 5-gallon	5 points			
Conifers:				
10-foot height or greater	100 points			
8-foot to 10-foot height	90 points			
6-foot to 8-foot height	80 points			
5-foot to 6-foot height	40 points			
4-foot to 5-foot height	30 points			
3-foot to 4-foot height	20 points			

#### e. Fences/retaining walls.

- Fences shall be permitted on properties in accordance with the height and location requirements outlined in section 26-93. Zoning/land use permits shall be required for fences erected within the district.
- Any existing fence or freestanding wall that is, in the judgment of the building inspector, structurally unsound and a hazard to adjoining property shall be removed upon the order of the building inspector.
- 3. Retaining walls may be installed on property as a measure to control soil erosion or stormwater drainage. However, said retaining walls shall be permitted only after review and approval by the city engineer.
- f. Detached accessory structures. All newly constructed detached accessory structures or expansions of existing detached accessory structures exceeding 300 square feet in base floor area proposed to be situated on residential or commercial properties shall be subject to review and approval by the planning and zoning commission and city council. Maximum allowable building height, size and location requirements for accessory structures as specified in section 26-126 shall apply. In addition to those standards, proposed detached accessory structures or expanded structures larger than 300 square feet in area shall be designed in such a manner as to be consistent with the architectural style of the principal residential or commercial

- structure on the property. Similar building materials, colors, roof lines, roof pitch and roofing materials shall be established on the accessory structure to match as closely as possible those elements on the principal structure. In addition, vertical steel siding along with "metal pole barn" type construction shall not be allowed.
- g. No existing single-unit residential structure in the R-2 district shall be converted or otherwise structurally altered in a manner that will result in the creation or potential establishment of a second dwelling unit within the structure.
- h. No duplex (two-unit) or multiple dwelling shall add dwelling units or bedrooms to any dwelling unit without satisfying minimum on-site parking requirements. If additional parking spaces are required, the entire parking area must satisfy parking lot development standards as specified herein.
- i. No portion of an existing parcel of land or lot or plot shall be split, subdivided or transferred to another abutting lot or parcel for any purpose without prior review and approval by the city planning and zoning commission and the city council. Land cannot be transferred or split from one lot or property to be transferred to another for purposes of benefiting the receiving property while diminishing the minimum required lot area, lot width or building or parking lot setback area of the sending property. Such lot transfer or split shall not create a nonconforming lot by virtue of reduction of minimum required lot area, lot width or reduction of minimum required building or parking lot setbacks. Said lot transfer or split shall not affect any existing nonconforming property by further reducing any existing nonconforming element of the lot or property including lot area, lot width or building or parking lot setbacks in order to benefit another abutting property for development purposes. This provision shall not apply to those instances where separate lots or properties are being assembled for purposes of new building construction where existing structures on the assembled lots will be removed in order to accommodate new building construction.
- j. Site plan revisions/amendments. All changes, modifications, revisions and amendments made to development site plans that are deemed to be major or substantial by the city planner shall be resubmitted to the planning and zoning commission in the same manner as originally required in this section. Examples of major or substantial changes shall include, but are not limited to, changes in building location, building size, property size, parking arrangements, enlarged or modified parking lots, open green space or landscaping modifications, setback areas or changes in building design elements.
- k. 1. Trash dumpster/trash disposal areas must be clearly marked and established on all site plans associated with new development or redevelopment projects. No required parking area or required parking stalls shall be encumbered by a trash disposal area.
  - 2. Large commercial refuse dumpsters and recycling bins serving residential or commercial uses shall be located in areas of the property that are not readily visible from public streets. No such dumpster or bin shall be established within the public right-of-way. All dumpsters and bins shall be affixed with a solid lid covering and shall be screened for two purposes:
    - (i) Visual screening; and
    - (ii) Containing dispersal of loose trash due to over-filling. Screening materials shall match or be complementary to the prevailing building materials.
- (6) Design review. Any new construction, building additions, facade renovations or structural alterations to commercial or residential structures, or substantial improvements to single-unit residences that, in the judgment of the city planner, substantially alters the exterior appearance or

character of permitted structures shall require review and approval by the city planning and zoning commission and city council.

- a. Criteria for review.
  - 1. Applications involving building design review. Neighborhood character, as herein defined, shall be considered in all.
  - The architectural character, materials, textures of all buildings or building additions shall be compatible with those primary design elements on structures located on adjoining properties and also in consideration of said design elements commonly utilized on other nearby properties on the same block or within the immediate neighborhood.
  - 3. Comparable scale and character in relation to adjoining properties and other nearby properties in the immediate neighborhood shall be maintained by reviewing features such as:
    - (i) Maintaining similar roof pitch.
    - (ii) Maintaining similar building height, building scale and building proportion.
    - (iii) Use of materials comparable and similar to other buildings on nearby properties in the immediate neighborhood.
  - 4. Mandated second entrances or fire escapes established above grade shall not extend into the required front yard area.
  - 5. Existing entrances and window openings on the front facades and side yard facades facing public streets shall be maintained in the same general location and at the same general scale as original openings or be consistent with neighboring properties.
  - 6. Projects involving structural improvements or facade renovations to existing structures must provide structural detail and ornamentation that is consistent with the underlying design of the original building.
  - 7. The primary front entrances of all residential buildings shall face toward the public street. Street frontage wall spaces shall provide visual relief to large blank wall areas with the use of windows or doorways and other architectural ornamentation.
- b. Building entrances for multiple dwellings. Main entrances should be clearly demarcated by one of the following:
  - 1. Covered porch or canopy.
  - 2. Pilaster and pediment.
  - Other significant architectural treatment that emphasizes the main entrance. Simple "trim" around the doorway does not satisfy this requirement.
- c. Building scale for multiple dwellings. Street facing walls that are greater than 50 feet in length shall be articulated with bays, projections or alternating recesses according to the following suggested guidelines:
  - 1. Bays and projections should be at least six feet in width and at least 16 inches, but not more than six feet in depth. Recesses should be at least six feet in width and have a depth of at least 16 inches.
  - The bays, projections and recesses should have corresponding changes in roofline or, alternatively, should be distinguished by a corresponding change in some architectural elements of the building such as roof dormers, alternating exterior wall materials, a change in window patterns, the addition of balconies, variation in the building or parapet

height or variation in architectural details such as decorative banding, reveals or stone accents.

- d. Building scale for commercial buildings and mixed-use buildings. The width of the front façade of new commercial and mixed-use buildings shall be no more than 40 feet. Buildings may exceed this limitation if the horizontal plane of any street-facing façade of a building is broken into modules that give the appearance or illusion of smaller, individual buildings. Each module should satisfy the following suggested guidelines that give the appearance of separate, individual buildings:
  - 1. Each module should be no greater than 30 feet and no less than ten feet in width and should be distinguished from adjacent modules by variation in the wall plane of at least 16 inches depth. For buildings three or more stories in height the width module may be increased to 40 feet.
  - 2. Each module should have a corresponding change in roof line for the purpose of separate architectural identity.
  - 3. Each module should be distinguished from the adjacent module by at least one of the following means:
    - (i) Variation in material colors, types, textures.
    - (ii) Variation in the building and/or parapet height.
    - (iii) Variation in the architectural details such as decorative banding, reveals, stones or tile accent.
    - (iv) Variation in window pattern.
    - (v) Variation in the use of balconies and recesses.
- e. Balconies and exterior walkways, corridors and lifts serving multi-unit residences.
  - 1. Exterior stairways refer to stairways that lead to floors and dwelling units of a building above the first or ground level floor of a building. Exterior corridors refer to unenclosed corridors located above the first floor or ground level floor of a building. Balconies and exterior stairways, exterior corridors and exterior lifts must comply with the following:
    - (i) Materials must generally match or be complementary to the building materials utilized on that portion of a building where the exterior corridor or balcony is established.
    - (ii) Unpainted wooden materials are expressly prohibited.
    - (iii) Stained or painted wood materials may only be utilized if said material and coloration is guaranteed for long-term wear and the material is compatible with the principal building materials on that portion of the building where the exterior corridor is established.
    - (iv) The design of any balcony, exterior stairway, exterior lift or exterior corridor must utilize columns, piers, supports, walls and railings that are designed and constructed of materials that are similar or complementary to the design and materials used on that portion of the building where the feature is established.
    - (v) Exterior stairways, exterior lifts, corridors and balconies must be covered with a roof similar in design and materials to the roof over the rest of the structure. Said roof shall be incorporated into the overall roof design for the structure. Alternatively, such features (stairways, lifts, corridors or balconies) may be recessed into the façade of the building.

- (vi) Exterior corridors may not be located on a street-facing wall of the building.
- 2. Exterior fire egress stairways serving second floor or higher floors of multi-unit residences shall be allowed according to city requirements on existing buildings that otherwise are not able to reasonably satisfy city fire safety code requirements, provided the fire egress stairway or structure is not located on the front door wall of a building that faces a street. All such egress structures that are located on the front door wall of a building that faces a street, whether new or replacement of an existing egress structure, shall be subject to review by the commission and approval by the city council. Areas of review shall be general design, materials utilized and location of the proposed egress structure. On corner lots, if a side street-facing mandated access is necessary and other options are unavailable, the side-street facing wall shall be used for this egress structure. In any case, fire egress stairways must utilize similar materials as outlined above; i.e., no unpainted wooden material shall be allowed.
- f. Building materials for multiple dwellings, commercial, and mixed-use buildings.
  - 1. For multiple dwellings, at least 30 percent of the exterior walls of the front facade level of a building must be constructed with a masonry finish such as fired brick, stone or similar material, not to include concrete blocks and undressed poured concrete. Masonry may include stucco or similar material when used in combination with other masonry finishes. The following trim elements shall be incorporated into the exterior design and construction of the building, with the following recommended dimensions to be evaluated on a case-by-case basis:
    - (i) Window and door trim that is not less than three inches wide.
    - (ii) Corner boards that are not less than three inches wide unless wood clapboards are used and mitered at the corners.
    - (iii) Frieze boards not less than five inches wide, located below the eaves.
  - 2. For commercial and mixed-use buildings, street-facing facades shall be comprised of at least 30% brick, stone, or terra cotta. These high quality materials should be concentrated on the base of the building. In the C-3 District, on street-facing facades, a minimum of 70% of the ground level floor between 2 and 10 feet in height above the adjacent ground level shall consist of clear and transparent storefront windows and doors that allow views into the interior of the store. Exceptions may be allowed for buildings on corner lots where window coverage should be concentrated at the corner, but may be reduced along the secondary street façade. The bottom of storefront windows shall be no more than 2 feet above the adjacent ground level, except along sloping sites, where this standard shall be met to the extent possible so that views into the interior of the store are maximized and blank walls are avoided.
  - 3. Any portion of a building with a side street façade must be constructed using similar materials and similar proportions and design as the front facade.
  - 4. Exposed, unpainted or unstained lumber materials are prohibited along any facade that faces a street-side lot line (i.e., public street frontage).
  - 5. Where an exterior wall material changes along the horizontal plane of a building, the material change must occur on an inside corner of the building.
  - 6. For buildings where the exterior wall material on the side of the building is a different material than what is used on the street facing or wall front, the street facing or wall front material must wrap around the corners to the alternate material side of the building at least three additional feet.

- 7. Where an exterior wall material changes along the vertical plane of the building, the materials must be separated by a horizontal band such as a belt course, soldier course, band board or other trim to provide a transition from one material to another.
- (7) Commercial district. The College Hill neighborhood commercial district is defined by the boundaries of the C-3 Commercial District. The district is made up primarily of commercial buildings and mixed-use buildings. However, some properties are occupied or may be occupied in the future by residential buildings Residential buildings are to be discouraged due to the limited area available for commercial uses. Standards for residential buildings are set forth below. Dwelling units are permitted on upper floor(s) of mixed-use buildings, as set forth below. Certain uses are considered conditional uses or prohibited uses in the College Hill Neighborhood commercial district, as specified below.
  - a. Residential buildings. Residential buildings are allowable within the district subject to planning and zoning commission and city council review and approval. In general, residential buildings are to be discouraged within the commercial district due to the limited area available for commercial establishments. In those cases where a residential building is permitted, it will be governed by minimum lot area, lot width and building setback requirements as specified in the R-4 residential zoning district. In addition, all other applicable requirements pertaining to substantial improvements or new construction of any residential building shall conform to the requirements of this section, including on-site parking, landscaping, and building setbacks, with no vehicular parking allowed in the required front and side yards, said required yards being those as defined within the R-4 residential district.
  - b. Residential dwelling units within Mixed Use Buildings. Residential dwelling units are allowed on upper floors of a mixed-use building. No residential dwelling unit may be established on the main floor or street level floor of a mixed-use building within the C-3 Commercial District. To provide safe access for residents of the building, there must be at least one main entrance on the street-facing façade of the building that provides pedestrian access to dwelling units within the building. Access to dwelling units must not be solely through a parking garage or from a rear or side entrance.
  - c. Additional Standards for mixed-use and non-residential buildings. To foster active street frontages, non-residential and mixed-use buildings must be placed to the front and corner of lots, and set back a minimum of 0 feet and maximum of 15 feet from street-side lot lines. The ground floor floor-to-structural ceiling height shall be 14 feet minimum. Entries to individual ground floor tenant spaces and entries to common lobbies accessing upper floor space shall open directly onto public sidewalks or publicly-accessible outdoor plazas. Thresholds at building entries shall match the grade of the adjacent sidewalk or plaza area. Entries on street-facing facades shall be sheltered by awnings or canopies that project a minimum of four feet from the building façade and must be a minimum of 8 feet above the adjacent sidewalk.
  - c. Conditional uses. The following uses may be allowed as a conditional use subject to review and approval by the planning and zoning commission and the city council. The proposed use must conform to the prevailing character of the district and such use shall not necessitate the use of outdoor storage areas. In addition such conditional uses must not generate excessive amounts of noise, odor, vibrations, or fumes, or generate excessive amounts of truck traffic. Examples of uses that may be allowed subject to approval of a conditional use permit are:
    - 1. Printing or publishing facility:
    - 2. Limited manufacturing activity that is directly related to the operation of a retail business conducted on the premises;
    - 3. Home supply business.

d.	Prohibited uses. In all cases the following uses will not be allowed within the C-3 Commercia
	District either as permitted or conditional uses:

- Lumber yards;
- 2. Used or new auto sales lots and displays;
- 3. Auto body shop;
- 4. Storage warehouse or business;
- 5. Mini-storage warehouse;
- Sheet metal shop;
- 7. Outdoor storage yard;
- 8. Billboard signs.
- e. Signage.
  - 1. Typical business signage shall be permitted without mandatory review by the planning and zoning commission and approval by the city council unless a proposed sign projects or extends over the public right-of-way, or a freestanding pole sign is proposed which is out of character with the prevailing height or size of similar signs, in which case planning and zoning commission review and approval by the city council shall be required. All signage within the district shall conform to the general requirements of this zoning chapter, with the exception that excessively tall freestanding signs (i.e., 30 feet or more in height) shall not be allowed.
  - 2. Exterior mural wall drawings, painted artwork and exterior painting of any structure within the commercial district shall be subject to review by the planning and zoning commission and approval by the city council for the purpose of considering scale, context, coloration, and appropriateness of the proposal in relation to nearby facades and also in relation to the prevailing character of the commercial district.

INTRODUCED:	April 1, 2019	
PASSED 1 <sup>ST</sup> CONSIDERATION:	April 1, 2019	
PASSED 2 <sup>ND</sup> CONSIDERATION:	_	
PASSED 3 <sup>RD</sup> CONSIDERATION:	_	
ADOPTED:		
	James P	. Brown, Mayor
ATTEST:		, •
Jacqueline Danielsen, MMC, City Clerk		



#### **MAYOR JIM BROWN**

CITY OF CEDAR FALLS, IOWA 220 CLAY STREET CEDAR FALLS, IOWA 50613 319-273-8600 FAX 319-268-5126

### MEMORANDUM

Office of the Mayor

TO: City Council

**FROM:** Mayor Jim Brown

**DATE:** April 8, 2019

**SUBJECT:** Reappointments

I am recommending the following reappointments:

Name:Board/Commission:Term Ending:MaryJane McCollum<br/>Bruce WingertBoard of Rental Housing Appeals (reappointment)05/01/2023Board of Rental Housing Appeals (reappointment)05/01/2023

#### COMMITTEE OF THE WHOLE

City Hall – Council Chambers April 1, 2019

The Committee of the Whole met in the Council Chambers at 6:00 p.m. on April 1, 2019, with the following Committee persons in attendance: Mayor Jim Brown, Tom Blanford, Frank Darrah, Susan deBuhr, Rob Green, Daryl Kruse, Mark Miller, and David Wieland. Staff members attended from all City Departments. Kamyar Enshayan Center for Energy & Environmental Education (CEEE) Director at the University of Northern Iowa (UNI) and Tom Nelson with the *Waterloo Courier* also attended as well as members of the community.

Mayor Brown called the meeting to order and introduced the first item on the agenda, Sustainability. Kamyar Enshayan CEEE Director stated this same presentation was given to the Cedar Falls Utilities Board of Trustees. He explained the Center at UNI is working with others for long-term energy plans to reduce emissions and make a plan for the future. He explained community members such as the City and Cedar Falls Utilities may make a plan to control emissions through energy/climate action plans. Mr. Enshayan explained the International Council for Local Environmental Initiatives (ICLEI) Regional Affiliate and the UNI Conservation Corps are working on the initiative. He explained planning and monitoring are necessary, which Cedar Falls Utilities has started to do. He said it will take a community wide effort to review residential and commercial/industrial energies, transportation, water and wastewater and sold wastes and hopes the City will make a plan. Mayor Brown opened it up for discussion. Mr. Enshayan stated an example of a strategy would be for new buildings to require solar energy installed. Ron Gaines, City Administrator stated this may be topic for Council Goal Setting in the fall.

Mayor Brown introduced the final item on the agenda, bills and payroll. Rob Green moved to approve the bills as presented, Mark Miller seconded the motion. The motion carried unanimously.

There being no further discussion, Mayor Brown adjourned the meeting at 6:27 p.m. The motion carried unanimously.

Minutes by Lisa Roeding, Controller/City Treasurer

#### CITY COUNCIL WORK SESSION

Cedar Falls Duke Young Conference Room April 1, 2019

The City Council held a special work session in the Duke Young Conference room at 5:00 p.m. on April 1, 2019, with the following persons in attendance: Mayor Jim Brown, Tom Blanford, Susan deBuhr, Rob Green, Daryl Kruse, Mark Miller, and David Wieland. Staff members attended from all City Departments. Carol Lilly with Cedar Falls Community Main Street, Mary Madden with Ferrell Madden, Elizabeth Garvin with Community ReCode, and Keith Covington with Common Ground attended.

Mayor Brown then introduced the first item on the agenda, Downtown Visioning Project Priority Setting. Ron Gaines, City Administrator, introduced a few members of the consulting team; Mary Madden with Ferrell Madden, Elizabeth Garvin with Community ReCode, and Keith Covington with Common Ground. He stated they have reviewed branding and the target area of the study. He explained it will be an area larger than the downtown core area; extending from 1<sup>st</sup> Street to 18<sup>th</sup> Street and from the Cedar River west to into the residential area. Mr. Gaines reviewed the project process, which includes a public kickoff meeting on April 2<sup>nd</sup> and city staff hopes to wrap up the implemental part of the process by early 2020. He stated tonight's review is to set 'over-arching' priorities to help guide the project. He reviewed the recommended priorities. A brief discussion was held and the council was in consensus with the staff recommendations.

There being no further discussion, Daryl Kruse motioned to adjourn the work session, Rob Green seconded the motion, and the motion carried unanimously. Mayor Brown adjourned the meeting at 5:55 p.m.

Minutes by Lisa Roeding, Controller/City Treasurer

- 1. Create a thoughtful vision plan to manage change in the community over time.
  - Reflect on the past, consider the present, look to the future.
  - Respect the rich history and culture of Downtown Cedar Falls.
  - Maintain authenticity.
- 2. Vision will be based on broad community input, gathered through a robust community outreach process.
  - Re-affirm ongoing community efforts and explore new ideas.
- 3. Create a safe and welcoming process to explore new ideas.
  - Feedback is appreciated... and essential!
  - All ideas are welcome.
  - Think forward, what is your version of downtown?
  - What do you like about the past? Going forward?
- 4. Take into account market realities, changing demographics for all types of development, and diversity of uses.
  - Future Technology needs
  - Future Transportation needs
  - Future Housing needs
- 5. Build on our success! Maintain/foster a unique sense of place.
  - Historic main street character
  - Pedestrian-oriented Design
  - Explore the desired character of streets (State Street, Washington Street, Clay Street, etc.)
- 6. Encourage economic development based on the adapted vision.
  - Maintain/enhance existing properties
  - Encourage new development
  - Invest in public infrastructure to support the vision
  - Tailor financial incentives and economic development grants to support project that further public goals, provide elements of community benefit, or demonstrate exceptional design.
- 7. Establish clear and objective zoning standards to achieve the adopted community vision.

#### **CIVIL SERVICE COMMISSION**

City of Cedar Falls CEDAR FALLS, IOWA

April 10, 2019

Honorable Mayor and City Council City Hall, 220 Clay Street Cedar Falls, IA 50613

Dear Mayor Brown and Council Members:

The Civil Service Commission of the City of Cedar Falls, Iowa authorized administration of a testing instrument for the position of Public Safety Officer. Listed below are the names of the top ranked candidates with their written test score percentages, applicable Veteran's Preference percentage points, and total percentage points with preference, as applicable. Tied percentages are presented in alphabetical order by applicant name, if applicable.

Applic	cant Name	Overall <u>Test Score %</u>	Veteran's <u>Preference %</u>	Total % Points With Preference
1.	Lucas Schmidt	91		91
2.	Krystal Tucker	90		90

Respectfully Submitted,

John Clopton, Commission Chair

Sue Armbrecht, Commissioner

Vacant 4-10-19

Orig: Jacque Danielsen, City Clerk

Cc: Director of Public Safety Jeff Olson

Ass't Director of Public Safety/Ass't. Chief Berte

Civil Service Records



#### CEDAR FALLS DEPARTMENT OF PUBLIC SAFETY SERVICES

CITY OF CEDAR FALLS 220 CLAY STREET CEDAR FALLS, IOWA 50613

319-273-8612

#### **MEMORANDUM**

CAB

To: Mayor Brown, City Council

From: Jeff Olson, Public Safety Director/Chief of Police

Date: April 5, 2019

Re: Permit for BB Gun Range

The Boy Scouts of America, Waterloo Office is requesting a permit to use a fully enclosed Daisy BB Gun Range at Pheasant Ridge Golf Course on May 23<sup>rd</sup> for their annual Timeless Values Golf Classic. The range is an enclosed inflatable range with fabric and mesh backstop. These BB guns are described as a low velocity BB gun. There will be two fully certified NRA Range Instructors with one of the instructors being a certified Range Safety Officer. We will require that the Boy Scouts meet the insurance requirements of the city. Municipal Operations and Programs (MOP) have approved of the request.

The Scouts have used the inflatable range at another location recently. See the attached letter from the Scouts for more.

City Ordinance 16-15 does allow for a permit to be granted by city council for such use.

"...however, the city council may, upon written application, grant annual permits to groups, organizations or individuals approved by the city council allowing the permittees to conduct trapshoots, skeetshoots, archery or rifle ranges or special uses in certain areas designated by the permit and under conditions that will in no way endanger persons or property and under the supervision of the permittee."

We recommend approval of the permit.



Dear Mayor Brown and Cedar Falls City Council Members,

I would like to propose that the City of Cedar Falls grants the Winnebago Council, Boy Scouts of America the ability to use our fully enclosed Daisy BB Gun Range as a way to give golfers a fun and exciting "Scouting experience" at Pheasant Ridge Golf Course on Thursday, May 23, 2019, for our annual *Timeless Values Golf Classic*. This range uses Red Ryder BB Guns and will be operated by two (2) fully certified NRA Range Safety Instructors; one (1) of them is certified as a Range Safety Officer.



Daisy's unique inflatable BB Gun Range is powered by a small fan to inflate layers of fabric and mesh to keep BBs inside the range and provide a more than adequate backstop for the low velocity BB guns. The range features two shooting lanes with ample room for a shooter and instructor in each position. *Note: This verbiage was taken directly from the Daisy Order Form, page 2.* 

We recently used the range indoors at an event and there were no issues with loose BBs so I am very confident that we can make this work on the golf course.

Please consider this request with the idea that this is a charity tournament that is helping support the 3,200 youth we serve in 17 counties in northeast Iowa.

Respectfully,

Whitney Jackley Jensen Winnebago Boy Scouts of America

2929 Airport Boulevard Waterloo, IA 50703 319.234.2867 Fax 319.234.0153 Toll Free 877.754.4079 www.winnebagobsa.org

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#### **DEPARTMENT OF PUBLIC SAFETY SERVICES**

POLICE OPERATIONS CITY OF CEDAR FALLS 220 CLAY STREET CEDAR FALLS, IOWA 50613

319-273-8612

#### **MEMORANDUM**

**To:** Mayor Brown and City Councilmembers

**From:** Jeff Olson, Public Safety Services Director/Chief of Police

**Date:** April 9, 2019

**Re:** Special Event Related Requests

Police Operations has received the following special event related requests and recommends approval:

- a) Street closures, Shamrock Shuffle, April 27, 2019.
- b) Street closures, UNI Triathlon, April 28, 2019.
- c) Parking variance, Washington Street (Annual Friends of MercyOne Cedar Falls May Breakfast), May 14, 2019.
- d) Street closures, Iowa Shrine Bowl Parade, July 20, 2019.
- e) Street closures, College Hill Farmers Market, June 6, July 11, August 1, September 5 & October 3, 2019.



# **MEMORANDUM**

### CEDAR FALLS POLICE DEPARTMENT

REVISED: 12-03-2003

DATE: 04/05/2019

TO: <u>Director Olson</u>

FROM: Captain Sitzmann

SUBJECT: Shamrock Shufle 5K

Director Olson,

Chris Weidman has requested road closure for the annual Shamrock Shuffle 5K scheduled for April 27<sup>th</sup> at 0900 hours. The runners meet in the 200 block of West 7<sup>th</sup> St and run a route on city streets and the bike trails. They have requested closure of the 200 block of West 7<sup>th</sup> St.

This is an annual event for St Patrick School and there have been no traffic related problems associated with the event. The group has agreed to the barricade payment of \$75. I recommend approval of the request in its entirety. Patrol officers will once again assist with traffic control as needed for the event.

February 18, 2019

To: Cedar Falls Police Department

220 Clay Street

Cedar Falls, IA 50613

From: St Patrick School Shamrock Shuffle 5k

Re: Obtaining a variance for annual 5k Run

The annual St Patrick School Shamrock Shuffle 5k race will be held Saturday April 27<sup>th</sup>, 2019 beginning at 9:00 am on 7<sup>th</sup> Street next to the St Patrick School playground entrance. I am writing to obtain a variance for this event. Additionally, in the past, the Cedar Falls Police Department has been gracious enough to make officers available for traffic control at select intersections along the route as well as coordinating delivery of barriers to block the intersections of 7<sup>th</sup>/Clay and to block north/south traffic on Washington/ 7<sup>th</sup>. In past years, the officers have provided traffic control at the intersections of 7<sup>th</sup> and Main Street and 7<sup>th</sup> / State Street.

The race begins at St Patrick School, proceeds east bound across Main Street and State Street, past the Viking foundry, onto Grove street. It makes a brief turn on 12 street to Utility Parkway and then to Waterloo Road. It proceeds on the sidewalk on Waterloo Road to the bike path, turning northeast, under Hwy 58, past Pfeiffer Park to a turnaround on the South Riverside bike trail. The race returns along the same route.

Please contact me at your convenience to inform me of the variance as well as availability of officers to assist with traffic control. I can be reached via my cell phone 319-464-2545 or by email at christopherwiedman@yahoo.com.

I thank you in advance for your time, effort, and consideration.

Chris Wiedman

Combile

St Patrick Shamrock Shuffle planning committee



## **MEMORANDUM**

### CEDAR FALLS POLICE DEPARTMENT

REVISED: 12-03-2003

DATE: <u>4/8/2019</u>

TO: <u>Director Jeff Olson</u>

FROM: Lt. Martin Beckner

SUBJECT: UNI Triathlon on April 28th, 2019

The UNI Women's Swimming and Diving Team is sponsoring the First Annual UNI Triathlon on Sunday April 28<sup>th</sup>, 2019. The swimming and running portions of the event will be held entirely on UNI Campus. A portion of the bike event of the triathlon will take place along city streets. The triathlon committee is requesting the street closure of West 27<sup>th</sup> Street from west of the intersection with Hudson Road to the west city limits from 8:00 am until 12:30 pm. The affected intersections with West 27<sup>th</sup> Street include Panther Pkwy, Greenhill Rd, Union Rd, and the entrance to the Quarters Apartment Complex. The sponsors will have volunteers at these intersections for traffic control, and the UNI Police Department will be assisting with traffic control, and any traffic related issues near the intersections of 27<sup>th</sup> / Hudson and 27<sup>th</sup> / Panther. The length of the requested street closure is currently no-parking zones on both sides of the street.

I don't foresee any problems with this request. Traffic is usually light on Sundays, and there will be minimal traffic disruption with volunteers assisting vehicles crossing the intersections. The City of Cedar Falls has approved similar street closures for other events. Therefore, I would **recommend** approving this variance request.

Respectfully,

Lt. Martin M. Beckner

CT. Mats M



# **MEMORANDUM**

CEDAR FALLS POLICE DEPARTMENT

REVISED: 12-03-2003

DATE: <u>04/03/2019</u>

TO: <u>Director Olson</u>

FROM: <u>Captain Sitzmann</u>

SUBJECT: Parking Variance

Appleous Delays

Director Olson,

Martha Kroese, president of Friends of Cedar Falls Medical Center has requested a parking variance for their annual May breakfast. The event is planned for May 14<sup>th</sup> from 0600 to 0900 at the First United Methodist Church, 718 Clay St. The group has requested a parking variance allowing parking on both sides of Washington St in the 700 through 900 blocks. They have requested this variance from 0530 to 1100 hours.

This is an annual event for this group and there have been no traffic related problems in the past. I recommend approval of this request in its entirety.

### MERCYONE.

March 28, 2019

Chief Jeff Olson Cedar Falls Public Safety 220 Clay Street Cedar Falls, IA 50613

Dear Chief Olson:

The Annual Friends of MercyOne Cedar Falls May Breakfast (formerly Sartori May Breakfast) will be held on Tuesday, May 14, 2019 from 6:00 to 10:00 a.m. at the First United Methodist Church, 718 Clay Street. On that morning, we are expecting to serve breakfast to over 800 members of the Cedar Valley community.

To facilitate the parking needs of this many people, I am requesting that the city issue the following parking variance:

Parking allowed on both sides of Washington Street between 7<sup>th</sup> Street and 9<sup>th</sup> Street from 5:30 – 11:00 a.m. on Tuesday, May 14, 2019.

The May Breakfast is an annual fundraising event which provides scholarships for students pursuing health related careers and supports the MercyOne Cedar Falls Foundation's annual campaign. Money generated for hospital projects benefit not only MercyOne Cedar Falls Medical Center, but the citizens of the entire community as well.

Please review this request and notify me of your decision. I appreciate the cooperation and help of the city. Please feel free to contact me if you need further information at 268-3161.

Sincerely,

Martha Kroese Sartori Friends President

Coordinator of Special Events Christy Stolz

Friends of Cedar Falls Medical Center
515 College St
Cedar Falls, IA 50613
319.268.3161



# **MEMORANDUM**

### CEDAR FALLS POLICE DEPARTMENT

REVISED: 12-03-2003

DATE: 03/28/19

TO: Director Olson

FROM: Captain Sitzmann

SUBJECT: <u>lowa Shriner's Parade</u>

Director Olson,

Ashley Johnson, Executive Director of the Cedar Valley Sports Commission has requested road closure for the annual Shriner's parade. The parade is scheduled for July 20<sup>th</sup> at 0930 hours. After the parade, there will be a small social gathering in the open lot at 4<sup>th</sup> and Main St. I recommend approval of the request in its entirety. This is an annual event in our community and results in very few disruptions to business or street operations. The Sports Commission is aware of the charge for barricades and will make payment to the City Clerk's office prior to the event. 1<sup>st</sup> shift patrol will be responsible for setting up and taking down barricades as well as posting the no parking signs.

I recommend the following street closures during the following times.

Main St from 2<sup>nd</sup> to 8<sup>th</sup> from 0900 to the end of the parade. 7<sup>th</sup> St from Washington to Main St from 0900 to the end of the parade. 8<sup>th</sup> St from Clay to Main St from 0900 until the end of the parade.

4<sup>th</sup> St from Main to State from 0900 until 1130 hours. Main St from 3<sup>rd</sup> to 4<sup>th</sup> from 0900 until 1130 hours.

I also recommend approving a parking variance for the following locations and times.

Main St from 2<sup>nd</sup> to 6<sup>th</sup> St from 0600 until the end of the parade East 4<sup>th</sup> St from Main to State St from 0600 until 1130 hours. 7<sup>th</sup> St from Washing St to Main St from 0600 until 1130 hours. 8<sup>th</sup> St from Clay to Main St from 0600 to 1130 hours.



March 19, 2019

Chief Jeff Olson City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613

Dear Chief Olson,

On behalf of the Cedar Valley Sports Commission, Iowa Shriners and Community Main Street, I am requesting the closure of several streets during the Iowa Shrine Bowl Parade on Saturday July 20th, 2019 in Downtown Cedar Falls.

We request the closure of 7th Street from Washington to Main and 8th Street from Clay to Main for the staging of the parade beginning at 8:00AM. We also request the closing of Main Street from 8th to 2nd Streets for the parade route. The parade will begin promptly at 9:30AM. We would also like to request you post "No Parking from 6AM-Noon" signs along the parade route to eliminate safety issues with cars on Main Street during the parade. Following the parade, there will be a social gathering in the vacant lot at the corner of 4th and Main. We would like to block off 4th Street from State to Main and Main Street from 4th to 3rd Street immediately following the parade until 11AM for this gathering.

We appreciate your consideration of this request. If you have any questions or concerns, please do not hesitate to give me a call, or send over an email.

Sincerely,

Ashley Johnson Executive Director

Cedar Valley Sports Commission ashley@cedarvalleysports.org

(319) 493-5371

Carol Lilly Executive Director Community Main Street



# **MEMORANDUM**

CEDAR FALLS POLICE DEPARTMENT

REVISED: 12-03-2003

TO: Director Olson

FROM: Captain Sitzmann

SUBJECT: Colletge HIII Farmer's Market Request

Director Olson,

Kathryn Sogard, Executive Director of the College Hill Partnership, has requested a road closure and parking variance for five different dates for the Farmer's Market. The request includes closure of the 2200 block of College St from 1430 hours to 1830 hours on June 6<sup>th</sup>, July 11<sup>th</sup>, August 1<sup>st</sup>, September 5<sup>th</sup> and October 3<sup>rd</sup>. All of these dates are Thursdays.

Kathryn is aware of the barricade payments needed for the event. She has also volunteered a group to post the necessary no parking signs 48 hours in advance. I have been assured that other businesses on the College Hill have been consulted and are aware of this request.

The College Hill Partnership made a similar request last year and there were no known problems associated with the street closure and parking variance. I recommend approval of the request in its entirety.



March 11, 2019

To whom it may concern:

The College Hill Partnership in partnership with the College Hill Farmers Market requests to have College Street from W 22nd Street to W 23rd Street for the following dates:

June 6th
July 11th
August 1st
September 5th
October 3rd (Homecoming Week)

Date of road closure requested: June 6th, July 11th, August 1st, September 5th, October 3rd

**Event being held:** College Hill Farmers Market. College Hill Partnership worked with two other organizations for the College Hill Farmer Market Opening day and received very positive feedback from customers, neighbors, businesses, and the vendors of the Farmers Market about how much improved the market was when it was on the Hill. Because the first event was so well attended, worked to promote healthy choices, increased traffic to the Hill the College Hill Partnership and Farmers Market would like to host a few other markets on the Hill. There will not be any alcohol served in closure area. There will be kids events, games all within blocked off area, there will also be music played through sound system. Event will be held from 4pm-6pm.

**Purpose of Event:** Increase traffic to the Hill businesses, Promote healthy choices in the Cedar Valley, increase traffic to the College Hill Farmers Market, and promote community.

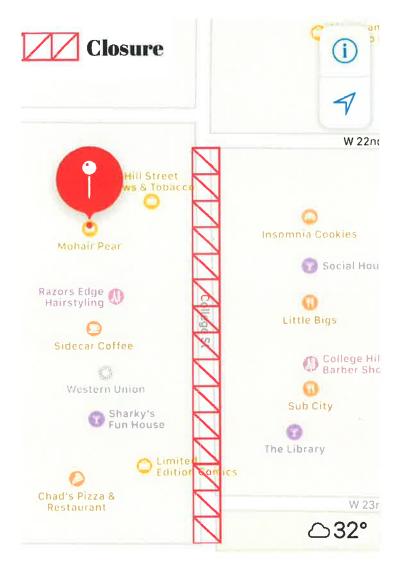
**Location of Road closure:** College Street from W 23rd Street To W 22nd Street (see map attached). To insure there is still ample parking for the Market and College Hill Businesses we would keep the parking lot South of 22nd Street open (when it would normally be closed to house the Farmers Market).

We are developing communication to local business managers/owners about the event there will be a formal communication email, and reminders delivered by the College Hill Partnership is in full the week prior to each event. There will no intersections being blocked and cars would not be permitted between the area of College Street being requested to close.

Request times to close street: College Street from 23rd Street to 22nd Street: 2:30pm-6:30pm on the two specific dates.

If there are any questions please contact Kathryn Sogard College Hill Partnership Executive Director at 319-830-6338, or collegehillpartnership@gmail.com.

Kathryn Sogard
College Hill Partnership Executive Director



--

Kathryn Sogard College Hill Partnership | Executive Director Cedar Falls, Iowa 50613

319-273-6228

www.collegehillpartnership.org Facebook | Twitter Instagram

#### GO PANTHERS!

[NOTICE: This message originated outside of the City Of Cedar Falls mail system -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]



#### **DEPARTMENT OF PUBLIC SAFETY SERVICES**

POLICE OPERATIONS CITY OF CEDAR FALLS 220 CLAY STREET CEDAR FALLS, IOWA 50613

319-273-8612

#### **MEMORANDUM**

**To:** Mayor Brown and City Councilmembers

**From:** Jeff Olson, Public Safety Services Director/Chief of Police

**Date:** April 11, 2019

**Re:** Beer/Liquor License Applications

Police Operations has received applications for liquor licenses and/ or wine or beer permits. We find no records that would prohibit these license and permits and recommend approval.

#### Name of Applicants:

- a) Hy-Vee Clubroom, 6301 University Avenue, Special Class C liquor renewal.
- b) Jorgensen Plaza (Table 1912, Diamond Event Center and Gilmore's Pub), 5307 Caraway Lane, Class C liquor, Class B wine & outdoor service renewal.
- c) Mary Lou's Bar & Grill, 2719 Center Street, Class C liquor renewal.
- d) The Horny Toad American Bar & Grille, 204 Main Street, Class C liquor renewal.
- e) ZSAVOOZ, 206 Brandilynn Boulevard, Class C liquor & outdoor service renewal.
- f) CVS/Pharmacy, 2302 West 1st Street, Class E liquor renewal.
- g) Prime Mart, 2728 Center Street, Class E liquor renewal.

# C·E·D·A·R F·A·L·L·S Town

#### **DEPARTMENT OF FINANCE AND BUSINESS OPERATIONS**

CITY OF CEDAR FALLS, IOWA 220 CLAY STREET CEDAR FALLS, IOWA 50613 319-273-8600 FAX 319-268-5126

#### INTEROFFICE MEMORANDUM

Information Systems Division

TO: Mayor Jim Brown and City Council MembersFROM: Julie Sorensen, Information Systems Manager

**DATE:** April 10, 2019

**SUBJECT:** Purchase of Phone System

The City's current Avaya phone system is ten years old and is currently end of support. Therefore, we felt it best to investigate options to upgrade the phone system this year to replace the current system. After investigation, we felt the RFP needed to include options like real-time communication tools (instant message) along with the traditional non real-time services (phone and fax). These new tools needed to incorporate options that allow our workers to work from anywhere (desk sharing and inspectors on the go).

We sent the RFP out in December and planned for individual site visits for each vendor to come in and gather information needed to prepare their quote.

We developed a score sheet to evaluate each vendor. I've included the score sheet as an attachment to make you aware of the items were looking at when we evaluated each vendor. We received six bids back, and the network administrator and I scored all of the quotes.

We asked the vendors with the two highest scores to give a demonstration to the administrative staff supervisor, finance director, network administrator and myself. We narrowed the list to just two vendors because the third highest score was quoting a cloud based system. After investigation into whether we can have an exclusively cloud based system for the Criminal Justice Information Systems it was decided we could not, therefore, we didn't ask for a demo from that vendor.

Here are the top three average scores with their quotes:

Vendor	Ave Score	Cost
Advanced Systems	106	Total cost of equipment, software and installation: \$101,977.50
		5 year cost of maintenance & support: \$44,75.00
		Total 5 year cost of ownership: \$146,452.50
Marco	109	Total cost of equipment, software and installation: \$100,155.78
		5 year cost of maintenance & support: \$41,720.00
		Total 5 year cost of ownership: \$141,875.78
Carrier Access -cloud	89.5	Equipment and Installation: \$31,898.17
based option		5 year maintenance and service fee: \$161,994.00
		Total 5 year cost of ownership: \$193,892.17

After attending demos we met as a team and jointly agreed that Marco Mitel phones had the best options as far as the phones and features. They were the highest average score and the lowest of the top three vendors in cost. In addition to discussing which vendor had the best features, we also discussed the City's policy for giving preference to local vendors. The policy currently states that the quotes have to be the **equal** in order to implement the policy; the above quotes although very close are not equal. Therefore, we are suggesting that we go with Marco and the Mitel phone system as our next phone system.

We would like to move forward by signing the attached relationship agreement. The relationship agreement has been reviewed by City Attorney Rogers and is attached for your approval.

If you have any questions or concerns regarding this purchase, please feel free to contact me at 268-5111.

Attachments: City of Cedar Falls Phone System RFP Scoring Instrument Marco Relationship agreement

# City of Cedar Falls Phone System RFP Scoring Instrument

Vendor:	Date:
System:	Evaluator:

	Do into		
Technical Specifications /	Points		
Technical Specifications / Scope of Services	Awarded (1-5)	Weight	Total
Scope of Services	(1-5)	weight 2	TOtal
		2	
Capability to easily administer the system			
Functionality of standard equipment and features to meet		3	
our specific needs:			
Desk phones/find me follow me  Availability of out above.			
Availability of soft phones     UCC			
Conference phones			
Dial in conference numbers			
System can easily grow and expand for additional users		2	
and also for additional functionality.			
		3	
Ability to save communications costs by using Internet		· ·	
Technologies			
		3	
_ , , .			
Ease of use for end users		2	
		2	
Product quality, reliability, and warranty plan			
Vendor Qualifications/overall reputation in the		3	
industry.			
		2	
Experience and expertise with the product being			
offered Service and support resources, including training by the		•	
vendor for installation and maintenance, and also		3	
availability of on demand training or training materials for			
new users and administration staff.			
		1	
Certified vendor relationship with product manufacturer			
Booitive references where similar systems have been		1	
Positive references where similar systems have been installed			
THE STATE OF THE S			
TOTAL			

# **MARCO RELATIONSHIP AGREEMENT**

THIS RELATIONSHIP AGREEMENT ("Agreement") is entered into and effective as of the last date affixed to any signature hereto ("Effective Date") by and between MARCO TECHNOLOGIES, LLC with a principal place of business at 4510 HEATHERWOOD ROAD, ST. CLOUD, MN ("Marco") and CITY OF CEDAR FALLS with a principle place of business at 220 Clay St, Cedar Falls, IA 50613 ("Client") (individually, "Party," and collectively, "Parties").

This Agreement governs Marco's relationship with Client for the provision of services ("Services"), Equipment and other goods ("Equipment"), Software ("Software") and Incidentals (collectively, "Products"), as applicable, under certain Statement of Work Agreement(s) or other Addenda ("SOW(s)") between the Parties. The term "SOW" also includes schedules to any SOW, including but not limited to, Change Orders, Schedule(s) of Products ("SOP"), Service Level Agreements ("SLA") and Service Level Targets ("SLT"). This Agreement is incorporated by reference and made part of any SOW between the Parties. In the event of an express conflict between or among the provisions of this Agreement and any SOW, the inconsistency shall be resolved by giving precedence in the following order: (1) the SOW but solely with respect to the Products covered by that SOW; and (2) this Agreement.

#### 1 Purchases, Prices and Payment.

- 1.1 Marco agrees to provide and Client agrees to purchase, lease or license (as applicable) the Services and Equipment (as applicable), as well as License(s) (as defined in the Product Agreement(s)) for any Software at the price stated in the SOP ("Price"). Client shall pay Marco's then prevailing rates for any Incidentals as defined in the Product Agreement. Marco's right to increase the Price to Client is set forth in each Product Agreement ("Price Increase").
- 1.2 Client shall pay all invoices within thirty (30) days of the invoice date. Client shall pay a late fee of 1.5 percent (or the highest rate permitted by law) per month on any amounts not paid in a timely manner. Client shall pay for all costs and expenses, including reasonable attorney and expert fees, incurred by Marco in enforcing its rights for payment under this Agreement and any SOW. Client shall pay all sales, use, excise, value added or other taxes; duties, levies or fees assessed by any government or other authority resulting from its relationship with Marco under this Agreement and any SOW, except for taxes imposed on Marco's income. Client shall not withhold any Marco Property (defined below) or payment due under this Agreement, any SOW, or any other agreement or purchase order with Marco, for set off or reduction for any purpose whatsoever.
- 1.3 In the event Client disputes any portion of an invoice in good faith, Client shall pay the undisputed portion of the invoice by the date the invoice is due, and shall submit to Marco a written explanation for the disputed amount, setting forth with specificity Client's grounds for such dispute. Client must submit its written dispute to Marco within thirty (30) days of receipt of the invoice or such dispute shall be deemed waived and invoices shall be deemed correct. In the event that the dispute is resolved against Client, Client shall pay all outstanding amounts plus interest at the rate referenced in, and calculated in accordance with, subsection 1.2 above.
- 1.4 If Client and Marco enter into a lease relating to any Equipment provided by Marco (an "Equipment Lease"), Client's obligations with respect to the lease of such equipment shall be solely governed by the Equipment Lease. Marco may assign any Equipment Lease to a third party leasing company or require that the Client enter into a lease directly with such leasing company, if Client chooses to obtain financing through Marco.

- Marco Property. In addition to the Products, Marco may place at Client's site or otherwise provide equipment, other goods, materials/supplies and/or similar items, software, information and Intellectual Property (defined below) owned by Marco or a third party, for the purposes of carrying out a SOW (collectively, "Marco Property"). Such placement or provision of Marco Property shall not create any rights of ownership in Client or any third party. Client shall use reasonable care with Marco Property, but no less care than Client uses with respect to its own property. Client shall protect Marco Intellectual Property (defined below) from infringement, misappropriation or other violation and/or damage. Client shall return Marco Property upon Marco request and in accordance with the requirements under the section titled, Effect of Termination or Expiration, below.
- Client Equipment. In the course of a SOW, certain parts, materials, equipment, computers, software, operating systems, switches, routers, drives, firewalls, databases, backup systems, networks, internet connectivity, information and other items owned by Client, or provided by a third party to Client, will be used or required for the effective and efficient provision or use of the Products ("Client Equipment"). Client agrees to maintain Client Equipment in good working order and repair, and in compliance, with applicable law and industry standards for the effective and efficient provision and use of the Products. If the Parties agree that certain Client Equipment will be removed in order for Marco to provide, and Client to use, the Products in an effective and efficient manner, Client shall not reinstall or redeploy such items.
- 4 Use. Client agrees not to use or permit third parties to use the Product(s) and Marco Property, for any illegal purpose, or to achieve any kind of unauthorized access, such as to any computer systems, software, data, real, personal, or Intellectual Property, or other copyright or patent protected material. Client agrees not to interfere with other clients' use of Marco provided services, equipment, other goods, or software and not to disrupt the Marco network, connectivity, infrastructure or other services whether provided directly by Marco or through Marco suppliers or contractors. Marco authorizes Client's use of the Products and any Marco Property subject to the terms of this Agreement and the SOW(s), and conditioned on Client's performance of its obligations thereunder. This authorization is nontransferable. Client shall access and use (and shall cause its Representatives (as defined below) to access and use) the Products and Marco Property ONLY: a) as permitted by, and in accordance with its obligations under this Agreement and the applicable SOW and any License; b) for their intended purposes; c) in a manner which prohibits repeated negligent error; d) as permitted by, and in accordance with, the specifications of the manufacturer, publisher, or vendor of the Products; e) in a commercially reasonable manner for its own internal business; f) in a manner that does not violate any Intellectual Property right of Marco or any third party; g) for legitimate and lawful business purposes; and h) as permitted by law. Client shall not alter, modify, tamper with, make derivative works from, license, distribute, rent, lend, publish, reverse engineer, decode, and attempt to derive the source code of or reproduce the Products or Marco Property. Client shall take all reasonable action necessary to stop the violation or threatened violation of this Section and cause its Representatives to be bound by and comply with this Section. Violation of any part of this section is grounds for Marco's immediate termination of this Agreement and/or all SOWs in addition to any other rights or remedies Marco may have in law or equity.
- Client Content. Client acknowledges that Marco exercises no control whatsoever over the content of the information passing through Client's equipment, network, and sites and that it is the sole responsibility of Client to ensure that the information it and its Representatives or any third party transmit(s) and receive(s), is for legitimate business purposes and complies with all applicable laws and regulations.
- 6 Internet Services Provider. Unless otherwise indicated in a Marco Managed WAN SOW, Marco is not Client's Internet Services Provider (ISP). At times, actions or inactions of third parties can impair or disrupt Client's connections to the Internet (or portions thereof). Marco cannot guarantee that such

events will not occur. Accordingly, Client is solely responsible for all Losses (as defined below) resulting from or related to such event.

- **Backup.** Unless otherwise agreed in a Marco Managed Backup SOW, Marco's provision of the Products does not replace the need for Customer to maintain reliable, regular data backups and redundant archives ("Reliable Backup"). Client shall maintain such Reliable Backup during the Term and any Renewal Term of this Agreement and any SOW.
- **Software Licenses and Other Agreements.** Client shall enter into, maintain, comply with and be bound by such licenses, agreements or other prerequisites of third party software publishers/ vendors or equipment manufacturers for the Products (collectively, "Licenses").
- 9 Warranty. Marco represents and warrants that it will provide the Services in a good and workmanshiplike manner and that the Services will meet any applicable generally accepted industry standards. Client shall also be entitled to any warranty, which is extended to Marco by the Equipment manufacturer or Software publisher/vendor, and assigned by Marco to Client, in connection with this Agreement and the applicable SOW. EXCEPT AS EXPRESSLY STATED IN THIS SECTION, MARCO PROVIDES ALL THE PRODUCTS, MARCO PROPERTY AND REPAIRS "AS IS." MARCO DOES NOT PROVIDE AND EXPRESSLY DISCLAIMS ANY WARRANTY OF ANY KIND RELATING TO THE PRODUCTS, MARCO PROPERTY AND REPAIRS, EXPRESS OR IMPLIED, STATUTORY OR OTHER, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT AND ALL WARRANTIES WHICH ARISE FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, CLIENT ACKNOWLEDGES AND AGREES THAT NO TECHNOLOGY IS FOOLPROOF OR IMMUNE FROM ATTACK. MARCO CANNOT MAKE AND EXPRESSLY DISCLAIMS ANY WARRANTY, EXPRESS OR IMPLIED, THAT THE PRODUCTS, MARCO PROPERTY, THE REPAIRS, OR ANY RESULTS OR USE THEREOF WILL OPERATE WITHOUT INTERRUPTION, SECURELY, ERROR FREE, WITHOUT DEFECT, FREE OF HARMFUL CODE, THIRD PARTY DISRUPTION OR THAT MARCO WILL CORRECT ALL DEFECTS. No statement or writing of any Marco officers, directors, employees, agents or contractors (collectively, "Representatives") will create any warranty or obligation whatsoever not set forth in this section.
- Incidental Services and Goods. Client may request that Marco perform services or provide goods outside the scope of a SOW or not meeting the Minimum Specifications ("Incidentals"). Marco may provide the Incidentals in its sole discretion. Such Incidentals are not part of the Price. Client shall pay Marco's then current prices for Incidentals, including but not limited to: time, materials and labor, which shall be charged at a minimum of fifteen (15) minutes for each request. Marco shall respond to each Incidental requested on a onetime occasion limited to thirty (30) minutes. Marco provides any Incidentals "AS IS," in accordance with the Agreement AND WITHOUT EXPRESS OR IMPLIED WARRANTY OF ANY KIND as a courtesy to Client. Client's purchase and Marco's provision of any Incidentals is subject to all of the Client obligations, but none of its rights, and all of the Marco rights, but none of its obligations, under this Agreement.
- Defects. Marco shall have no liability for any malfunction, deficiencies or defects (collectively, "Defects") on any Equipment, Software, Incidentals or Losses resulting from such Defects. Unless otherwise expressly stated in a SOW, any and all rights or remedies Client may have regarding the ownership, licensing, performance, specification, legal or other compliance or warranty of the Equipment, Software or Incidentals, are limited to those rights set forth under the section titled, Warranty, and subject to the limitations of liability in this Agreement and the applicable SOW.
- **12 Intellectual Property.** Each Party is, and shall remain, the exclusive owner of its intellectual property (including patents, trademarks, copyrights, trade secrets, works of authorship, inventions and other

proprietary information) (collectively, "Intellectual Property") and Confidential Information (defined below), whether existing prior to or following the Effective Date of this Agreement. Marco hereby grants Client a non-exclusive, royalty-free license during the Term of this Agreement to use Marco Intellectual Property disclosed to it solely and only to the extent necessary for using the Services and Equipment. Except as provided herein, nothing in this Agreement or any SOW shall be construed as transferring the rights to ownership or use of either Party's Intellectual Property or Confidential Information to the other Party, its Representatives or any third party.

- 13 Confidential Information. Each Party shall maintain the confidentiality of and use the other's Confidential Information only for carrying out its rights and performing its obligations under this Agreement and the applicable SOW(s). The Party receiving Confidential Information shall disclose it only to its Representatives who need to know the information in order to carry out this Agreement and the applicable SOW(s). The Party receiving Confidential Information shall cause its Representatives to be bound by and comply with this Section and shall be liable to the disclosing Party for such Representatives' noncompliance. Confidential Information includes, but is not limited to, trade secrets; technology; financial information; know how; business plans; customer lists; Client data; works of authorship; inventions; research and development; information specific to the Company's products (and applications thereof), operations, infrastructure, network, systems, and related methods and plans; and any information disclosed in any manner which is marked "Confidential" or a like designation, is disclosed in circumstances of confidence, or should be understood by the Parties, using commercially reasonable care, to be confidential. Confidential Information does not include information that a) was known or possessed by the receiving Party before receipt from the disclosing Party; (b) is or becomes a matter of public knowledge through no breach of this Agreement; (c) is lawfully available or received from a third party without confidentiality obligation; (d) is authorized to be disclosed by a third party with the right to do so; (e) is independently developed by the receiving Party without the use of the disclosing Party's Confidential Information; or (f) is required by law to be disclosed by the receiving Party, provided that the receiving Party shall give the disclosing Party immediate written notice of any efforts to compel disclosure and reasonable assistance in obtaining an order or other relief protecting the Confidential Information.
- **Compliance with Laws.** Each Party agrees to comply with all laws, ordinances, regulations and rules applicable to it relating to this Agreement and any SOW. Client shall not resell, transfer or export any of the Products, or any data derived therefrom, in violation of any United States or foreign law, including export laws.
- **Communication and Notices.** Notices, requests and consents under this Agreement shall be provided in writing to the Parties at the address(es) provided below, or to such other address(es) as is provided in writing, and are effective upon personal delivery; electronic confirmation of facsimile; or three (3) days' after posting by certified mail, return receipt requested.

MARCO: STEVE KNUTSON, CTO/CIO

MARCO TECHNOLOGIES, LLC 4510 HEATHERWOOD RD ST. CLOUD, MN 56301

With a copy to:

**CLIENT:** 

ANGELA TYCZKOWSKI, GENERAL COUNSEL

MARCO TECHNOLOGIES, LLC 3000 N POINTER ROAD APPLETON, WI 54911

Julie Sorenson

#### CITY OF CEDAR FALLS 220 Clay St, Cedar Falls, IA 50613

Indemnification. Subject to the limitations set forth herein, each Party shall defend, indemnify and hold harmless the other and its Representatives from and against third party (other than an indemnitee affiliate) demands, claims, actions, suits, or similar proceedings ("Claim(s)") for Losses, as defined below, to the extent caused by the indemnifying Party's (a) material breach of this Agreement or any SOW; or (b) negligent, reckless, or willful acts or omissions; or c) allegations that the Services or the use thereof infringe on any U.S. intellectual property right.

Loss or Losses means any and all costs, expenses, damages, liabilities, fees (including reasonable attorney and expert fees), penalties, fines, or judgments of any kind or nature whatsoever. The Party requesting indemnification shall promptly notify the indemnifying Party of its potential right to defense and indemnification in a writing detailing the basis for the request and the third party Claim. If it accepts the defense, the indemnifying Party shall control the defense and resolution of the Claim, including the selection and retention of counsel. The Party requesting indemnification shall cooperate in the defense and resolution of any Claim. Failure to provide such cooperation shall relieve the indemnifying Party of its obligations under this Section. The Party requesting indemnification may participate in and observe the defense and resolution of any Claim with its own counsel at its sole cost and expense. The indemnifying Party shall not settle the Claim in a manner that materially adversely affects the indemnified Party without its consent, which shall not be unreasonably withheld.

The foregoing obligation shall not apply to the extent that (i) any alleged infringement is based upon any modification of the Services not made by Marco; (ii) use of the Services in combination with any third party products or services, if such infringement, misappropriation, or violation would not have happened but for such combination; or (iii) any use of the Services Client or its Representatives that is not expressly authorized by Marco. In the event that a third party files a claim, suit, action or proceeding alleging that any Services infringes, misappropriates, or violates such third party's intellectual property rights, or in the event Marco considers such a filing reasonably likely, Marco may, at its sole option, (a) modify such Service(s) to make it non-infringing, or replace the Service(s) with non-infringing alternative(s) of equal or greater functionality; (b) procure from the relevant third party the right for Client to continue to use the Service(s) under the terms of this Agreement; or (c) immediately terminate this Agreement and/or any affected SOW(s) and SOP(s) upon written notice to Client, in which case Client shall (and shall cause its Representatives) to promptly cease all use of the Service(s). THIS SECTION STATES THE ENTIRE LIABILITY OF MARCO, AND THE EXCLUSIVE REMEDY OF CLIENT, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHTS.

Limitation of Liability. In NO EVENT SHALL MARCO OR ITS REPRESENTATIVES BE LIABLE TO CLIENT, ITS REPRESENTATIVES OR ANY THIRD PARTY FOR (A) CLAIMS OR LOSSES RESULTING FROM CLIENT'S OR ITS REPRESENTATIVES': VIOLATION OF THIS AGREEMENT OR ANY SOW, DELAY OR FAILURE TO PERFORM ANY OBLIGATIONS THEREUNDER, ACTIONS OR DIRECTIONS WHICH AFFECT MARCO'S ABILITY TO EFFECTIVELY AND EFFICIENTLY PROVIDE OR CLIENT AND ITS REPRESENTATIVES ABILITY TO USE THE PRODUCTS, ANY SUSPENSION, DOWNTIME, SERVICE LIMITATIONS, REMEDIATION, OR DEFECTS OR (B) ANY LOSS OF PRODUCTION, USE, DATA, BUSINESS, REVENUE, OR PROFIT; OR (C) ANY INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR ENHANCED DAMAGES, WHETHER ARISING OUT OF CONTRACT, TORT, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORIES WHATSOEVER, AND REGARDLESS OF HAVING BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR WHETHER SUCH DAMAGES WERE FORESEEABLE. WITH RESPECT TO PARAGRAPH 17(C), SUCH LIMITATION SHALL ONLY APPLY TO THOSE CLAIMS THAT ARE NOT LIMITED BY IOWA ADMINISTRATIVE CODE CHAPTER 120, 11-120.5(1)(a). (d). ALSO

WITH RESPECT TO PARAGRAPH 17(C), SUCH LIMITATION SHALL APPLY TO BOTH MARCO AND CLIENT, AND THEIR RESPECTIVE REPRESENTATIVES. NOTHING STATED IN THIS AGREEMENT SHALL BE CONSTRUED AS A WAIVER OF CLIENT'S GOVERNMENTAL IMMUNITIES.

IN NO EVENT SHALL MARCO AND ITS REPRESENTATIVES' COLLECTIVE AGGREGATE LIABILITY FOR ANY CLAIMS OR LOSSES (AS DEFINED ABOVE AND WHETHER IN CONTRACT, TORT, STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY) EXCEED THE AMOUNT PAID OR PAYABLE TO MARCO IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE WORK UNDER THE SOW WHICH GAVE RISE TO THE CLAIM(S).

Term and Termination. Unless terminated earlier as described below, this Agreement shall be in effect for three (3) years commencing on the Effective Date ("Term"), and shall automatically renew for successive one (1) month periods (each a "Renewal Term") unless either party provides the other with at least sixty (60) days written notice of its intent not to renew prior to the end of the Term or Renewal Term. Either Party may terminate this Agreement and any SOW if: (a) it is required by law to do so; or (b) if the other Party materially breaches this Agreement or a SOW and such breach (other than payment obligations) is not cured within thirty (30) business days or such longer period to which the Parties mutually agree; or (c) upon the institution by or against the other Party of insolvency, receivership, bankruptcy, assignment for the benefit of creditors, or similar proceedings. Any such termination shall not relieve Client from its payment obligations.

Notwithstanding the foregoing, in the event that any SOW remains in effect following the expiration or termination of this Agreement, this Agreement shall continue to be in effect and govern such remaining SOWs until their expiration or termination.

- Suspension of Products or Credit. Marco may suspend, terminate, repossess or otherwise deny Client and any of its Representatives access to or use of the Products (collectively, "Suspension") and suspend or terminate Client's credit ("Credit Hold") without liability if: a) it is required by law to do so; or b) if Client materially breaches this Agreement or any SOW. Client's failure to timely pay shall be a material breach. Upon Suspension, Client shall immediately cease, and cause its Representatives to cease, access and use of the Products, until further notice from Marco. Any Suspension or Credit Hold shall not terminate this Agreement or any SOW, nor relieve Client from its payment obligations, which shall continue during any Suspension or Credit Hold.
- 20 Effect of Termination or Expiration. Upon termination or expiration of this Agreement or a SOW, except as expressly identified under, Term and Termination, above: (a) Client shall no longer have access rights, privileges, and authorizations to the Services; (b) at its sole expense, Client shall: (i) cease using Marco Property, the Services, Software, and any Incidentals (not owned by Client); (ii) uninstall and return the Software; (iii) return the Marco Property; and (c) following the disclosing Party's request, the receiving Party shall return or destroy (and certify the return or destruction of) the disclosing Party's Confidential Information and all copies or embodiments thereof, as directed by the disclosing Party. Client shall pay the published list price for any Marco Property which Client fails to timely return.
- Changes and Enhanced Services. Marco reserves the right in its sole discretion to make changes to the Products and Marco Property to maintain or enhance the quality, delivery, efficiency, effectiveness or performance thereof to its clients. Either Party may request changes to its rights or obligations under a SOW by providing the other a writing detailing the requested change through the project manager identified in the affected SOW. The Party receiving the request shall respond in a writing either detailing the terms and conditions which apply to the requested change or denying the request.

- Dispute Resolution, Venue, and Governing Law. If a dispute arises out of or relates to this Agreement or any SOW, the Parties agree to engage management in direct discussions in good faith to attempt to resolve the dispute. If a resolution cannot be reached through such discussions, the parties agree to engage in nonbinding mediation to attempt to resolve the dispute. Client shall not bring, or join any class action of any kind in court or in arbitration. Nothing in this Section shall prohibit either party from seeking injunctive relief from any authority authorized by law to grant it. This Section does not prohibit Marco from enforcing any claim for payment in any court or other forum. This Agreement shall be governed and construed I accordance with the laws of the State of Iowa.
- Assignment, Successors, Beneficiaries. Neither party may transfer, sell, resell, export, or sublease the Products, this Agreement, any SOW, or any right or obligation arising thereunder, in whole or in part, without the written consent of the other party, including, without limitation, by operation of law, upon plan of merger, or upon Client being acquired or selling substantially all of its assets. The Parties agree that there shall be no third party beneficiaries to this Agreement or any SOW. Subject to the foregoing, this Agreement, the SOW(s), and SOP(s) shall be binding on and inure to the benefit of the Parties successors and permitted assigns.
- Independent Contractors. The relationship between the Parties is that of independent contractors. Nothing in this Agreement or any SOW shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the Parties. Unless expressly provided herein or in a SOW, neither Party shall have the authority to act on behalf of or to bind the other.
- Nonsolicitation. Client agrees not to solicit, hire, or otherwise engage in any like activity in any manner whatsoever, directly or indirectly, with any of Marco's employees during the term of this Agreement or any SOW and for a period of one (1) year after it expiration or termination. For each breach by Client of the forgoing restrictions, Client will pay Marco an amount equal to any recruitment or referral fees paid by Marco for such employee and the base salary and bonus earned by such employee during the twelve (12) months preceding Client's breach of the forgoing restrictions.
- **Force Majeure.** Neither party shall be liable for or be in breach of this Agreement or any SOW, with the exception of the duty of the Client to make payment, for failure or delay in performance caused by circumstances beyond its reasonable control, including, but not limited to, acts of God, flood, fire, earthquake, war, terrorism, strikes or other labor or industrial disturbances, governmental action, or interruption of, delay in, or inability to obtain on reasonable terms and prices adequate power, telecommunications, transportation, raw materials, supplies, goods, equipment, Internet or other services.
- **Severability.** If any provision of the Agreement or any SOW is held invalid by any law, order or regulation of any government or other authority, or by the final determination of any court, such invalidity will not affect the enforceability of any other provisions not held to be invalid.
- **Remedies**. Unless and to the extent provided otherwise and subject to the limitations of liability herein, all remedies set forth in this Agreement will be cumulative, in addition to, and not in lieu of any other remedies available to either Party at law, in equity or otherwise, and may be enforced concurrently or from time to time.
- **29 Headings, Survival, and No Waiver.** Headings are for convenience only and are not part of this Agreement. Any term in this Agreement or any SOW by its nature designed to survive completion,

expiration, or termination of the Agreement or SOW shall so survive. The failure of Marco at any time to require performance by Client of any provisions of this Agreement or a SOW will in no way affect Marco's right to require performance of that provision nor be construed as a waiver of any Marco right under this Agreement or the SOW.

- **Counterparts.** This Agreement and any SOW may be executed in two or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument. The execution and delivery of counterparts may be accomplished by email or tele facsimile.
- 21 Entire Agreement and Amendment. This Agreement and the applicable SOW(s) constitute the entire understanding between the Parties relating to the subject matter thereof and supersede and replace any and all prior discussions, agreements, understandings, promises, and representations whatsoever, whether oral or written, express or implied, between the Parties. Purchase or work orders or other similar writings (regardless of their date) of Client or a third party on Client's behalf shall not change this Agreement or any SOW and shall not be binding on Marco or its Representatives whatsoever. Except as expressly stated herein, no modification of or amendment to this Agreement or any SOW will be effective unless in writing and signed by a duly authorized representative of both Parties.
- This Agreement shall not be effective unless and until approved by the City Council of the City of Cedar Falls.

**IN WITNESS WHEREOF**, the parties have each caused this Agreement to be signed and delivered by its duly authorized officer or representative on the date set forth at the beginning of this Agreement.

MARCO TECHNOLOGIES, LLC	CITY OF CEDAR FALLS
By: Da Uy	Ву:
Name: Dan Urzendowski	Name:
Title: Regional Sales Manager	Title:
Date: 4/10/19	Date:

#### **DEPARTMENT OF MUNICIPAL OPERATIONS & PROGRAMS**



#### CITY OF CEDAR FALLS, IOWA

220 CLAY STREET
CEDAR FALLS, IOWA 50613
PHONE 319-273-8600
FAX 319-268-5126
www.cedarfalls.com

#### MEMORANDUM

TO:

Mayor James P. Brown and City Council

FROM:

Mark Ripplinger, Director of Municipal Operations & Programs

DATE:

April 12, 2019

**SUBJECT:** Lease approval – Flood buyout properties

Residents often express an interest in leasing the vacant parcels of land which are part of a periodic flood buyout program, for additional open green space adjacent to their property or to plant gardens. In the past there were only a few parcels that were desirable. However, after the 2008 flood event removed numerous structures in established neighborhoods, interest in leasing grew.

Attached to this cover memo is a lease requiring approval from the City Council. The individual who signed the lease provided the City with the necessary liability insurance coverage in order to utilize the property.

MOP and the Park Division Staff believe the leasing program is very beneficial not only for the neighbors, but the City as well. The parcels are mowed and maintained by the lessees during the growing season, which saves maintenance dollars and allows park staff to spend time maintaining higher priority properties.

The Department of Municipal Operations & Programs recommends that the City Council approve these leases. Let me know if you have any questions or comments.

#### CITY OF CEDAR FALLS LEASE

PARCEL NO.	8914-01-104-01	15 & 8914-01-104-015	
LEASE NO.	PK-2021-002	COUNTY:	Black Hawk
by and betweer purpose of this Iowa 50613, a the purpose of t	EASE, made and entered in CITY OF CEDAR FALL lease, is c/o Cedar Falls Reand Paula deBuhr this lease is 428 Long ties agree as follows:	S, IOWA ("Landlord"), wl ecreation Center, 110 E. 13 <sup>t</sup> ("Tenant")	hose address, for the <sup>h</sup> Street, Cedar Falls, ), whose address for
	MISES AND TERM. in Black Hawk County, Iov		t the following real
	ADDITION LOT 12 ADDITION LOT 14		
Cedar Falls, Iou day ofJa	which is locally known a wa 50613 (hereinafter the "anuary, 2018, and ending condition that Tenant perfo	Premises"), for a term beg g on the <u>31st</u> day of _	inning on the <u>1st</u> <u>December</u> ,
2. <b>REN</b> \$1.00, in advan	T. Tenant agrees to pay lee.	Landlord as rent for the Le	ease term the sum of
	ns shall be paid at the ad lesignate in writing.	ldress of Landlord, or at	such other place as
	SESSION. Tenant shall be a shall yield possession to L	-	•
commercial versidential propulations, hard or stored on the vegetable or flot the sole risk of connection with	Tenant shall use the Prengetable and flower garder perties in the neighborhous surfacing, driveways, side Premises. Tools and equipower garden use may be to Tenant. No motorized velocity the Premises except with the Premises. A violation the Lease.	ns of a scale similar to the od of the Premises. No ewalks or vehicles shall be ipment consistent with privemporarily placed and used hicles shall be parked on owhen such vehicles are a	hose existing in the structures, fences, constructed, placed ate, non-commercial on the Premises at or otherwise used in actually engaged in

#### 5. CARE AND MAINTENANCE.

- (a) Tenant takes the Premises as is without warranty, express or implied, as to the condition of the Premises or its suitability for any particular purpose.
- (b) Tenant shall maintain the Premises in a reasonably safe, serviceable, clean and presentable condition. Tenant may plant vegetable or flower gardens, grass, turf, shrubs, and, with the prior written consent of Landlord, trees. Tenant shall not install any other improvements on the Premises.
- 6. **SURRENDER.** Immediately upon the termination of this Lease for any reason, Tenant will surrender the Premises to Landlord in good condition.
- 7. **ASSIGNMENT AND SUBLETTING.** No assignment or subletting, either voluntary or by operation of law, shall be effective without the prior written consent of Landlord, which consent may be withheld in the sole and absolute discretion of Landlord.
- 8. **INSURANCE.** LIABILITY INSURANCE. Tenant shall show proof **CERTIFICATE OF INSURANCE** of general liability insurance in the amounts of \$250,000 each occurrence and \$500,000 aggregate for the Premises for the entire term of the lease, including any renewal period.
- 9. INDEMNITY AND HOLD HARMLESS. To the fullest extent permitted by law, Tenant agrees to defend, pay on behalf of, indemnify, and hold harmless Landlord, Landlord's elected and appointed officials, directors, employees, agents and volunteers working on behalf of Landlord (collectively, for purposes of this paragraph, "Landlord"), against any and all claims, demands, suits or loss, including any and all outlay and expense connected therewith, and for damages which may be asserted, claimed or recovered against or from Landlord, including but not limited to, damages arising by reason of personal injury, including bodily injury or death, and property damages, by any person or entity, including by Tenant or any other person or entity on the Premises with the permission, express or implied, of Tenant (collectively, for purposes of this paragraph, "Tenant"), which arises out of or is in any way connected or associated with the tenancy or use and occupancy of the Premises or any part thereof, to the extent arising out of the errors, omissions or other fault of Tenant, except for only the extent of any fault of Landlord.

#### 10. DEFAULT, NOTICE OF DEFAULT AND REMEDIES.

#### **EVENTS OF DEFAULT**

A. Each of the following shall constitute an event of default by Tenant: (1) Failure to pay rent when due; and (2) failure to observe or perform any duties, obligations, agreements, or conditions imposed on Tenant pursuant to the terms of the Lease.

#### **NOTICE OF DEFAULT**

B. Landlord shall give Tenant a written notice specifying the default and giving the Tenant ten (10) days in which to correct the default.

#### REMEDIES

C. In the event Tenant has not remedied a default in a timely manner following a Notice of Default, Landlord may proceed with all available remedies at law or in equity, including but not limited to the following: (1) Termination. Landlord may declare this Lease to be terminated and shall give Tenant a written notice of such termination. In the event of termination of this Lease, Landlord shall be entitled to prove claim for and obtain judgment against Tenant for the balance of the rent agreed to be paid for the term herein provided, plus all expenses of Landlord in regaining possession of the Premises, including attorney's fees and court costs; or (2) Forfeiture. If a default is not remedied in a timely manner, Landlord may then declare this Lease to be forfeited and shall give Tenant a written notice of such forfeiture, and may, at the time, give Tenant the notice to quit provided for in Chapter 648 of the Code of Iowa.

11. **NOTICES AND DEMANDS.** All notices shall be given to the parties hereto at the addresses designated unless either party notifies the other, in writing, of a different address. Without prejudice to any other method of notifying a party in writing or making a demand or other communication, such notice shall be considered given under the terms of this Lease when it is deposited in the U.S. Mail, registered or certified, properly addressed, return receipt requested, and postage prepaid. All notices and demands given by Tenant to Landlord in connection with this Lease shall be sent to the following address:

Return Both Copies Signed to:

Cedar Falls Recreation Center Attn: Peggee Frost 110 E. 13<sup>th</sup> Street Cedar Falls, IA 50613

12. **PROVISIONS BINDING.** Each and every covenant and agreement herein contained shall extend to and be binding upon the respective successors, heirs, administrators, executors and assigns of the parties hereto.

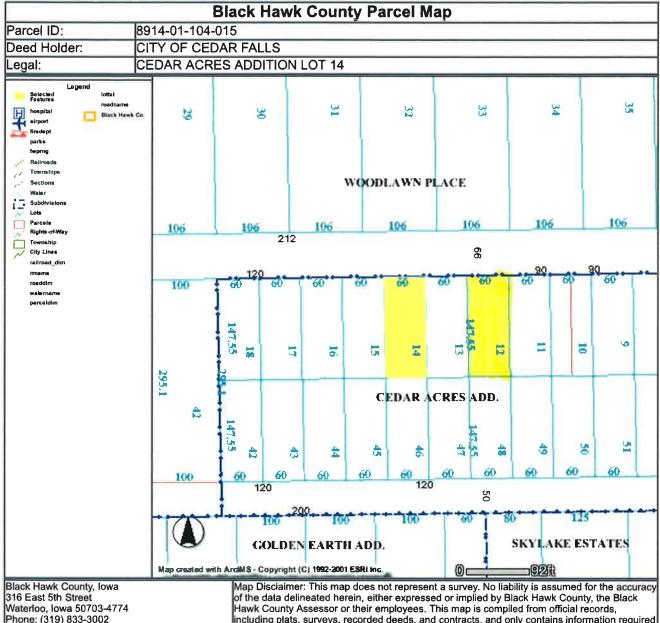
#### 13. ADDITIONAL PROVISIONS.

- (a) Tenant shall comply with all obligations imposed by applicable provisions of the City of Cedar Falls Code of Ordinances, including Chapter 29, Zoning. Tenant shall conduct himself or herself in a manner that will not disturb his or her neighbors' peaceful enjoyment of the neighbors' premises.
- (b) Without limiting the generality of the foregoing, Tenant shall be responsible for mowing the Premises to a height not to exceed eight (8) inches and for general upkeep of the entire Premises, and restoring the Premises to a mowable condition at the end of the term of the Lease, or any renewal term of the Lease. Any improvements installed or added to the premises in accordance with paragraph 5(b) of the Lease shall be at the sole cost of Tenant, and shall become the property of Landlord upon termination of the Lease or any renewal term of the Lease.

- (c) Tenant shall not engage in or permit the conduct of any commercial business whatsoever on the Premises. A violation of this provision shall be grounds for immediate termination of this Lease.
- (d) Landlord may enter upon the Premises at any time during the term of the Lease for the purpose of inspection, drilling test holes or making surveys, or to accommodate public utilities relocation.
  - (e) Tenant shall comply with all FEMA rules related to the use of the property.
- 14. **TERMINATION OF LEASE.** This Lease may be terminated by Landlord for any reason, and without cause, on thirty (30) days' written notice to Tenant. Tenant may terminate the Lease for any reason, without cause, by ten (10) days' written notice to Landlord.
- 15. **PROPERTY MANAGER.** The City Director of Municipal Operations & Programs, or his or her designee, is authorized to manage the Premises covered by this Lease.
- 16. **ENTIRE AGREEMENT.** This Lease contains the entire agreement between the parties with respect to the subject matter of the Lease and supersedes all prior agreements and understandings, both oral and written, between the parties with respect to the subject matter of the Lease.

# CITY OF CEDAR FALLS, IOWA LANDLORD

By:	
James Brown, Mayor	Date
Attest:	
Jacque Danielsen, CMC, City Clerk	Date
TENANT	
By:	
Jel Des	<b>3</b> -13-19
Signature	Date
Hauld DeBuly	
Print Name	
478 Longview St	
Address	



Phone: (319) 833-3002 Fax: (319) 833-3070 E-mail: auditor@co.black-hawk.ia.us.org Hawk County Assessor or their employees. This map is compiled from official records, including plats, surveys, recorded deeds, and contracts, and only contains information required for local government purposes. See the recorded documents for more detailed legal information.

HOMEGUARD POLICY

BREMER MUTUAL INSURANCE ASSOCIATION 111 1ST AVE. SE - BOX 856 - WAVERLY, IA

50677-0856

02 81329 Policy Number: Renewal Of: Period From: 02/28/19 02/28/20 12:01am 02/28/19

Insurance is afforded only with respect to property and coverage indicated below or by endorsement and secured by specific premium charges. If this policy is issued for a period in excess of one year, the premium shall be determined annually on the basis of the rates in effect at the anniversary date. This declaration page replaces all previously issued declarations bearing the same policy number.

NAMED INSURED:

PAULA DEBUHR DEVON DEBUHR 428 LONGVIEW ST CEDAR FALLS IA 50613

AGENT NO : AGENT: 1-015-0025 025 DAN ERSKINE INS AGENCY, INC 319-352-5994 PO BOX 812

WAVERLY, IA 50677

DESCRIPTION OF INSURED PREMISES: 001

428 LONGVIEW ST

CEDAR FALLS

COUNTY 007 ΙA

LOAN NUMBER:

8022571369

MORTGAGEE OR LOSS PAYABLE:

1 \* PENNYMAC LOAN SERVICES LLC

ISAOA

PO BOX 6618

SPRINGFIELD OH 45501-6618

DEDUCTIBLE AMOUNT: \$1000 DEDUCTIBLE

SECTION I - PROPERTY - INSURED ITEMS:

DIMENSIONS YR ROOF SUM BLTINSURED L/IT/FC DESCRIPTION W Η KIND YR PREMIUM L 1172SF 1ST 1955 175,000 665.33 1 02 08 HOMEGUARD DWLG HG322 ASPH UNSCHEDULED PERSONAL PROPERTY 131,250 INCLUDED 17,500 APPURTENANT PRIVATE STRUCTURES INCLUDED 35,000 ADDITIONAL LIVING EXPENSE INCLUDED 75.00 SPECIAL ENDORSEMENT PKG. HG90 HG106 HG107 INCLUDES: DWELLING REPLACEMENT COST INCLUDED DWLG ADDL COVERAGE (SPECIAL FORM) INCLUDED PERSONAL PROPERTY REPL COVERAGE INCLUDED 5,000 1 04 WATER BACKUP OF SEWER HG368 70.00 SUBJECT TO \$1,000 DEDUCTIBLE INCLUDED WATER BACKUP OF SEWER IS FULLY EARNED INCLUDED AND NON-REFUNDABLE INCLUDED SERVICE LINE COVERAGE 1 07 10,000 30.00 HG456 NOTE: \$500 DEDUCTIBLE INCLUDED SERVICE LINE COVERAGE IS FULLY EARNED AND NON-REFUNDABLE INCLUDED 0.5 DETACHED GARAGE 024 028 1ST 1968 ASPH .00 22.00 EQUIPMENT BREAKDOWN DWLG \$100,000 COVERAGE LIMIT - \$500 DEDUCTIBLE THIS COVERAGE IS PROVIDED BY GRINNELL MUTUAL REINSURANCE COMPANY NONREFUNDABLE POLICY FEE 10.00 THIS POLICY FEE IS FULLY EARNED AND NON-REFUNDABLE

HG322 DWELLING ROOF IS ACTUAL CASH VALUE NOT REPLACEMENT COST.

Corrected liability

CONTINUED

HOMEGUARD POLICY

BREMER MUTUAL INSURANCE ASSOCIATION 111 1ST AVE. SE - BOX 856 - WAVERLY, IA

50677-0856

Renewal Of:

Effective:

Policy Number:

Period From:

02/28/19 02/28/20 02/28/19

AGENT NO.:

81329

12:01am

02

CONTINUED

Insurance is afforded only with respect to property and coverage indicated below or by endorsement and secured by specific premium charges. If this policy is issued for a period in excess of one year, the premium shall be determined annually on the basis of the rates in effect at the anniversary date. This declaration page replaces all previously issued declarations bearing the same policy number.

NAMED INSURED:

PAULA DEBUHR DEVON DEBUHR 428 LONGVIEW ST CEDAR FALLS IA 50613 1-015-0025

025 DAN ERSKINE INS AGENCY, INC 319-352-5994

PO BOX 812 WAVERLY, IA 50677

TOTAL SECTION I PROPERTY

306,250

872.33

HOMEGUARD POLICY

BREMER MUTUAL INSURANCE ASSOCIATION 111 1ST AVE. SE - BOX 856 - WAVERLY, IA

50677-0856

02/28/19 02/28/20 Period From: To: 02/28/19 Effective:

12:01am

53.00

02

81329

Insurance is afforded only with respect to property and coverage indicated below or by endorsement and secured by specific premium charges. If this policy is issued for a period in excess of one year, the premium shall be determined annually on the basis of the rates in effect at the anniversary date. This declaration page replaces all previously issued declarations bearing the same policy number.

NAMED INSURED: 1-015-0025 PAULA DEBUHR

DEVON DEBUHR 428 LONGVIEW ST

CEDAR FALLS IA 50613

AGENT NO .: 025 DAN ERSKINE INS AGENCY, INC 319-352-5994 PO BOX 812 WAVERLY, IA 50677

Policy Number:

Renewal Of

SECTION II - LIABILITY - COVERAGES: (CONT'D) GRINNELL MUTUAL REINSURANCE COMPANY - GRINNELL, IOWA

LIABILITY POLICY NUMBER: ID: 01-015 81329

LIABILITY TO PUBLIC 300,000 EACH OCCURRENCE 600,000 ANNUAL AGGREGATE MEDICAL PAYMENTS TO PUBLIC 2,000 EACH PERSON

E-1 DAMAGE TO PROPERTY OF OTHERS 1,000 EACH OCCURRENCE

TOTAL SECTION II LIABILITY PREMIUM: 53.00 53.00

SUBJECT TO THE FOLLOWING FORMS AND ENDORSEMENTS: GMIL 4618 07 - 15

Oil Gas or Injection Well Liab Exclusion 01-18 GMIL 4660 MUTUAL CONDITIONS 01 - 19GMIL 4670 Max Liab Limit w/Multiple policies

GMIL 4684 07 - 18Statement of Liability Insurance Carrier Identity Theft Exp Cov - HG FG PL GMIL 4722 7-09

GMIL 4791 10-11 Civil Union End. FM DP HG FG PL OLT

GMIL 7001 05 - 18GMRC PRIVACY NOTICE

HG 106 HG 107  $01-19 \\ 01-16$ Additional Coverage HG2 HG9 Specified Structures Repl Cost Loss Sett Homeguard Broad form Basic HG2

07-18 HG 2 HG 322 01-16 Ltd Roofing Cov (ACV) HG

Fungi & Bacterial Cov Limitation HG PL HG 351 01 - 16

HG 368 01 - 16Water Backup thru Sewer/drain w/limits 1-05

HG 372 Biological & Chemical Exclusion HG 376 01-16 Suspension of Property Cov for Nonpay

01-19 01-18 Homeguard Amendatory HG2/3/4/5/6/MH EQUIPMENT BREAKDOW COVERAGE HOMEGUARDS HG 463 HG 4900

01-16 HG 90 Personal Property Repl Cost Settlement

Personal Injury HG PL PL 1945 01 - 16HG342 ORDINANCE OR LAW COV HG2 & HG9 ONLY 01 - 16

HG 456 01-16 Service Line Coverage HG

> TOTAL INSURANCE 306,250 925.33

PREMIUM DUE NIL .00

COUNTERSIGNED BY AUTHORIZED REPRESENTATIVE:

DATE ISSUED 04/10/19

HOMEGUARD POLICY

BREMER MUTUAL INSURANCE ASSOCIATION 111 1ST AVE. SE - BOX 856 - WAVERLY, IA

428 LONGVIEW ST

CEDAR FALLS IA 50613

CONTINUED

50677-0856

Insurance is afforded only with respect to property and coverage indicated below or by endorsement and secured by specific premium charges. If this policy is issued for a period in excess of one year, the premium shall be determined annually on the basis of the rates in effect at the anniversary date. This declaration page replaces all previously issued declarations bearing the same policy number.

02/28/19 02/28/20

02/28/19

025

81329

02

12:01am

NAMED INSURED: AGENT NO.: 1-015-0025 DAN ERSKINE INS AGENCY, INC PAULA DEBUHR DEVON DEBUHR 319-352-5994

PO BOX 812 WAVERLY, IA 50677

Policy Number.

Renewal Of:

Period From:

Effective:



ADMINISTRATION DIVISION 2200 TECHNOLOGY PKWY CEDAR FALLS, IOWA 50613 319-273-8629 FAX 319-273-8632

PUBLIC WORKS/PARKS DIVISION 2200 TECHNOLOGY PKWY 319-273-8629 FAX 319 273 8632

#### MEMORANDUM

TO: Honorable Mayor James P. Brown and City Council

FROM: Brian Heath, Public Works/Parks Division Manager

DATE: Wednesday, April 03, 2019

SUBJECT: Pavement Marking Contract

Sealed bids were opened at 2:00 p.m. on February 28<sup>th</sup>, 2019 for contract pavement marking services. This project encompasses painting of pavement markings including roundabouts, sharrows, bike lanes, crosswalks, parking lots, etc.

Of the four contractors requests that were sent out, only one bid was received. Laser Line Striping submitted the sole bid in the amount of \$41,380.00.

The bid received for this fiscal year is in order and has not increased from last fiscal year. Laser Line Striping has been awarded the contract for painting services for the City of Cedar Falls over the past several years and has performed responsibly.

The Municipal Operations and Programs Department is recommending that City Council accept the low bid of \$41,380.00 and authorization to enter into a contract with Laser Line Striping to perform pavement marking services for the City of Cedar Falls.

Please feel free to contact me if you have questions or comments.

Cc: Mark Ripplinger, Municipal Operations and Programs. Matt Lukehart, Traffic Operations Supervisor.



City of Cedar Falls, Iowa

**Municipal Operations and Programs Department** 

General Instructions and Specifications For 2019 Pavement Marking Painting

# **TABLE OF CONTENTS**

	Page Number
INSTRUCTIONS TO BIDDERS	3-5
INSURANCE REQUIREMENTS	6-11
CONTRACTOR RESPONSIBILITY	12
SPECIFICATIONS	12
ITEM LISTING	13 - 19
NON-COLLUSION AFFIDAVIT OF BIDDER	20
FORM OF PROPOSAL	21 - 22
FORM OF CONTRACT	23

#### INSTRUCTIONS TO BIDDERS

#### Intent

The intent of this proposal is to seek the services of a qualified contractor to repaint the listed pavement markings at the locations specified. Markings may include crosswalks, stop bars, handicap decals, yellow lane lines, yellow median markings, yellow or blue curbs, parking lots, handicapped symbols, on-street parking stalls, turn arrows, round-about markings, bike lanes, sharrows, and Railroad Crossings throughout the City of Cedar Falls

#### Opening of Sealed Bids

All sealed bids will be opened: March 28<sup>th</sup>, 2019 at 2:00 p.m. in the Public Works Conference Room, 2200 Technology Parkway, Cedar Falls IA 50613

#### **Evaluation of Bids**

The Owner reserves the right to reject any and all bids, including without limitation, nonconforming, and nonresponsive, unbalanced, or conditional bids. The Owner further reserves the right to reject the bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. The Owner may also reject the bid of any Bidder if the Owner believes that it would not be in the best interest of the project to make an award to that Bidder. The Owner also reserves the right to waive all informalities not involving price, time or changes in the work.

More than one bid for the same work from an individual or entity under the same or different names will not be considered. Reasonable grounds for believing that any Bidder has an interest in more than one bid for the work may be cause for disqualification of that Bidder and rejection of all bids in which the Bidder has interest.

In evaluating bids, the Owner will consider whether or not the bids comply with the prescribed requirements, and such alternates, unit prices, supplemental prices and other data as may be requested in the bid form or prior to the award of Contract.

In evaluating bids, the Owner will consider the qualifications of Bidders and may consider the qualifications and experience of subcontractors, suppliers, and other individuals or entities proposed for those portions of the work for which the identity of the subcontractor, suppliers and other individuals or entities must be submitted as provided in the supplemental conditions. The Owner also may consider the operating costs, maintenance requirements, performance data and guarantees of major items of material and equipment proposed for incorporation in the work when such data that is required to be submitted prior to the awarding of contract.

Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications and financial ability of the Bidders, proposed subcontractors, suppliers, individuals, or entities to perform the work in accordance with

the Contract Documents. If the Contract is to be awarded, Owner will award the Contract to the lowest responsive, responsible Bidder.

#### Right to Reject Bids

The Owner reserves the right to reject any and all bids received and accepts any bid that, in its judgment, best serves the interest of the City of Cedar Falls, its citizens and employees.

#### **Award of Contract**

Upon submitting proposals, bidders shall not withdraw or cancel such proposals. The bidder to whom the award is made shall, within ten (10) days after receiving written notice of such award, execute a contract with said Owner, for the complete delivery of all materials, equipment, and/or work specified therein.

#### **Bidder's Qualifications**

Bidders submitting proposals must be recognized Contractors engaged in the class of work provided for in the Contract documents, and must possess all necessary licenses, certificates and resources to complete the work. Before the Contract is awarded to a Bidder, the Bidder may be required to furnish evidence to the satisfaction of the Owner of the Bidder's ability to perform and complete the Contract.

To demonstrate Bidder's qualifications to perform the work, within five days of Owner's request, Bidder shall submit written evidence such as may be called for below:

The address and description of the Bidder's place of business; The number of years engaged in the contracting business under the present firm name, and the name of the state where incorporated; Upon request of the Owner the bidder will furnish a list of the property and equipment available to the Bidder to evaluate if the Bidder can complete the work in accordance with the Bidding Documents; A financial statement of the Bidder showing that the Bidder has the financial resources to meet all obligations incidental to the work; The Bidder's performance record giving the description, location, and telephone number of similar projects constructed in a satisfactory manner by the Bidder: A list of projects presently under contract, the approximate contract amount and the percent of completion of each; A list of contracts which resulted in lawsuits: A list of contracts defaulted; A statement of the Bidder indicating whether or not the Bidder has ever filed bankruptcy while performing work of a like nature or magnitude; A list of officers of the firm who, while in the employ of the firm or the employ of previous firms, were associated with contracts which resulted in lawsuits, contracts defaulted or filed for bankruptcy; The technical experience of personnel guaranteed to be employed in responsible charge of the work stating whether the personnel have or have not performed satisfactorily on other contracts of like nature and magnitude or comparable difficulty at similar rate of progress; Such additional information as will assist Owner in determining whether the Bidder is adequately prepared to fulfill the Contract. Owner's decision as to qualifications of the Bidder will be final.

The successful Bidder, after acceptance of the proposal, shall provide a certificate of insurance and shall enter into a written Contract.

If the successful Bidder is a non-lowa corporation, they shall submit proof to the Owner, prior to the execution of the Contract, of authorization by the Secretary of State to do business in lowa.

The Owner hereby notifies all Bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

#### Completion of Work - Damages to Owner

All work shall be completed by September 13th 2019, those items noted with an asterisk (\*) on the bid tab must be completed between July 15<sup>th</sup> and August 16th 2019. Failure to complete the noted items will result in a \$50.00 per day penalty. Failure to meet the September 13<sup>th</sup> 2019 completion date will incur the \$50.00 per day penalty at the discretion of the owner based upon the weather conditions encountered and overall performance of the contractor. The first application on the roundabouts shall be complete as soon as weather permits after Notice to Proceed is given to the successful bidder. The second round painting of the listed roundabouts will have an extended completion date of November 8<sup>th</sup> 2019.

#### CONTRACTORS RESPONSIBILITY

- A. The contractor shall provide all necessary materials and manpower to complete project.
- B. The contractor shall communicate to the satisfaction of the owner a schedule of planed work and work completed to include a weekly written report if requested.
- C. The contractor shall be responsible for all clean-up and proper disposals of excess materials and construction debris.
- D. The Contractor shall supply all required traffic control and traffic control devices.
- E. The contractor shall properly remove erroneous paint markings and excessive amounts of glass beads.
- F. A qualified supervisor shall be maintained on the work sites and provide efficient oversight to the work through its completion. The supervisor shall have full authority to act in behalf of the Contractor, and all directions given to the supervisor shall be considered given to the Contractor.

#### **SPECIFICATIONS**

- A. All stripes shall be a minimum of 5" wide; all stop bars shall be a minimum of 20 inches wide.
- B. All paint shall be 15-18 mills thick at all locations.
- C. Properly clean all street surfaces prior to paint application. All existing markings shall be completely covered by the new marking or removed so that only the new marking is visible from a vehicle traveling at the posted speed limit or to the satisfaction of the owner.
- D. All markings shall have an even uniform coating of glass beads applied. This requires the use of an automated bead dispenser or a fabricated shaker can with a perforated lid. Excessive amounts of beads or inadequate coverage are grounds for rejecting the marking. The exceptions for applying beads are parking stalls, yellow or blue curb markings and handicapped symbols, which shall not have beade applied.
- E. All pavement markings/symbols shall be painted according to IDOT Specification Section 2527.02D2b for Waterborne Paint per the City of Cedar Falls 2013 SUDAS Supplemental Specifications.

#### ITEM LISTING

#### Item No. 1 - Parking stalls and curb(s)

Paint all parking stalls, all yellow hash lines and yellow curbs.

- a) Main St (1st St to 6th St). Include the center line yellow skips
- b) 2<sup>nd</sup> St (Franklin St to State St)
- c) 3<sup>rd</sup> St (Franklin St to State St)
- d) 4<sup>th</sup> St (Franklin St to east end of paving)
- e) 6<sup>th</sup> Street (Washington St to Clay St)
- f) Clay St (1<sup>st</sup> St to 4<sup>th</sup> St)
- g) Washington St (1st to 6th St)
- h) College St (20<sup>th</sup> to Seerley)
- i) College St west side in the 2300 block
- j) College St west side in the 2500 block, motorcycle stalls
- k) West 23<sup>rd</sup> St both sides (College St to Merner Ave)
- I) State St (between 7<sup>th</sup> and 2<sup>nd</sup> St) [IT1]

#### Item No.2. - Railroad Crossing Symbols:

A Railroad Crossing Symbol shall include all elements of figure 8B-7A or B of the 2009 MUTCD and make up a unit of each. Multi-lane approaches shall have a symbol in each lane. Stop Bars not associated with the Railroad Crossing Symbol will be an additional element of the item.

- a) East Lone Tree Rd, 2 symbols and 2 stop bars
- b) East Lake St, 1 symbol and 2 stop bars
- c) Leversee Road, 2 symbols and 2 stop bars
- d) Dunkerton Road, 2 symbols and 2 stop bars
- e) Independence Ave, 2 symbols and 2 stop bars
- f) Rail Way Center St. north side, 2 symbols, 2 stop bars
- g) Rail Way Center St. south side. 2 symbols. 2 stop bars
- h) North Main St/Big Woods Rd, 2 Stop bars
- i) Frontage Rd to the Ice house, 2 stop bars
- j) 2nd St, 2 stop bars
- k) 3rd St, 2 stop bars
- I) 4th St, 2 stop bars
- m) Tremont St, 4 stop bars
- n) Franklin St,2 stop bars
- o) Clay St, 2 stop bars
- p) Washington St, 2 Stop bars
- q) Main St, 2 stop bars

### Item No. 3.A- School Crosswalk Sets and Stop Bars)

A cross walk set shall mean the two parallel lines that run from curb to curb or edge of roadway to edge of roadway. The perpendicular connecting line between the Stop Bar and the crosswalk shall be eliminated. A stop bar shall include all lanes per direction. A stop bar that covers one lane shall be counted the same as a stop bar that covers three lanes. Note:\* All items in this list are subject to the damages to owner clause.

- **1.** 3900 Rownd St --- 1 set, 2 stop bar (at signal in front of school)
- 2. 2400 Rainbow Dr. --- 1 set, 2 stop bars (at signal in front of school)
- 3. 2300 Hawthorne Dr. --- 4 set, 4 stop bars
- 4. 500 E Seerley Blvd --- 1 set, 2 stop bars (front of School)
- 5. Valley Park Dr & E Seerley Blvd,---4 sets & 4 stop bars
- 6. Valley Park Dr. & Melrose Dr---2 sets, 2 stop bars
- 7. Valley Park Dr & Madison St---1 set, 1 stop bar
- 8. Valley park Dr & Market St--- 2 sets, 2 stop bars
- 9. Valley Park Dr & Waterloo Rd--- 2 sets,1 stop bar
- 10. Center St & Green Ave --- 1 set, 2 stop bars(at signal)
- 11. Orchard Dr. & Boulder Dr. --- 3 sets, 3 stop bars(at signal)
- 12. Green & Fern Ave --- 1 set, 1 stop bar
- 13. Fern & Lantz Av --- 1 set, 1 stop bar
- 14.W 4th St & Angie & Holmes Dr --- 3 sets, 3 stop bars
- 15.500 Holmes Dr --- 1 set, 2 stop bar
- 16. Hudson Rd and Laurel Ct --- 1 set, stop bar
- 17. Hudson Rd and 7th St --- 1 set, stop bar
- **18.** Hudson Rd and 3<sup>rd</sup> St --- 1 set, 1 stop bar
- 19.W 8<sup>th</sup> St & Barrington Dr --- 1 set. 2 stop bar
- 20.W 8th St & Warwick Dr --- 1 set, 2 stop bar
- 21.W 8th St Mid-Block---1 set, 2 stop bars
- 22.W 3rd & Franklin St---2 sets, 2 stop bars
- 23.W 7th St & Washington St --- 4 sets, 4 stop Bars
- 24. W 8th St & Washington St --- 4 sets. 4 stop bars
- 25.W 7<sup>th</sup> St & Clay St --- 4 sets, 4 stop bars
- 26.W 8th St & Clay St --- 4 sets, 4 stop bars
- 27.W 9th & Clay St 4 sets, 2 stop bars
- 28.W 6th St & Franklin St --- 4 sets, 4 stop bars
- 29.W 7th St & Franklin St 3 sets, 3 stop bors
- 30.W 8th St & Franklin St --- 3 sets, 3 stop bars
- 31.W 6th & Tremont St 4 sets, 2 stop bars
- 32.W 8<sup>th</sup> St & Tremont St --- 4 sets, 4 stop bars
- 33.W 7<sup>th</sup> St & Tremont St --- 4 sets. 4 stop bars
- 34. W 7th St & Walnut St 4 sets, 2 stop bars
- 35. W 8th St & Walnut St 4 sets. 2 stop bars
- 36.W 9th & Walnut St 4 sets, 2 stop bars
- 37. W 7th St & College St 2 sets, 2 stop bars

#### Item No. 3.A continued:

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38.W 8th St & college St – 4 sets, 2 stop bars 39.W 9th St & College St – 4 sets, 2 stop bars 40.800 Main St. --- 1 set, 2 stop bars( at signal) 41.W.12 & Franklin St – 1 set, 2 stop bar 42.W.12 & Clay St—4 sets, 2 stop bars 43.W. 12 & Division – 1 set, 1 stop bar 44.W. 11<sup>th</sup> & Division – 3 sets, 3 stop bars 45.W. 10<sup>th</sup> & Division – 3 sets, 3 stop bars 46.W. 9<sup>th</sup> & Division – 2 stop bars 47.W. 8<sup>th</sup> & Division – 1 set, 4 stop bars
```

## Item No. 3.B- College Hill Crosswalk Sets & Stop Bars:

A cross walk set shall mean the two parallel lines that run from curb to curb or edge of roadway to edge of roadway. The perpendicular connecting line between the Stop Bar and the crosswalk shall be eliminated. A stop bar shall include all lanes per direction. A stop bar that covers one lane shall be counted the same as a stop bar that covers multiple lanes.

- 1. W 22<sup>nd</sup> & College --- 4 sets(Outside colored concrete) 2 stop bars
- 2. W 26th & College St --- 3 sets
- 3. W 25<sup>th</sup> & College St --- 3 sets
- 4. W Seerley Blvd & College St --- 3 sets, 1 stop bar
- 5. W 22<sup>nd</sup> and College St --- 2 sets (outside colored concrete)
- 6. W 23<sup>rd</sup> & Campus St --- 3 sets
- 7. W 23<sup>rd</sup> St & Merner Ave --- 2 sets
- 8. 1000 W 23<sup>rd</sup> St --- 1 set, 2 stop bars (front of book store)
- 9. 1400 W 23<sup>rd</sup> St --- 1 set, 2 stop bars (mid-block)
- 10.1500 W 23<sup>rd</sup> St --- 1 set, 2 stop bars (mid-block- Panther and Campbell Hall)
- 11.1600 W 23<sup>rd</sup> St --- 1 set (mid-block by the Health Center)
- 12.1700 W 23<sup>rd</sup> St --- 1 set
- 13. W 23rd & Indiana --- 1 set, 2 stop bars

## Item No. 3.C- Pedestrian Crosswalk Sets & Stop Bars:

A cross walk set shall mean the two parallel lines that run from curb to curb or edge of roadway to edge of roadway. The perpendicular connecting line between the Stop Bar and the crosswalk shall be eliminated. A stop bar shall include all lanes per direction. A stop bar that covers one lane shall be counted the same as a stop bar that covers multiple lanes.

- 1. 2<sup>nd</sup> & State St.--- 3 sets, 3 stop bars
- 2. 3<sup>rd</sup> & State St.--- 3 sets, 1 stop bar

#### Item No. 3.C continued:

- 3. 4th & State St. ---4 sets, 2 stop bars
- 4. 6th St & State St--- 1 set, 1 stop bar
- 5. Estate & Greenhill Road --- 2 sets, 2 stop bars
- 6. Orchard Hill & Greenhill --- 1 set, 1 stop bar
- 7. Briarwood Hills / Oster Pkwy & Greenhill Road --- 2 sets, 2 stop bars
- 8. Sager Ave and Greenhill Rd --- 1 set, 1 stop bar
- 9. West 1st Street & Highland Drive—2 sets, 3 stop bars
- 10. Orchard Dr. & South Main St 1 set, 1 stop bar
- 11. 4<sup>th</sup> St F 200 Blk (Viking Pump)
- 12. West 1st Street & N. Union Rd 1 set, 4 stop bars
- **13.** Waterloo Rd. & Royal Dr. 1 set, 2 stop bars Royal Dr. & Melrose Dr. 1 stop bar, 1 solid lane line, 2 left turn arrows, 2 Straight/Rt arrows
- 14. University Ave Midblock crosswalk, between IA 58 and Boulder Dr. -2 sets of solid white lines, 2 sets of Sharks teeth
- **15.** University Ave Midblock crosswalk, between Cedar Heights Dr. and Midway Ave.--- 2 sets of solid white lines, 2 sets of Sharks teeth

# <u>Item No. 3.D- Signalized Intersection Crosswalk Sets, Stop Bars and Arrows:</u>

A cross walk set shall mean the two parallel lines that run from curb to curb or edge of roadway to edge of roadway. The perpendicular connecting line between the Stop Bar and the crosswalk shall be eliminated. A stop bar shall include all lanes per direction. A stop bar that covers one lane shall be counted the same as a stop bar that covers multiple lanes. Each turn lane shall have two arrows per lane all ONLY markings are being omitted. The following abbreviations shall apply to the arrow markings; LT = left Turn arrow, RT = right turn arrow, STRT = straight arrow

- 1. 1st St & Main St --- 4 sets, 4 stop bars, 4 LT
- 2. 1st St & Franklin --- 4 sets, 4 stop bars, 4 LT, 4 STRT/LT, 4 STRT/RT
- 3. 1st St & Magnolia Dr. --- 4 sets, 4 stop bars, 5 LT, 2 STRT/LT, 2 RT
- 4. 6th St & Main St --- 4 sets, 4 stop bars, 1 LT, 2 RT, 2 STRT/LT, 2 STRT/RT
- 5. 12th St & Main St --- 4 sets, 4 stop bars, 2 LT, 2 STRT/RT
- 6. 18th St & Main St --- 4 sets, 4 stop bars, 4 LT, 2 RT
- 7. Seerley and Main St -- 4 sets, 4 stop bars, 4 LT, 3 STRT/LT, 2 RT
- 8. 18<sup>th</sup> and Waterloo Rd --- 5 sets, 4 LT
- 9. Highway 58 & Ridgeway Ave --- 1 set, 2 stop bars, 4 LT (only on Ridgeway Ave)
- 10. Highway 58 & Greenhill Rd --- 3 sets, 2 stop bars, 4 LT (only on Greenhill Rd)
- 11. Highway 58 & University Ave. --- 2 sets, 6 Stop bars, 4 LT
- **12.** Highway 58 & 18<sup>th</sup> St --- 4 sets, 6 Stop bars, 4 LT
- 13. Highway 58 & Waterloo Rd --- 4 sets, 6 Stop bars, 4 LT
- 14. University Ave & Main St --- 4 sets, 4 stop bars, 8 LT, 2 RT

#### Item No 3.D. continued

- **15.**Hudson Rd & Technology Pkwy ---4 Sets, 4 Stop bars, 8 LT, 2 RT, 2 STRT
- 16. Hudson Rd & Erik Rd 4 Sets, 4 Stop Bars, 8 LT, 4 STRT/RT
- 17. Hudson Rd & Viking Rd --- 4 sets, 4 stop bars, 9 LT, 5 RT
- 18. Hudson Rd & Greenhill Rd --- 3 sets, 4 stop bars, 4 LT, 2 RT
- 19. Hudson Rd & University Ave --- 2 sets, 4 stop bars, 8 LT
- 20. Hudson Rd & 31<sup>st</sup> St --- 1 set, 2 stop bars
- 21. Hudson Rd & 27<sup>th</sup> St --- 4 sets, 4 stop bars, 4 LT, 2 RT, 2 STRT/LT, 2 STRT/RT
- 22. Hudson Rd & 23<sup>rd</sup> St --- 1 stop bar, LT, 2 RT
- 23. Hudson Rd & 18<sup>th</sup> St --- 3 sets, 4 stop bars, 4 LT
- **24.** Hudson Rd & 12<sup>th</sup> St --- 2 sets, 4 stop bars, 4 LT, 2 RT
- 25. Hudson Rd & 8<sup>th</sup> St 4 sets, 4 stop bars, 4 LT
- 26. Hudson Rd & 4<sup>th</sup> St 4 sets, 4 stop bars, 4 LT
- 27. Hudson Rd & 1st St --- 1 set, 3 stop bars, 2 LT, 2 RT
- 28.23<sup>rd</sup> & College ---3 sets, 3 stop bars, 2 LT
- 29. University Ave & Campus St --- 2 set, 4 stop bars, 4 LT, 2 RT
- 30. University Ave & College St 4 sets, 4 stop bars, 4 LT, 2 RT
- 31. University Ave & Rownd St---4 sets, stop bars, 4 LT, 2 RT
- 32. Greenhill Rd & Cedar Heights Dr. --- 1 set, 4 stop bars, 4 LT
- 33. Greenhill Rd & Rownd St. 4 sets, 4 stop bars, 6 LT
- 34. Greenhill Rd. & Prairie Pkwy, 4 sets, 4 stop bars
- 35. Greenhill Rd & S Main St --- 4 sets, 4 stop bars, 4 LT

#### Item No. 4. - Roundabouts:

All items are to be painted twice. They shall be painted as soon as possible after the notice to proceed is given and again between October 1<sup>st</sup> 2019 & November 8th 2019 Payment for the second painting shall be invoiced separately.

- a. Cedar Heights and Viking Road (complete intersection, all lane markings, yellow and white lines, painted out to long lines and ped crossings)
- b. Ridgeway Ave and Chancellor Dr. (complete intersection, all lane markings, yellow and white lines, painted out to long lines and ped crossings)
- Brandilynn Blvd. and Prairie Pkwy. (complete intersection, all lane markings, yellow and white lines, painted out to long lines and ped crossings)
- d. Prairie Pkwy & Prairie View Rd.. (complete intersection, all lanes markings, yellow and white lines, painted out to long lines and ped crossings)

#### Item No 4. Continued

- e. University Ave and Greenhill Road. (complete intersection, all lane markings, yellow and white lines painted out to long lines and solid white line ped crossings.)
- f. University Ave and Hwy 58 Dog bone Interchange (complete intersection, all lane markings, yellow and white lines, painted out to long lines and solid white line ped crossings)
- g. University Ave & Boulder Dr. (complete intersection, all lane markings, yellow and white lines, painted out to long lines and solid white line ped crossings)
- h University Ave & Holiday Rd (complete intersection, all lane markings, yellow and white lines, painted out to long lines and solid white line ped crossings)
- University Ave & Waterloo Rd. (complete intersection, all lane markings, yellow and white lines, painted out to long lines and solid white line ped crossings)
- j. University Ave & Cedar Heights Dr., (complete intersection, all lane markings, yellow and white lines, painted out to long lines and solid white line ped crossings)

#### Item No. 5. - Bike Lane White Lines, Arrows and Sharrows

- a. Clay St. 1<sup>st</sup> to 18<sup>th</sup> St.
   All sharrows, arrows and white lines from 1st St to 18<sup>th</sup> St.
- Rownd St. Rainbow Dr. to Greenhill Dr.
   South Bound; all sharrows and white lines
   North Bound; all sharrows
- c. Seerly Blvd. College St to Grove St East Bound; all sharrows West Bound; all sharrows
- d. Valley Park Waterloo Rd to University Ave South Bound; all sharrows with white lines North Bound: all sharrows

#### Item no 5. continued

- e. 18<sup>th</sup> St College St to Franklin St East Bound; all sharrows West Bound; all sharrows
- f. College St 12th St to 20th St
   South Bound; all sharrows and white lines
   North Bound; all sharrows and white lines
- g. Center St Cedar River bridge to Clair St

  North Bound; all sharrows and white lines, include both sides of bike path South Bound; all sharrows and white lines, include both sides of bike path
- h. Boulder Dr. Idaho Dr. to Orchard Dr. North Bound; all sharrows South Bound; all sharrows
- i. State St. 2<sup>nd</sup> St to Waterloo Rd. North Bound; all sharrows South Bound; all sharrows

# NON-COLLUSION AFFIDAVIT OF BIDDER

STATE OF 10wa
COUNTY OF Blackhawk ss
Dean WeiRert , being first duly sworn, deposes and says that:
(1) Person is of of of of
Laser Line Striping, the Bidder that has submitted the attached bid:
(2) Person is fully informed respecting the preparation and contents of the attached bid and of all pertinent circumstances respecting such bid:
(3) Such bid is genuine and is not a collusive or sham bid:
(4) Neither the said Bidder nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with any other Bidder, firm or person to submit a collusive or sham bid in connection with the contract for which the attached bid has been submitted or to refrain from bidding in connection with such contract, or has in any manner, directly or indirectly, sought by agreement or collusion or communication or conference with any other bidder, firm or person to fix the price or prices in the attached bid or of any other bidder, or, to fix any overhead, profit or cost element of the bid price of any other bidder, or to secure through any collusion, conspiracy, connivance, or unlawful agreement any advantage against the City of Cedar Falls, Iowa, or any person interested in the proposed contract; and
(5) The price or prices quoted in the attached bid are fair and proper and are not tainted by a collusion, conspiracy, connivance or unlawful agreement on the part of the bidder or any of its agents, representatives, owners, employees or parties in interest, including this affiant.  Signed
Subscribed and sworn to before me
this 27th day of March, 2019
Sough Mompson
Fitle SARAH THOMPSON COMMISSION NO. 798621 MY COMMISSION EXPIRES
My Commission expires 8-9-19

### FORM OF PROPOSAL PAVEMENT MARKINGS CITY OF CEDAR FALLS, IOWA

The undersigned hereby certifies that <u>Dean Walk</u> have personally
and carefully examined the specifications, and general conditions, annexed hereto.
Having made such examination, the undersigned hereby proposes to perform the
improvements for the Pavement Symbol and Crosswalk Painting in accordance with the
plans and specifications on file in the Public Works Office, complying with all the laws of
the State of Iowa, and the Rules, Regulations and Ordinances of the City of Cedar Falls,
at the following prices, to-wit:

Item		Item Quantity	Unit P	rices	1	Price sions
No.	Description	and Units	Dollars	Cents	Dollars	Cents
1	Parking Stalls and Curb(s), Items 1.a through 1.l	Lump sum			1580	-
2	Rail Road Crossing Symbols and Stop Bars Items 2.a through 2.q	Lump sum			1400	-
3.A *	School Pedestrian Crosswalks and Stop Bars Items 3.A.1 through 3A.47	Lump sum			5420	_
3.B	College Hill Crosswalks & Stop Bars Items 3.B.1 through 3.B.13	Lump sum			1620	/
3.C	Pedestrian Crosswalks & Stop Bars Items 3.C.1 through 3.C.15	Lump sum			1420	/
3.D	Signalized Intersection Crosswalks, Stop Bars and Arrows Items 3.D.1 through 3.D.35	Lump sum			11,200	1.
4	Roundabouts Items 4.a Through 4.j	Lump sum			11,800	-
5	Bike Lane White Lines, Arrows and Sharrows Items 5.a through 5.i	Lump sum			7,740	~

TOTAL BID	Dollars	Cents
	42,180	_

Bidders may not independently bid on selective items of work. In this project, all items constitute one indivisible work that will be let to one Bidder. Bids shall be submitted for all of the items. The successful Bidder will be determined by evaluating the Total Bid shown above. Failure to submit a bid on any item shall be just cause for disqualification of the entire proposal. Unit bids must be filled in ink, typed or computer generated, or the bid will be rejected. The Owner reserves the right to delete any part or all of any item. The Owner reserves the right to add or delete individual items from these specifications without limitation.

The Owner reserves the right to reject any and all bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional bids. The Owner further reserves the right to reject the bid of any Bidder whom it finds, after reasonable inquiry and evaluation, to be non-responsible. The Owner may also reject the bid of any Bidder if the Owner believes that it would not be in the best interest of the project to make an award to that Bidder. The Owner also reserves the right to waive all informalities not involving price time or changes in the work.

The Bidder is prepared to submit a financial and experience statement upon request.

The Bidder has filled in all blanks on this Proposal.

Note: The Penalty for making false statements in offers is prescribed in 18 U.S.A., Section 1001.

Name of Bidder

Dean A Vertert

By

Title

10572 320 St Ackley TA 50601

Official Address

### FORM OF CONTRACT

This contract entered into at Cedar Falls, Iowa, this day of,
20, by and between the City of Cedar Falls, Iowa, hereinafter called the City, and
of, hereinafter called
the Contractor.
WITNESSETH:
The Contractor hereby agrees to furnish all labor, tools, materials and equipment and complete the Pavement Symbol, Parking Lot and Crosswalk Painting, all in the City of Cedar Falls, Iowa, shown and described in the Specifications therefore now on file with the Public Works Department of said City.  Said improvement will be performed strictly in accordance with said Specifications. The following parts of the Plans and Specifications for said Project attached hereto will be made a part of this contract as fully as though set out herein verbatim:
<ol> <li>Instructions to Bidders</li> <li>Detailed Specifications</li> <li>Non-collusion Affidavit of Prime Bidder</li> <li>Certificate of Insurance</li> <li>Proposal</li> <li>This Instrument</li> </ol>
On completion of the said improvement, the City agrees to pay to the Contractor therefore the prices set out in the bid of the Contractor, said payment to be made in the manner stated in the published Instructions to Bidders.  In Witness whereof, this contract has been executed on the date first herein written.
Laser Line Striping De Wahr Date: 4/8/19
CITY OF CEDAR FALLS, IOWA
By Date: James P. Brown, Mayor
ATTEST:
acque Danielson, MMC



### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 4/3/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s)

-		icate holder in lie	u of such endo	rsem	ent(s)	).									
	DUC						CONTACT NAME: Jan Willard								
		I Insurance lox 2597					PHONE (A/C, No, Ext): 319-234-8888 FAX (A/C, No): 319-234-770				4-7702				
		oo IA 50704						E-MAIL ADDRESS: jwillard@pdcm.com							
							INSURER(S) AFFORDING COVERAGE					NAIC#			
							INSURER A : Acuity Insurance Co.					14184			
INSURED LAS Dean Weikert dba Laser Line Striping					LIN-01		INSURI	ERB:							
		320th St.	i Line Striping	į.			INSURER C:								
Ackley IA 50601						INSURER D:									
						INSUR	ERE:								
						INSUR	RF:								
				NUMBER: 357785515				REVISION NUM							
THIS IS TO CERTIFY THAT THE POLICIE INDICATED. NOTWITHSTANDING ANY R CERTIFICATE MAY BE ISSUED OR MAY EXCLUSIONS AND CONDITIONS OF SUCH			EQUIF PER I POLI	REME AIN, CIES.	NT, TERM OR CONDITION THE INSURANCE AFFURDI LIMITS SHOWN MAY HAVE	OF AN	Y CONTRACT THE PULICIE REDUCED BY	OR OTHER S DESCRIBE	DOCUMENT WITH	RESPEC	CT TO V	VHICH THIS			
INSR LTR		TYPE OF INSU	RANCE	ADDL	SUBR	POLICY NUMBER		POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)		LIMIT	S			
Α	Х	COMMERCIAL GENER	RAL LIABILITY	Y	Υ	F10990		3/1/2019	3/1/2020	EACH OCCURRENC		\$ 1,000,0	00		
		CLAIMS-MADE	X OCCUR							DAMAGE TO RENTE PREMISES (Ea occur	D rrence)	\$ 100,000	)		
												MED EXP (Any one p	erson)	\$ 5,000	
										PERSONAL & ADV INJURY \$ 1,000,000		00			
	GEN	L'L AGGREGATE LIMIT A	APPLIES PER:							GENERAL AGGREGA	ATE	\$ 2,000,0	00		
		POLICY X PRO- JECT	X LOC						PRODUCTS - COMP/O		OP AGG	\$ 2,000,0	00		
		OTHER:										\$			
Α	AUT	OMODILE LIADILITY				F13993		3/1/2019	3/1/2020	COMBINED SINGLE (Ea accident)	LIMIT	\$ 1,000,0	00		
		ANY AUTO	1							BODILY INJURY (Per		\$			
		ALL OWNED X	SCHEDULED AUTOS							BODILY INJURY (Per		\$			
	Х	HIRED AUTOS X	NON-OWNED AUTOS							PROPERTY DAMAGE (Per accident)		\$			
												\$			
Α	X	UMBRELLA LIAB	X OCCUR			F13993		3/1/2019	3/1/2020	EACH OCCURRENC	E	\$3,000,0	00		
	X	EXCESS LIAB	CLAIMS-MADE		.					AGGREGATE		\$3,000,0	00		
	WOR	DED X RETENTION								I DED		\$			
	AND	EMPLOYERS' LIABILITY	Y V/N							PER STATUTE	OTH- ER				
- 1	OFFI	PROPRIETOR/PARTNER CER/MEMBER EXCLUDE	VEXECUTIVE	N/A						E.L. EACH ACCIDEN	Т	\$			
	(Man	datory in NH) describe under								E.L. DISEASE - EA EI	MPLOYEE	\$			
_	DÉSC	, describe under CRIPTION OF OPERATION	ONS below							E.L. DISEASE - POLIC	CY LIMIT	\$			
City	SCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)  ty of Cedar Falls is additional insured under general liability for ongoing & completed operations under general liability with waiver of subrogation if required in  itten contract. Governmental immunities will be provided to City of Cedar Falls.														
CER	TIFI	CATE HOLDER					CANC	ELLATION							

City of Cedar Falls
220 Clay St.
Cedar Falls IA 50613

ACCORDANCE WITH THE
220 Clay St.
Authorized Representative

USA

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SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

### ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - AUTOMATIC STATUS WHEN REQUIRED IN CONSTRUCTION AGREEMENT WITH YOU - PRIMARY

This endorsement modifies insurance provided under the following:

BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

- Who Is An Insured is amended to include as an additional insured:
  - a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as additional insured on your policy; and
  - b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in paragraph a above.

Such person or organization is an insured only with respect to liability for bodily injury, property damage or personal and advertising injury caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts or omissions of those acting on your behalf:

in the performance of your ongoing operations for the additional insured.

A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.

With respect to the insurance afforded to these additional insureds, the following additional exclusions apply: This insurance does not apply to:

- a. Bodily injury, property damage, personal and advertising injury arising out of the rendering of, or the failure to render, any professional, architectural, engineering or surveying services, including:
  - The preparing, approving or failing to prepare or approve maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  - Supervisory, inspection, architectural or engineering activities.
- **b.** Bodily injury or property damage occurring after:
  - (1) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed, or
  - (2) That portion of your work out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- 3. The insurance provided by this endorsement is primary and noncontributory.

### CB-7244(4-10)

### ADDITIONAL INSURED - COMPLETED OPERATIONS SCHEDULED - PRIMARY (OWNERS, LESSEES OR CONTRACTORS)

This endorsement modifies insurance provided under the following:

BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

Who Is an Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for bodily injury or property damage caused,

in whole or in part, by your work at the location designated and described in the schedule of this endorsement performed for that additional insured and included in the products-completed operations hazard.

The insurance provided by this endorsement is primary and noncontributory.

Location and Description

of Completed Operations

### SCHEDULE

Name of Additional Insured Person(s) or Organization(s) (Name and Address)

EXTERIOR MAINTENANCE RESOURCES ALL LOCATION COVERAGE TO

INC DBA MERIT SERVICE SOLUTIONS
52 E SWEDESFORD RD STE 100
MALVERN PA 19355

KIRK GROSS COMPANY PO BOX 2097 WATERI OO IA 50704

CITY OF CEDAR FALLS 220 CLAY ST CEDAR FALLS IA 50613

SKOGMAN CONSTRUCTION C/O ACCOUNTING DEPT 411 1ST AVE SE STE 200 CEDAR RAPIDS IA 52401 ALL LOCATIONS WITHIN THE COVERAGE TERRITORY

### WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

Paragraph J2 of the Transfer of Rights of Recovery Against Others to Us condition in the Bis-Pak Common Policy Conditions is amended as follows:

We waive any right of recovery we may have

against the person or organization shown in the Schedule because of payments we make for injury or damage arising out of your ongoing operations or your work done under a contract with that person or organization and included in the products-completed operations hazard. The waiver applies only to the person or organization shown in the Schedule.

### SCHEDULE

Person or Organization (Name and Address)

PETERSON CONTRACTORS INC PO BOX A REINBECK IA 50669

CUNNINGHAM CONSTRUCTION CO INC 1025 CENTER ST CEDAR FALLS IA 50613

CITY OF CEDAR FALLS 220 CLAY ST CEDAR FALLS IA 50613

SKOGMAN CONSTRUCTION C/O ACCOUNTING DEPT 411 1ST AVE SE STE 200 CEDAR RAPIDS IA 52401

### IOWA MUNICIPALITY ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART BIS-PAK BUSINESS LIABILITY AND MEDICAL EXPENSES COVERAGE FORM

### 1. Additional Insured

The municipality shown in the Schedule including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers, is an additional insured with respect to liability arising out of your work and/or services performed for the municipality. This coverage shall be primary to the additional insured and not contributing with any other insurance or similar protection available to the additional insured, whether other available coverage be primary, contributing or excess.

### 2. Governmental Immunities

### a. Nonwaiver of Governmental Immunity

We expressly agree and state that the purchase of this policy and the including of the municipality shown in the Schedule as an additional insured does not waive any of the defenses of governmental immunity available to the municipality under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

### b. Claims Coverage

We further agree that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

### c. Assertion of Government Immunity

The municipality shown in the Schedule shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon timely written request by us. Nothing contained in this endorsement shall prevent us from asserting the defense of governmental immunity on behalf of the municipality shown in the Schedule.

### d. Non-Denial of Coverage

We shall not deny coverage under this policy and we shall not deny any of the rights and benefits accruing to the municipality shown in the Schedule under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the municipality.

e. We and the municipality shown in the Schedule agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

### 3. Cancellation and Material Changes

We will give thirty (30) days advance written notice of cancellation, nonrenewal, reduction in coverage and/or limits and ten (10) days written notice for nonpayment of premium to the address shown in the Schedule. This endorsement supersedes the standard cancellation statement on the Certificate of Insurance to which this endorsement is attached.

	SCHEDULE	
	Municipality	
CITY	OF CEDAR FALLS	
	Address	

CEDAR FALLS, IA 50613



ADMINISTRATION DIVISION 2200 TECHNOLOGY PKWY CEDAR FALLS, IOWA 50613 319-273-8629 FAX 319-273-8632

PUBLIC WORKS/PARKS DIVISION 2200 TECHNOLOGY PKWY 319-273-8629 FAX 319-273-8632

### MEMORANDUM

TO: Honorable Mayor James P. Brown and City Council

FROM: Brian M. Heath, Public Works/Parks Div. Manager

**DATE:** April 9, 2019

**SUBJECT:** Wheel Loader Purchase

Competitive quotations were received for a wheel loader that is budgeted for Fiscal Year 2020 as part of the Vehicle Replacement Program. Wheel loaders are utilized throughout the division for various construction projects and are outfit during the winter with a rotary plow and/or wing/plow combination for snow and ice control operations.

The following is a summation of the competitive quotes that were received:

Titan Machinery (CASE) \$145,428.00

Murphy Tractor and Equipment Co. (John Deere) \$157,325.00

AltorferCAT \$181,831.00

After inspecting the equipment it was discovered that the clearance on the Case was not adequate for mounting the wing and plow that is currently owned by the City. Further, the City's current fleet of wheel loaders are manufactured by John Deere, which allows for parts and other items such as wheels to be interchanged between units, saving money in the long term.

The difference in purchase price of the low quote from Case and the John Deere is \$11,897.00. Based on the compatibility issues mentioned above and the potential future cost savings, it is the recommendation of the Municipal Operations and Programs Department to accept the quote from Murphy Tractor and Equipment Co. in the amount of \$157,325.00 for the wheel loader purchase.

The Vehicle Replacement Program has this project listed in FY20 at a budgeted amount of \$190,000.00. The projected delivery date for this apparatus is late July or early August 2019, which fits into the budget time line and better prepares the division moving into winter operations.

Please feel free to contact me if you have questions.

CC: Mark Ripplinger, Director of Municipal Operations and Programs



### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197 www.cedarfalls.com

**MEMORANDUM** 

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Terra Ray, Engineer Technician II

**DATE:** April 9, 2019

**SUBJECT:** Walnut Street Box Culvert Replacement

Project Number BR-106-3152

The City of Cedar Falls is planning to reconstruct the Walnut Street Box Culvert, University Branch of Dry Run Creek. The project will require the acquisition of temporary easements and permanent easements along the corridor. Plans for the project shows the need for acquisitions from approximately four (4) properties.

We recommend that the Council approve and execute Parcel 1-4 Purchase Agreements. Approve and execute Parcel 1 and 3, Easement Agreements to be recorded at the black hawk county courthouse.

xc: Chase Schrage, Principal Engineer

### CITY OF CEDAR FALLS OWNER PURCHASE AGREEMENT

PRO PAR	PROPERTY ADDRESS: 2003 Wa	Inut Street COUNTY TAX F	PROPERTY ADDRESS: 2003 Walnut Street COUNTY TAX PARCEL NO. 8914-13-302-003
PRO	PROJECT NO. BR-106-3152		PROJECT NAME: Walnut St. Box Culvert Replacement
THIS betwe	THIS AGREEMENT entered into this between Matthew D and Katie L. Blicl	nis day Nickenderfer, Seller, and the	THIS AGREEMENT entered into this day of day of, 2019, by and between Matthew D and Katie L. Blickenderfer, Seller, and the City of Cedar Falls, Iowa, Buyer.
. <del>€</del>		and furnish to the Buyer a lent agreement, on form(s) fu real estate, or interest in re ows:	The Seller agrees to sell and furnish to the Buyer a temporary easement agreement(s) and permanent drainage easement agreement, on form(s) furnished by the Buyer, and the Buyer agrees to purchase the following real estate, or interest in real estate, hereinafter referred to as the premises, described as follows:
	See Attached Temporary E	See Attached Temporary Easement Plat and Permanent Drainage Easement Plat.	t Drainage Easement Plat.
	and which include the follov	ving improvements of whatev	and which include the following improvements of whatever type situated on the premises:
<b>%</b>		states, rights, titles and interes any change of grade of the i ment under this agreement fo S full settlement and paymen charges the Buyer from liab inprovement project.	The premises include the estates, rights, titles and interests, including easements, as are described herein. Seller consents to any change of grade of the recreational trail which is adjacent to the premises, and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and the construction of this public improvement project.
က်		Possession of the premises is the essence of this agreement and the Buyer may en full use and enjoyment of the premises in accordance with the terms of this agreem grants the Buyer the immediate right to enter the premises for the purpose of gathe soil data. When Buyer has paid Seller the payment amount described in the follow and when Seller has executed and delivered a warranty deed and tempo agreement(s), conveying title, or an interest in title, to the premises to Seller, as d agreement, Buyer shall then be entitled to immediate possession of the premises.	Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, and when Seller has executed and delivered a warranty deed and temporary easement agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this agreement, Buyer shall then be entitled to immediate possession of the premises.
4.		ELLER AGREES to grant that this agreement, and to surrelates listed below.	Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below.
	Payment Amount	Agreed Performance	Date
	\$ \$ \$ 3212.00	on right of possession on conveyance of title on surrender of possession on possession and conveyance TOTAL LUMP SUM	ance After Council Approval

BREAKDOWN:		
Land by Fee Title	sq. ff.	÷
Underlying Fee Title	Sq. ff.	69
Temporary Easement 925	sq. ft.	833
Permanent Easement 825	sq. ft.	\$2 8
Buildings		6
Severance Damages:		<del>(</del>

	323.75	2887.50	1	1
- 1	မ်းမြ		မ	8

- hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Seller also agrees to execute a Temporary Easement for Construction, a copy of which is attached Easement shall terminate upon completion of the project. 5
- NONE The Seller warrants that there are no tenants on the premises holding under lease except: ø.

7	7. This agreement shall apply to and bind the legal successors in interest of the Seller, and the
	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 Section 427.2 of the
	Code of lowa, and agrees to warrant good and sufficient title.

Names and address of lienholders are:

- Each page and each attachment is by this reference made a part hereof and the entire agreement consists of 6 pages. œ
- to obtain court approval of this agreement, if requested by the Buyer, if title to the The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees furnish and deliver to the City of Čedar Falls, 220 Clay Street, Cedar Falls, IA 50613, an abstract of City if this agreement does not involve a total taking, must show merchantable 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 the Buyer, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or on warrants as payment on the agreement. If this agreement involves a total taking, SELLER WILL itle to be updated, if requested by City. The abstract continued to date, or a title report obtained by premises vested in Seller. Buyer agrees to pay the cost of any abstract continuation.

  AGREES to obtain court annoval of this agreement if the continuation. signed bills. တ်
- tenants in common at the time of this agreement, Buyer will pay any remaining proceeds to the If the Seller holds title to the premises in joint tenancy with full rights of survivorship and not as 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 the Seller. 10.
- Buyer and the Seller and there is no agreement to do or not to do any act or deed except as This written agreement and the attachments together constitute the entire agreement between the specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City Council 7.
- þ construction maintenance damages not apparent at the time of the signing of this agreement, as required of settlement to renegotiate The Seller shall have five years from the date Section 6B.52 of the Code of lowa. 12.

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.

Katie L. Blickenderfer	apacity:  before me on $3/19/2019$	RIckenderfer	ROBERT A DUDLEY NOTARY PUBLIC STATE OF COLORADO NOTARY ID 19964006593 MY COMMISSION EXPIRES MAY 19, 2023	e capacity:	before me on	(Date) by	(type of authority, such as officer or trustee)	
Mätthew D Blickenderfer	<ol> <li>For an acknowledgment in an individual capacity:         State of</li></ol>	Name(s) of individual(s).  Signature of notarial officer	Stamp  Notary  Title of Office	For an acknowledgment in a representative capacity:     State of	County of This record was acknowledged before me on		Name(s) of individual(s) as	of

3

(name of party on behalf of whom record was executed).

Signature of notarial officer	Stamp	Title of Office	[My commission expires:]	BUYER'S APPROVAL	James P. Brown, Mayor (date)	Jacqueline Danielsen, MMC (date) City Clerk	MUNICIPALITIES ACKNOWLEDGMENT
				BUYER'S APF	By: James P.	By: Jacqueline City Clerk	MUNICIPALIT

Notary Public in and for the State of Iowa

, of the City of Cedar Falls, lowa.

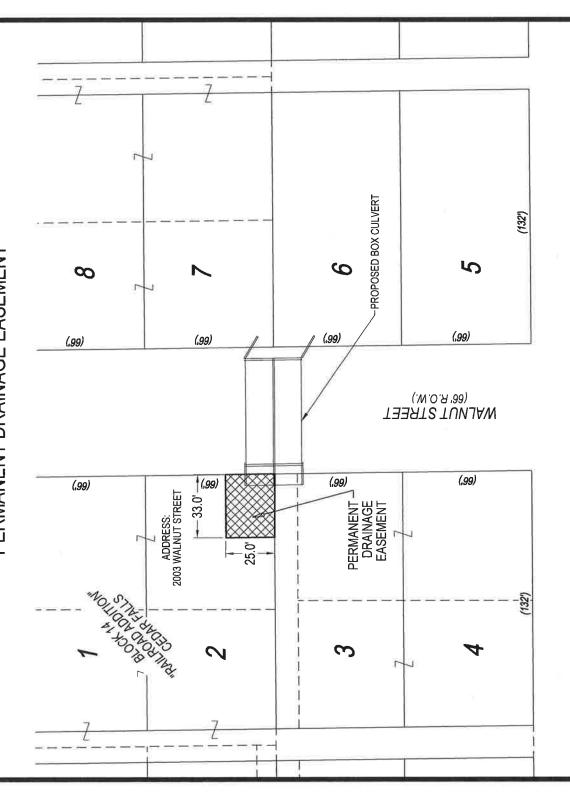
This instrument was acknowledged before me on the \_\_\_\_\_ day of \_\_\_\_ James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk

STATE OF IOWA, COUNTY OF BLACK HAWK, ss:

Notary Stamp Above

City Proj. No. BR-106-3152

# PERMANENT DRAINAGE EASEMENT



PERMANENT DRAINAGE EASEMENT: The East 33.0 feet of the South 25.0 feet of Lot 2, Block 14, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 825 square feet, more or less.



compiled from and is not the This plat has been or record information aresult of a field surv OF COMMUNITY DEVELOPMENT

DEPARTMENT

DIVISION

ENGINEERING

IOWA

CITY of CEDAR FALLS, II 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606

Owner MATTHEW D. & KATIE L. BLICKENDERFER

1107 MAN O WAR WAY COLORADO SPRINGS, CO 80921

AGE SEPTREV HEL

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of low

8914-13-302-003

Parcel No.:

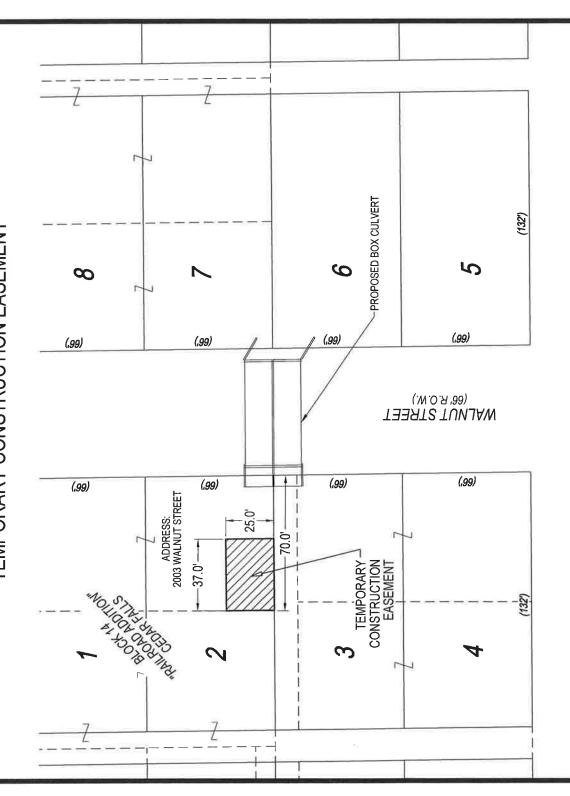
Meditory Determine The Control Date: Leftrey P. Hekland, L.S. lowe License No. My license renewal date is December 31, 2019. Pages or Sheets covered by this Seal:

CHECKED BY:

159

City Proj. No. BR-106-3152

# TEMPORARY CONSTRUCTION EASEMENT



TEMPORARY CONSTRUCTION EASEMENT: The West 37.0 feet of the East 70.0 feet of the South 25.0 feet of Lot 2, Block 14, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 925 square feet, more or less.



from t the compiled franction and This plat has been c record information ar result of a field surv COMMUNITY DEVELOPMENT

OF

DEPARTMENT

DIVISION

ENGINEERING

OWA

CITY of CEDAR FALLS, IG 220 CLAY ST. CEDAR FALLS, 10WA 50613 (319) 273-8606

Owner
MATTHEW D. & KATIE L. BLICKENDERFER
1107 MAN O WAR WAY
COLORADO SPRINGS, CO 80921

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

8914-13-302-003 Parcel No.:

Jeffrey P. Helland, L.S. lowa License No. 16264
My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal: Date:

G: \users\eng\projects\3152

HUN

160

Prepared by: Terra Ray, 220 Clay Street, Cedar Falls, IA 50613 (319) 243-2711

## PERMANENT DRAINAGE EASEMENT

consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey to the City of Cedar Falls, lowa (hereinafter "Grantee"), its successors and assigns, a permanent drainage easement over, The undersigned Matthew D. and Katie L. Blickenderfer, (hereinafter "Grantor"), in under, and across the real estate legally described below, for purposes of construction, reconstruction, replacement, operation and maintenance of the Walnut Street Box Culvert Replacement Project, and branch of Dry Run Creek, together with the right of ingress to and egress from the real estate described below, in order to perform all work and do all other things reasonably necessary to exercise all rights granted to Grantee in this easement. Said easement is granted over the following described real estate owned by Grantor

See Attached Permanent Drainage Easement Plat Exhibit

This easement shall be perpetual in nature, shall benefit and shall be binding upon Grantor and Grantee, and their respective heirs, personal representatives, successors and assigns, and shall constitute a covenant that runs with the Grantor's land.

Upon completion of any construction or maintenance work undertaken by Grantee any and all damage to said real estate resulting from said construction or maintenance work upon the above-described real estate, the Grantee shall be required to replace or restore as is reasonable under the circumstances.

Blickenderfer Katie L. Matthew D. Blickenderfer COUNTY OF HEAMAINE STATE OF B

### I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws The East 33.0 feet of the South 25.0 feet of Lot 2, Block 14, Railroad Addition in the City of Cedar Falls, Black 8914-13-302-003 Parcel No.: L.S. My license renewal date is December Pages or Sheets covered by this Seal: PROPOSED BOX CULVERT Walnut Street Box Culvert Replacement Owner MATTHEW D. & KATIE L. BLICKENDERFER 1107 MAN O WAR WAY COLORADO SPRINGS, CO 80921 of the State of low PERMANENT DRAINAGE EASEMENT 2 9 $\infty$ Right of Way Acquisition Plat City Proj. No. BR-106-3152 (,99) (.99) (,99) (.99) SSIONAL ASSIONAL ASSIONAL HELLAND 16264 WALNUT STREET (.w.o.r.) COMMUNITY DEVELOPMENT (,99) (,99) (,99) (.99)PERMANENT DRAINAGE EASEMENT: ADDRESS: 2003 WALNUT STREET 33.0 Contains 825 square feet, more or less. PERMANENT DRAINAGE EASEMENT ENGINEERING DIVISION CITY of CEDAR FALLS, IOWA 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606 25.0' compiled from and is not the World of the state Hawk County, lowa. survey. This plat has been record information result of a field su 3 4 2 OF DEPARTMENT 177

JPH

163

Prepared by: Terra Ray, 220 Clay Street, Cedar Falls, IA 50613 (319) 243-2711

## TEMPORARY CONSTRUCTION EASEMENT

hereby acknowledged, does hereby grant and convey to the City of Cedar Falls, lowa (hereinafter "Grantee"), its successors and assigns, a temporary construction easement over, under, and across the real estate legally described below, for purposes of construction, reconstruction, replacement, operation and maintenance of the Walnut Street Box Culvert Replacement Project, together with the right of ingress to and egress from the The undersigned Matthew D. and Katie L. Blickenderfer, (hereinafter "Grantor"), in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is real estate described below, in order to perform all work and do all other things reasonably necessary to exercise all rights granted to Grantee in this easement.

Said easement is granted over the following described real estate owned by Grantor to-wit

See Attached Temporary Construction Easement Plat Exhibit

successors and assigns, and shall constitute a covenant This easement shall be temporary in nature, terminating upon the completion of the Project. Shall benefit and shall be binding upon Grantor and Grantee, and their respective heirs, personal representatives, that runs with the Grantor's land.

Upon completion of any construction or maintenance work undertaken by Grantee upon the above-described real estate, the Grantee shall be required to replace or restore any and all damage to said real estate resulting from said construction or maintenance work as is reasonable under the circumstances.

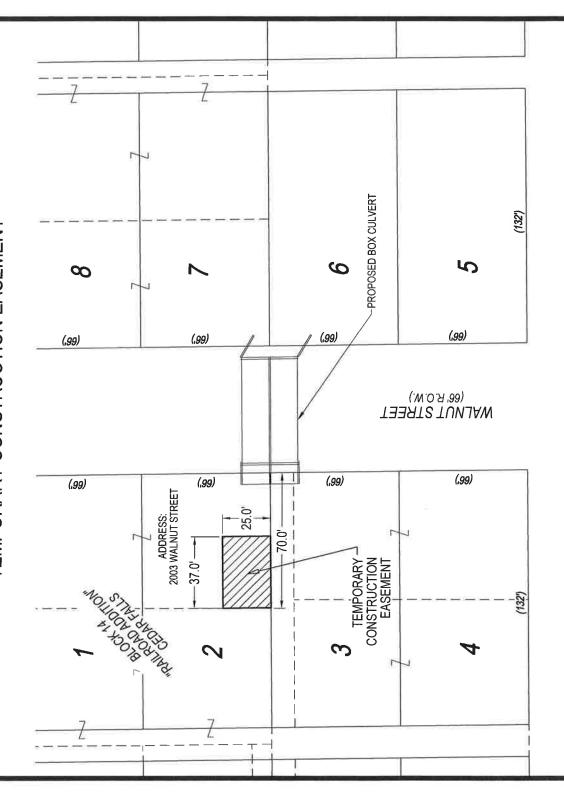
By Matthew D. Blickenderfer By STATE OF COUNTY OF HEACH THE SS.

Katie L. Blickenderfer

This instrument was acknowledged before me on 19 day of March , 2019, by Matthew D. Blickenderfer and Katie L. Blickenderfer.  Notary Public in and for the State of Court Public in and for the State of Court Robert Adult EV	by
My Commission Expires: > // // / STATE OF COLORADO NOTARY ID 19964006693 MY COMMISSION EXPIRES MAY 19, 2023	
ACCEPTANCE OF EASEMENT	
The City of Cedar Falls, lowa ("Grantee"), does hereby accept and approve the foregoing Easement.	ve the
Dated this day of, 2019.	
CITY OF CEDAR FALLS, IOWA	
James P. Brown, Mayor	
ATTEST:	
Jacqueline Danielsen, MMC City Clerk	
STATE OF IOWA	
COUNTY OF BLACK HAWK )	
This instrument was acknowledged before me on, 2019, by James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk of the City of Cedar Falls, Iowa.	19, by Cedar
Notary Public in and for the State of Iowa	Flowa
My Commission Expires:	

City Proj. No. BR-106-3152

# TEMPORARY CONSTRUCTION EASEMENT



TEMPORARY CONSTRUCTION EASEMENT: The West 37.0 feet of the East 70.0 feet of the South 25.0 feet of Lot 2, Block 14, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 925 square feet, more or less



from t the This plat has been compiled frecord information and is not result of a field survey. COMMUNITY DEVELOPMENT

OF

DEPARTMENT

DIVISION

ENGINEERING

IOWA

CITY of CEDAR FALLS, IG 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606

Owner MATTHEW D. & KATIE L. BLICKENDERFER 1107 MAN O WAR WAY COLORADO SPRINGS, CO 80921

<u>a</u>

8914-13-302-003 Parcel No.:

SURVEYOR 

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

Jeffrey P. Helland, L.S. lowa License No. 16264
My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

Date:

2019

Hdl

166

# Prepared by: Terra Ray City of Cedar Falls, 220 Clay Street, Cedar Falls, iA 50613

## CITY OF CEDAR FALLS OWNER PURCHASE AGREEMENT

PAR	PROPERTY ADDRESS: 703 W. PARCEL NO. 2	PROPERTY ADDRESS: 703 W. 21* Street_COUNTY TAX PARCEL NO. 8914-13-302-004	NO. 8914-13-302-004
PRC	JECT NO. BR-106-3152		PROJECT NAME: Walnut St. Box Culvert Replacement
THIS	THIS AGREEMENT entered into this between Randall M. Costello, Seller,	and the C	A P ← 1 , 2019, by and a, Buyer.
· <del>-</del>	1. The Seller agrees to sell and permanent drainage easement to purchase the following real premises, described as follows:	The Seller agrees to sell and furnish to the Buyer a temporary easement agreement(s) and permanent drainage easement agreement, on form(s) furnished by the Buyer, and the Buyer agrees to purchase the following real estate, or interest in real estate, hereinafter referred to as the premises, described as follows:	ary easement agreement(s) and by the Buyer, and the Buyer agrees te, hereinafter referred to as the
	See Attached Temporary I	See Attached Temporary Easement Plat and Permanent Drainage Easement Plat.	ige Easement Plat.
	and which include the follo	and which include the following improvements of whatever type situated on the premises:	situated on the premises:
7		The premises include the estates, rights, titles and interests, including easements, as are described herein. Seller consents to any change of grade of the recreational trail which is adjacent to the premises, and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and construction of this public improvement project.	uding easements, as are described onal trail which is adjacent to the nd all damages arising therefrom. e Buyer for all claims per the terms ause of this agreement and the
က်		Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, and when Seller has executed and delivered a warranty deed and temporary easement agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this agreement, Buyer shall then be entitled to immediate possession of the premises.	the Buyer may enter and assume ms of this agreement. The Seller purpose of gathering survey and cribed in the following paragraph, deed and temporary easement ses to Seller, as described in this of the premises.
4.		Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below.	f possession, convey title, or an ysical possession of the premises
	Payment Amount	Agreed Performance	Date
	\$ \$ 1906.00	on right of possession on conveyance of title on surrender of possession on possession and conveyance TOTAL LUMP SUM	After Council Approval

 BREAKDOWN:
 sq. ft.
 \$ 

 Land by Fee Title
 sq. ft.
 \$ 

 Underlying Fee Title
 sq. ft.
 \$ 

 Temporary Easement 495
 sq. ft.
 \$173.25

 Permanent Easement 495
 sq. ft.
 \$1732.50

 Buildings
 \$ \$ 

 Severance Damages:
 \$ \$

hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Seller also agrees to execute a Temporary Easement for Construction, a copy of which is attached Easement shall terminate upon completion of the project.

S

The Seller warrants that there are no tenants on the premises holding under lease except Ö.

agreement shall apply to and bind the legal successors in interest of the Seller, and the 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 Section 427.2 of the Code of lowa, and agrees to warrant good and sufficient title.

2

Names and address of lienholders are:  $\mathbb{N}^{\otimes C}$ 

Z o S M

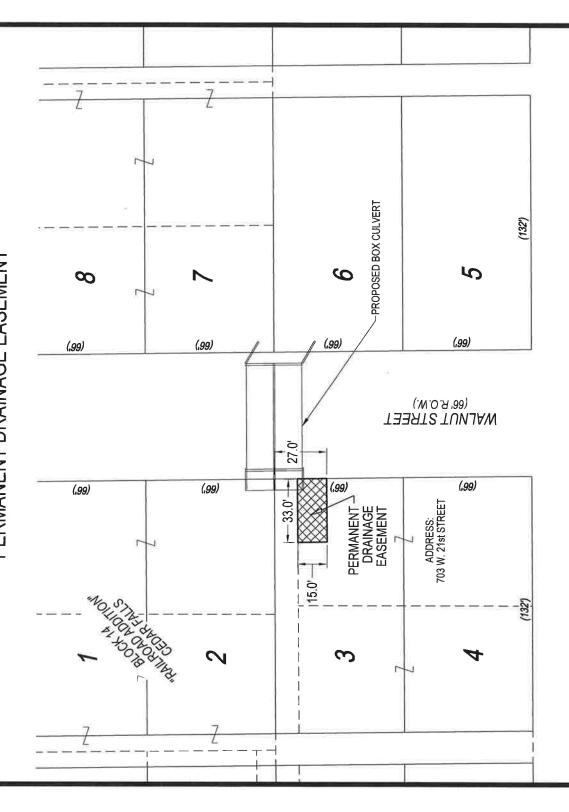
- Each page and each attachment is by this reference made a part hereof and the entire agreement consists of 6 pages. တ်
- furnish and deliver to the City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613, an abstract of the City if this agreement does not involve a total taking, must show merchantable title to the Buyer agrees to pay the cost of any abstract continuation. SELLER to obtain court approval of this agreement, if requested by the Buyer, if 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 the Buyer, but not The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees title to be updated, if requested by City. The abstract continued to date, or a title report obtained by attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or on warrants as payment on the agreement. If this agreement involves a total taking, SELLER WILL premises vested in Seller. တ်
- tenants in common at the time of this agreement, Buyer will pay any remaining proceeds to the if the Seller holds title to the premises in joint tenancy with full rights of survivorship and not as 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 the Seller. 5
- This written agreement and the attachments together constitute the entire agreement between the Buyer and the Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City 17
- maintenance damages not apparent at the time of the signing of this agreement, as required by Section 6B.52 of the Code of lowa. Seller shall have five years from the date of settlement to renegotiate construction 4

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.

signed cl	ump sum payment shown herein is just and
Randall M. Costello	Spouse Control
1. For an acknowledgment in an individual capacity.	ig.
State of	
County of	
This record was acknowledged before me on	ore me on
	(Date) by
Name(s) of individual(s).	
Signature of notarial officer	
Stamp	
Title of Office	
[My commission expires:	
2. For an acknowledgment in a representative capacity:	bacity:
State of	
County of	
This record was acknowledged before me on	re me on
	(Date) by
Name(s) of individual(s) as	
(type	(type of authority, such as officer or trustee)
of	
33	

City Proj. No. BR-106-3152

# PERMANENT DRAINAGE EASEMENT



## PERMANENT DRAINAGE EASEMENT:

The South 15.0 feet of the North 27.0 feet of the East 33.0 feet of Lot 3, Block 14, Railroad Addition in the City of Cedar Falls, Black Hawk County, Iowa.

Contains 495 square feet, more or less.



compiled from and is not the peen information field is plat has trecord informresult of

Owner

RANDALL M. COSTELLO 703 W. 21st STREET CEDAR FALLS, IOWA 50163

8914-13-302-004 Parcel No.:

 $\sim$ 

OF COMMUNITY DEVELOPMENT DIVISION CITY of CEDAR FALLS, IOWA 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606 ENGINEERING DEPARTMENT

SURVEYOR WA SEE JEFFREY HELT

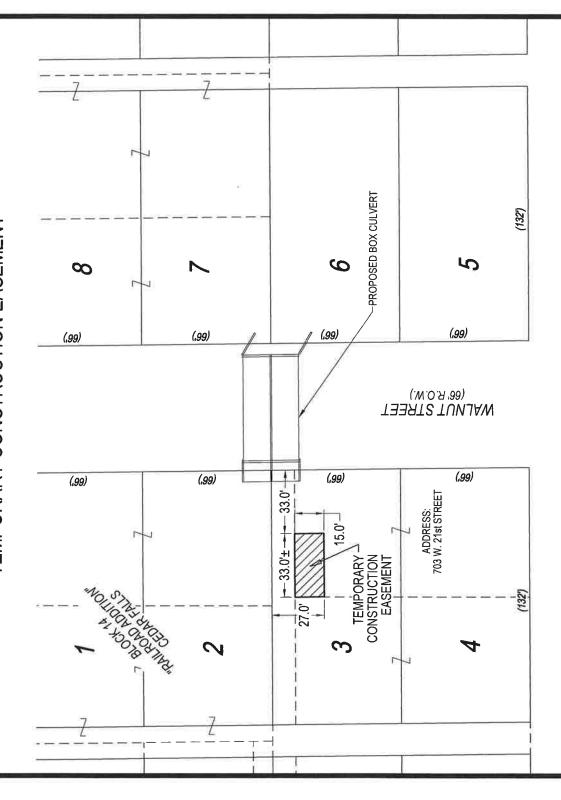
I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws supervision and that of the State of lowa.

My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

NO.

City Proj. No. BR-106-3152

# TEMPORARY CONSTRUCTION EASEMENT



## TEMPORARY CONSTRUCTION EASEMENT:

The South 15.0 feet of the North 27.0 feet of the East Half (E 1/2) of Lot 3, Block 14, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa, except the East 33.0 feet thereof. Contains 495 square feet, more or less.



compiled from and is not the survey peen at has been information field O This plat record inf result of

RANDALL M. COSTELLO Owner

703 W. 21st STREET CEDAR FALLS, IOWA 50163

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa. 8914-13-302-004

2a

Parcel No.:

Jeffrey P. Helland, L.S. lowa License No. 16264
My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal: Date:

SSIONAL SSIONAL HELLY TY OF COMMUNITY DEVELOPMENT JPH DIVISION CITY of CEDAR FALLS, IC 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606 CHECKED BY: ENGINEERING DEPARTMENT

## CITY OF CEDAR FALLS OWNER PURCHASE AGREEMENT

PROPERTY ADDRESS: 624 W. 20th Street COUNTY TAX PARCEL NO. 8914-13-303-001	PROJECT NAME: Walnut St. Box Culvert Replacement
PROPERTY ADDRESS: 624 W. 20th Street	PROJECT NO. BR-106-3152

2019, by and between Reece S. and Elizabeth T. Peterson, Seller, and the City of Cedar Falls, Iowa, Buyer. day of THIS AGREEMENT entered into this

permanent drainage easement agreement, on form(s) furnished by the Buyer, and the Buyer agrees to purchase the following real estate, or interest in real estate, hereinafter referred to as the premises, described as follows: The Seller agrees to sell and furnish to the Buyer a temporary easement agreement(s) and <u>.</u>:

See Attached Temporary Easement Plat and Permanent Drainage Easement Plat.

and which include the following improvements of whatever type situated on the premises:

- premises, and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and the herein. Seller consents to any change of grade of the recreational trail which is adjacent to the The premises include the estates, rights, titles and interests, including easements, as are described construction of this public improvement project. ۲i
- Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this Seller has executed and delivered a warranty deed and temporary agreement, Buyer shall then be entitled to immediate possession of the premises. and when က
- Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below. 4.

Date		After Council Approval
Agreed Performance	on right of possession on conveyance of title	on possession and conveyance TOTAL LUMP SUM
Payment Amount	& & &	\$ 2547.00

BREAKDOWN:		
Land by Fee Title	sq. ff.	↔
Underlying Fee Title	sq. ff.	l
Temporary Easement 1025	sq. ff.	l
Permanent Easement 625	Sq. ff.	ı
Buildings	-	ı
Severance Damages:		l <del>(/)</del>

50

358.75 2187.

hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Seller also agrees to execute a Temporary Easement for Construction, a copy of which is attached Easement shall terminate upon completion of the project. 5

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7. This agreement shall apply to and bind the legal successors in interest of the Seller, and the
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 Section 427.2 of the
Code of lowa, and agrees to warrant good and sufficient title.

Names and address of lienholders are:

- Each page and each attachment is by this reference made a part hereof and the entire agreement consists of 6 pages.  $\infty$
- premises vested in Seller. Buyer agrees to pay the cost of any abstract continuation. SELLER AGREES to obtain court approval of this agreement, if requested by the Buyer, if title to the the City if this agreement does not involve a total taking, must show merchantable title to the pay court approval costs and all other costs necessary to transfer the premises to the Buyer, but not The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees on warrants as payment on the agreement. If this agreement involves a total taking, SELLER WILL furnish and deliver to the City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613, an abstract of title to be updated, if requested by City. The abstract continued to date, or a title report obtained by premises becomes an asset of any estate, trust, conservatorship or guardianship. Buyer agrees to attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or signed bills. တ်
- If the 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 the Seller. 10
- This written agreement and the attachments together constitute the entire agreement between the Buyer and the Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City Council. 7.
- The Seller shall have five years from the date of settlement to renegotiate construction maintenance damages not apparent at the time of the signing of this agreement, as required Section 6B.52 of the Code of Iowa. 12.

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.

Elizabeth T. Peterson	capacity:	d before me on March (Date) by lizabeth Reteson	nan	48878 ires	13-19	ve capacity:	1	d before me on	(Date) by		(type of authority, such as officer or trustee)	
Reece S. Peterson	1. For an acknowledgment in an individual capacity: State of $\underline{Towa}$ County of $BlackHawk$	This record was acknowledged before me on 25, 2019 Rece and Elizabeth Name(s) of individual(s).	Signature of notarial office	Stamp Commission Number 748878  My Commission Expires  My Commission Expires  A-13-19  Title of Office		<ol> <li>ror an acknowledgment in a representative capacity:</li> <li>State of</li> </ol>	County of	This record was acknowledged before me on		Name(s) of individual(s) as		of

 $\mathfrak{C}$ 

(name of party on behalf of whom record was executed) .

									, of the City of Cedar Falls, lowa.
Signature of notarial officer	Stamp	Title of Office	[My commission expires:]	BUYER'S APPROVAL	By:	By: Jacqueline Danielsen, MMC (date) City Clerk	MUNICIPALITIES ACKNOWLEDGMENT	STATE OF IOWA, COUNTY OF BLACK HAWK, ss:	This instrument was acknowledged before me on the day of James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk

Notary Public in and for the State of Iowa

Notary Stamp Above

### "NO STATE OF THE S PERMANENT DRAINAGE EASEMENT PROPOSED BOX CULVERT Walnut Street Box Culvert Replacement (132) ADDRESS: 624 W. 20th STREET PERMANENT DRAINAGE EASEMENT 9 5 $\infty$ 25.0 Right of Way Acquisition Plat City Proj. No. BR-106-3152 -25.0'-(,99) (.99) (,99) (,99) WALNUT STREET (.W.O.R.'36) (.99) (.99) (,99) (.99) 3 S

### PERMANENT DRAINAGE EASEMENT

The South 25.0 feet of the West 25.0 feet of Lot 7, Block 15, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 625 square feet, more or less.



compiled from and is not the This plat has been a record information arresult of a field surv DIVISION

ENGINEERING

DEPARTMENT

CITY of CEDAR FALLS, II 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273—8606

Owner REECE S. & ELIZABETH T. PETERSON 904 W. 9th STREET CEDAR FALLS, IOWA 50163

OF COMMUNITY DEVELOPMENT

8914-13-303-001 Parcel No.:

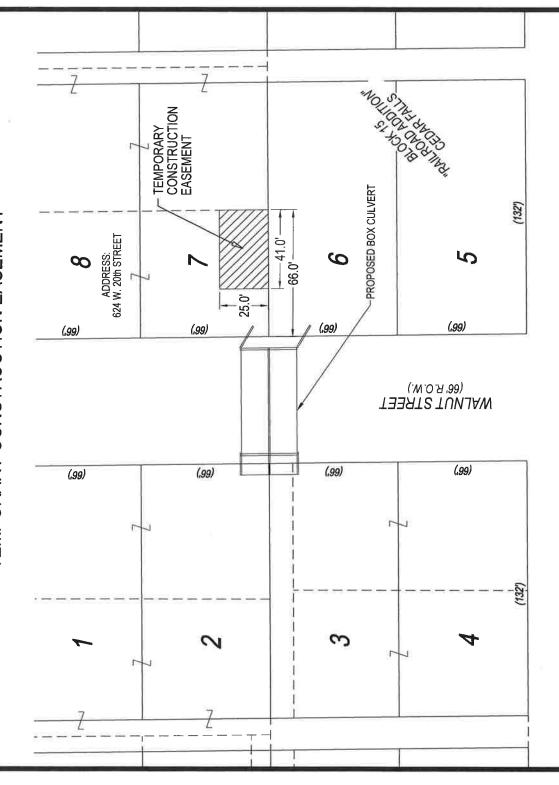
SSIONAL SEE JEFFREV HELT

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa. My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

SHEET NO.

City Proj. No. BR-106-3152

# TEMPORARY CONSTRUCTION EASEMENT



## TEMPORARY CONSTRUCTION EASEMENT:

The South 25.0 feet of the East 41.0 feet of the West 66.0 feet of Lot 7, Block 15, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 1,025 square feet, more or less.



compiled from and is not the survey. This plat has been crecord information arresult of a field surv information of a field su

Owner REECE S. & ELIZABETH T. PETERSON 904 W. 9th STREET

CEDAR FALLS, IOWA 50163

SURVEYOR CENSED SPORTS HFF

OF COMMUNITY DEVELOPMENT

DEPARTMENT

ENGINEERING DIVISION

CITY of CEDAR FALLS, IOWA 220 CLAY ST. GEDAR FALLS, IOWA 50613 (319) 273-8606

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of lowa.

8914-13-303-001

Parcel No.

Date:
Jeffrey P. Helland, L.S. lowa License No. 16264
My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

JPH

Prepared by: Terra Ray, 220 Clay Street, Cedar Falls, IA 50613 (319) 243-2711

## PERMANENT DRAINAGE EASEMENT

consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, does hereby grant and convey to the City of Cedar Falls, lowa (hereinafter "Grantee"), its successors and assigns, a permanent drainage easement over, under, and across the real estate legally described below, for purposes of construction, reconstruction, replacement, operation and maintenance of the Walnut Street Box Culvert Replacement Project, and branch of Dry Run Creek, together with the right of ingress to and egress from the real estate described below, in order to perform all work and do all other S. and Elizabeth T. Peterson, (hereinafter "Grantor"), things reasonably necessary to exercise all rights granted to Grantee in this easement. The undersigned Reece

Said easement is granted over the following described real estate owned by Grantor to-wit:

See Attached Permanent Drainage Easement Plat Exhibit

This easement shall be perpetual in nature, shall benefit and shall be binding upon Grantor and Grantee, and their respective heirs, personal representatives, successors and assigns, and shall constitute a covenant that runs with the Grantor's land.

Upon completion of any construction or maintenance work undertaken by Grantee upon the above-described real estate, the Grantee shall be required to replace or restore any and all damage to said real estate resulting from said construction or maintenance work as is reasonable under the circumstances.

Reece S. Peterson

B

Elizabeth T. Peterson

By

STATE OF Jowa

COUNTY OF Black Hawk )

25 day of March, 2019, by	
'his instrument was acknowledged before me on $artheta$ $artheta$	Reece S. Peterson and Elizabeth T. Peterson.

Icua Notary Public in and for the State of Legens

My Commission Expires: 4

Som	₹°	
44	No.	
877	on a acollo	

REGENA HUFFMAN mmission Number 748878 Commission Expires

### ACCEPTANCE OF EASEMENT

the	
, does hereby accept and approve the	
and	
accept	•
hereby	•
does	
("Grantee"),	
lowa	
The City of Cedar Falls,	
of C	ent.
City (	sem
The (	foregoing Easem
	-

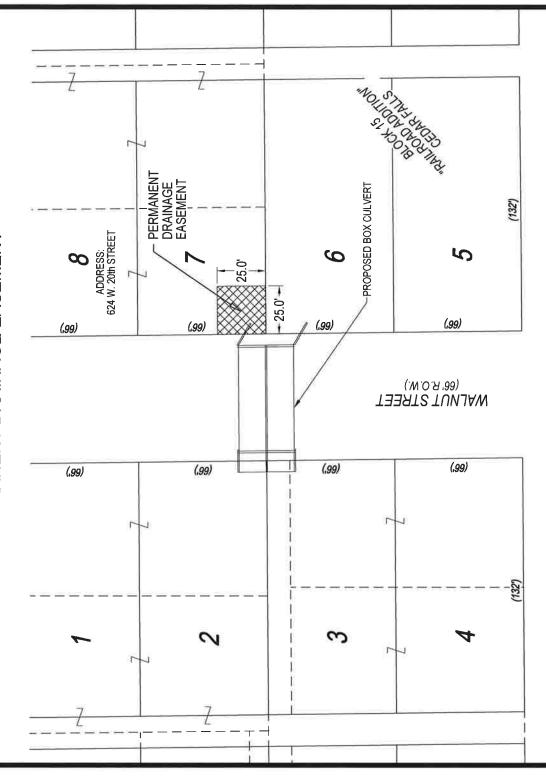
foregoing Easement.	occasional and approve the
Dated this day of	of
	CITY OF CEDAR FALLS, IOWA
	James P. Brown, Mayor
ATTEST:	
Jacqueline Danielsen, MMC City Clerk	
STATE OF IOWA	
COUNTY OF BLACK HAWK	) SS. (
This instrument was ac James P. Brown, Mayor, and Falls, lowa.	This instrument was acknowledged before me on James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk of the City of Cedar Falls, lowa.

Notary Public in and for the State of lowa

My Commission Expires:

City Proj. No. BR-106-3152

# PERMANENT DRAINAGE EASEMENT



PERMANENT DRAINAGE EASEMENT: The South 25.0 feet of Lot 7, Block 15, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 625 square feet, more or less.



has This plat record inforesult of a

Owner
REECE S. & ELIZABETH T. PETERSON 904 W. 9th STREET
CEDAR FALLS, IOWA 50163

8914-13-303-001 Parcel No.:

> DEVELOPMENT DIVISION CITY of CEDAR FALLS, IC 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606 COMMUNITY ENGINEERING OF DEPARTMENT 180

SURVEYOR

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

G: \users\eng\projects\3152

Prepared by: Terra Ray, 220 Clay Street, Cedar Falls, IA 50613 (319) 243-2711

## TEMPORARY CONSTRUCTION EASEMENT

consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is over, under, and across the real estate legally described below, for purposes of construction, reconstruction, replacement, operation and maintenance of the Walnut Street Box Culvert Replacement Project, together with the right of ingress to and egress from the hereby acknowledged, does hereby grant and convey to the City of Cedar Falls, lowa (hereinafter "Grantee"), its successors and assigns, a temporary construction easement real estate described below, in order to perform all work and do all other things reasonably The undersigned Reece S. and Elizabeth T. Peterson, (hereinafter "Grantor"), necessary to exercise all rights granted to Grantee in this easement. the

Said easement is granted over the following described real estate owned by Grantor to-wit:

See Attached Temporary Construction Easement Plat Exhibit

heirs, personal representatives, successors and assigns, and shall constitute a covenant This easement shall be temporary in nature, terminating upon the completion of the Project. Shall benefit and shall be binding upon Grantor and Grantee, and their respective that runs with the Grantor's land Upon completion of any construction or maintenance work undertaken by Grantee upon the above-described real estate, the Grantee shall be required to replace or restore any and all damage to said real estate resulting from said construction or maintenance work as is reasonable under the circumstances.

By Keece S. Peterson

Elizabeth T. Peterso

STATE OF Iswa

COUNTY OF Black Hawk

day of march, 2019, by 25 This instrument was acknowledged before me on \_Reece S. Peterson and Elizabeth T. Peterson. Notary Public in and for the State of Iowa

My Commission Expires: q - 13

REGENA HUFFMAN	Commission Number 748878  My Commission Expires	9-13-19
1	S. C.	ŧ

### ACCEPTANCE OF EASEMENT

the	
tee"), does hereby accept and approve the	
and	
accept	
hereby	
does	
("Gran	
lowa (	
The City of Cedar Falls, I	foregoing Easement.
	ξ

	, 2019.	CITY OF CEDAR FALLS, IOWA	James P. Brown, Mayor				SS.	This instrument was acknowledged before me on, 2019, by James P. Brown. Mayor, and Jacqueline Danielsen, MMC, City Clerk of the City of Cedar
	day of				MMC			was acknowle
foregoing Easement.	Dated this			ATTEST:	Jacqueline Danielsen, MMC City Clerk	STATE OF IOWA	COUNTY OF BLACK HAWK	This instrument James P. Brown, Mayo

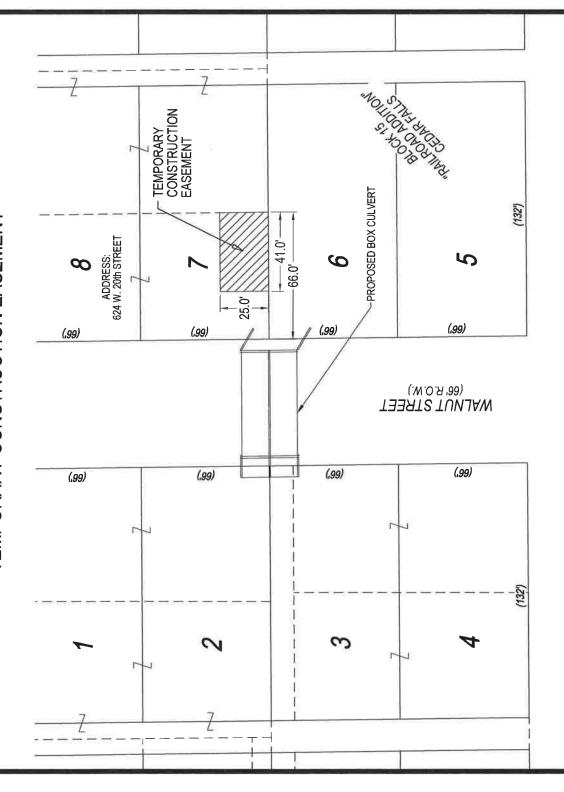
Notary Public in and for the State of Iowa

My Commission Expires:

## Walnut Street Box Culvert Replacement Right of Way Acquisition Plat

City Proj. No. BR-106-3152

# TEMPORARY CONSTRUCTION EASEMENT



## TEMPORARY CONSTRUCTION EASEMENT:

The South 25.0 feet of the East 41.0 feet of the West 66.0 feet of Lot 7, Block 15, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 1,025 square feet, more or less.



This plat has been compiled from record information and is not the result of a field survey.

OF COMMUNITY DEVELOPMENT ENGINEERING DIVISION

DEPARTMENT

IOWA

CITY of CEDAR FALLS, IC 220 CLAY ST. CEDAR FALLS, IOWA 50613 (319) 273-8606

183

ounty, lowa.

Owner REECE S. & ELIZABETH T. PETERSON 904 W. 9th STREET CEDAR FALLS, IOWA 50163

I hereby certify that t related survey work supervision and that supervision are supervision and that supervision are supervision and that supervision are supervision and supervision are supervision and supervision anative supervision and supervision and supervision and supervision

Date:

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of Iowa.

8914-13-303-001

Parcel No.:

Jeffrey P. Helland, L.S. lowa License No. 16264
My license renewal date is December 31, 2019.
Pages or Sheets covered by this Seal:

Last Update: January 4, 2019 1:02 PM

SHEET NO.

### CITY OF CEDAR FALLS OWNER PURCHASE AGREEMENT

PRO! PARC	PROPERTY ADDRESS: 616 W PARCEL NO. 4	PROPERTY ADDRESS: 616 W. 20th Street COUNTY TAX PARCEL NO. 8914-13-303-002 PARCEL NO. 4	NO. 8914-13-303-002
PRO.	PROJECT NO. BR-106-3152		PROJECT NAME: Walnut St. Box Culvert Replacement
THIS betwe	THIS AGREEMENT entered into this between Gayle Pohl, Seller, and the (	THIS AGREEMENT entered into this day of between Gayle Pohl, Seller, and the City of Cedar Falls, lowa, Buyer.	, 2019, by and
<del>-</del>	The Seller agrees to sell furnished by the Buyer, a estate, hereinafter referm	The Seller agrees to sell and furnish to the Buyer a temporary easement agreement(s), on form(s) furnished by the Buyer, and the Buyer agrees to purchase the following real estate, or interest in real estate, hereinafter referred to as the premises, described as follows:	sement agreement(s), on form(s) wing real estate, or interest in real ows:
	See Attached Temporary Easement Plat	Easement Plat	
	and which include the fol	and which include the following improvements of whatever type situated on the premises:	situated on the premises:
2		The premises include the estates, rights, titles and interests, including easements, as are described herein. Seller consents to any change of grade of the recreational trail which is adjacent to the premises, and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and the construction of this public improvement project.	ding easements, as are described nal trail which is adjacent to the d all damages arising therefrom. Buyer for all claims per the terms ause of this agreement and the
က်		Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, and when Seller has executed and delivered a warranty deed and temporary easement agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this agreement, Buyer shall then be entitled to immediate possession of the premises.	the Buyer may enter and assume ms of this agreement. The Seller purpose of gathering survey and ribed in the following paragraph, leed and temporary easement es to Seller, as described in this of the premises.
4.		Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below.	f possession, convey title, or an ysical possession of the premises
	Payment Amount	Agreed Performance	Date
	\$ \$ \$ \$ 231.00	on right of possession on conveyance of title on surrender of possession on possession and conveyance TOTAL LUMP SUM	After Council Approval

	sq. ft.	sq. ff.	sq. ft.	sq. ft.	-	
BREAKDOWN:	Land by Fee Title	Underlying Fee Title	Temporary Easement 660	Permanent Easement	Buildings	Severance Damades:

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		1.00			
¦ ₩	- +₽	\$23	<b>⊹</b>	¦ ₩	<b>⊹</b>

- hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Seller also agrees to execute a Temporary Easement for Construction, a copy of which is attached Easement shall terminate upon completion of the project. S.
- NONE The Seller warrants that there are no tenants on the premises holding under lease except: Ö.
- This agreement shall apply to and bind the legal successors in interest of the Seller, and the 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 Section 427.2 of the Code of lowa, and agrees to warrant good and sufficient title. 7

Names and address of lienholders are:

- Each page and each attachment is by this reference made a part hereof and the entire agreement consists of 5 pages.  $\infty$
- on warrants as payment on the agreement. If this agreement involves a total taking, SELLER WILL furnish and deliver to the City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613, an abstract of the City if this agreement does not involve a total taking, must show merchantable title to the premises vested in Seller. Buyer agrees to pay the cost of any abstract continuation. SELLER The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees itle to be updated, if requested by City. The abstract continued to date, or a title report obtained by AGREES to obtain court approval of this agreement, if requested by the Buyer, if 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 the Buyer, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or တ်
- If the 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 the Seller. 6.
- This written agreement and the attachments together constitute the entire agreement between the Buyer and the Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City <del>\_</del>.
- The Seller shall have five years from the date of settlement to renegotiate construction or maintenance damages not apparent at the time of the signing of this agreement, as required by Section 6B.52 of the Code of lowa. 12

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.

Spouse	For an acknowledgment in an individual capacity:	County of Black Hawk.  This record was acknowledged before me on $3 - 11 - 3019$	$\begin{array}{c ccccccccccccccccccccccccccccccccccc$	Signature of notarial officer	Stamp  Stamp	L Title of Office	[My commission expires: 13-20-x4]	For an acknowledgment in a representative capacity:	T DIS	wledged before	10/ -11-	Name(s) of individual(s) as	(type of authority, such as officer or trustee)	of (name of party on behalf of whom record was executed).	3
Gayle M. Pohl	1. For an acki	S	Nan	Sign	.,	<del>-</del> -		2. For an ackr	Cou			Na	J.	of (nam	

Signature of notarial officer		
Stamp		
Title of Office		
[My commission expires:_		
BUYER'S APPROVAL		
By: James P. Brown Mayor	(defe)	
	(date)	
Jacqueline Danielsen, MMC City Clerk	(date)	
MUNICIPALITIES ACKNOWLEDGMENT		
STATE OF IOWA, COUNTY OF BLACK HAWK, ss:	WK, ss:	
This instrument was acknowledged before me on the day of James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk	me on the day of nielsen, MMC, City Clerk	, of the City of Cedar Falls, lowa.

Notary Public in and for the State of lowa

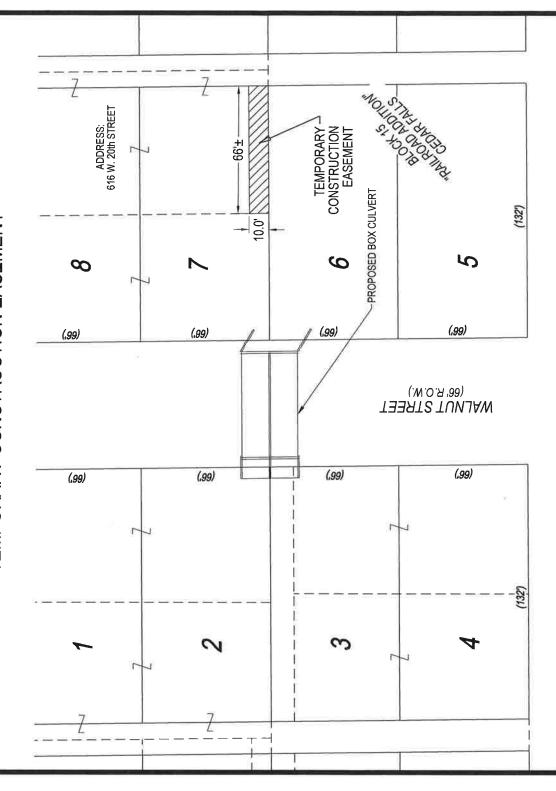
Notary Stamp Above

4

## Walnut Street Box Culvert Replacement Right of Way Acquisition Plat

City Proj. No. BR-106-3152

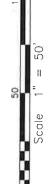
# TEMPORARY CONSTRUCTION EASEMENT



1220

TEMPORARY CONSTRUCTION EASEMENT: The South 10.0 feet of the East Half (E 1/2) of Lot 7, Block 15, Railroad Addition in the City of Cedar Falls, Black Hawk County, lowa.

Contains 660 square feet, more or less.



compiled from and is not the peen information of a field su is plat has trecord informiresult of

Owner

GAYLE M. POHL 616 W. 20th STREET CEDAR FALLS, IOWA 50163

4 8914-13-303-002 Parcel No.:

> DEVELOPMENT DIVISION CITY of CEDAR FALLS, (220 CLAY ST. CEDAR FALLS, 10WA 50613 (319) 273-8606 OF COMMUNITY ENGINEERING DEPARTMENT

I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly licensed Land Surveyor under the laws of the State of low SURVEYOR SSIONAL JEFFREY HELT

Jeffrey P. Heldand, L.S. lowe License No. My license renewal date is December 31, 2019. Pages or Sheets covered by this Seal:

188



### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197 www.cedarfalls.com

**MEMORANDUM** 

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Terra Ray, Engineer Technician II

**DATE:** April 9, 2019

**SUBJECT:** Ridgeway Avenue Reconstruction

Project Number RC-293-3172

The City of Cedar Falls is planning to reconstruct a portion of Ridgeway Avenue Chancellor Drive to Hwy 58. The project will require the acquisition of right of way and temporary easements along the corridor. Plans for the project shows the need for acquisitions from approximately four (4) properties.

We recommend that the Council approve and execute the Purchase Agreements for Parcel 2 and 3.

xc: Chase Schrage, Principal Engineer

### CITY OF CEDAR FALLS OWNER PURCHASE AGREEMENT

PROPERTY ADDRESS: 403 Ridgeway Avenue, Cedar Falls, IA 50613
COUNTY TAX PARCEL NO. 8914-36-376-015
PARCEL NO. 3
PROJECT NO. RC-293-3172
PROJECT NAME: Ridgeway Avenue Improvement

by and THIS AGREEMENT entered into this dth day of HDVII, 20 19, by an between Farm Credit Services of America, FLCA, Seller, and the City of Cedar Falls, lowa, Buyer.

The Seller agrees to sell and furnish to the Buyer a warranty deed and temporary easement agreement(s), on form(s) furnished by the Buyer, and the Buyer agrees to purchase the following real estate, or interest in real estate, hereinafter referred to as the premises, described as follows:

See Exhibit 3-F, Attached Acquisition Plat and Exhibit 3-T Temporary Easement

and which include the following improvements of whatever type situated on the premises: None

- The premises include the estates, rights, titles and interests, including easements, as are described herein. Seller consents to any change of grade of the street or highway which is adjacent to the premises. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and the construction of this public improvement project. ri
- Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, and when Seller has executed and delivered a warranty deed and temporary easement agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this agreement, Buyer shall then be entitled to immediate possession of the premises. က
- Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below. 4

Date		after council approval		
Agreed Performance	on right of possession on conveyance of title on surrender of possession	on possession and	conveyance	TOTAL LUMP SUM
Payment Amount	& & & &	\$9,805.00		8

BREAKDOWN:
Land by Fee Title 3.774 sq. ft.
Underlying Fee Title sq. ft.
Temporary Easement 5.834 sq. ft.
Permanent Easement sq. ft.
Buildings

491.50	12.65		
\$8.49	\$131	es es	69

- Seller also agrees to execute a Temporary Easement, a copy of which is attached hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Easement shall terminate upon completion of the project. The Temporary Easement shall automatically terminate and be of no further force or effect on and after the second anniversary of the date of the closing and sale of the premises. 5
- Buyer agrees that the Seller and its successors and assigns shall not be liable for personal injury or property damage caused by the conduct of Buyer or Buyer's agents, employees, servants, contractors or invitees in the use of the premises in connection with the Temporary Easement. Buyer agrees to defend, indemnify and hold harmless Seller, its successors and assigns from any and all claims and damages caused by Buyer, its agents, employees, servants, contractors, invitees or any other person under the direction and control of the Buyer, in connection with the use of Temporary Easement, or the use and occupancy by Buyer of the Temporary Easement. Nothing in this paragraph shall be construed to amend, modify or supplement the consideration to be paid by Buyer to Seller for the use of Seller's property under the Temporary Easement. ė.
- This agreement shall apply to and bind the legal successors in interest of the Seller, and the 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 Section 427.2 of the Code of lowa, and agrees to warrant good and sufficient title. /

Names and address of lienholders are: None\_\_\_

- Each page and each attachment is by this reference made a part hereof and the entire agreement pages. 9 consists of œ
- The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees on warrants as payment on the agreement. A title report obtained by the City if this agreement does agrees to pay the cost of any abstract continuation. SELLER AGREES to obtain court approval of this agreement, if requested by the Buyer, if title to the premises becomes an asset of any estate, not involve a total taking, must show merchantable title to the premises vested in Seller. Buyer trust, conservatorship or guardianship. Buyer agrees to pay court approval costs and all other costs Claims for costs shall be paid in amounts supported by paid receipts or signed bills. necessary to transfer the premises to the Buyer, but not attorney fees. ത്
- tenants in common at the time of this agreement, Buyer will pay any remaining proceeds to the If the Seller holds title to the premises in joint tenancy with full rights of survivorship and not as 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 the Seller. 10.
- This written agreement and the attachments together constitute the entire agreement between the Buyer and the Seller and there is no agreement to do or not to do any act or deed except as specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City

Council.

The Seller shall have five years from the date of settlement to renegotiate construction or maintenance damages not apparent at the time of the signing of this agreement, as required by Section 6B.52 of the Code of lowa. <del>1</del>2

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.

Title

SVP+ (NO

1. For an acknowledgment in an individual capacity:

County of State of

(Date) by This record was acknowledged before me on

Name(s) of individual(s).

Signature of notarial officer

Stamp

[My commission expires: Title of Office

For an acknowledgment in a representative capacity;

٥i

State of

County of

(Date) by This record was acknowledged before me on

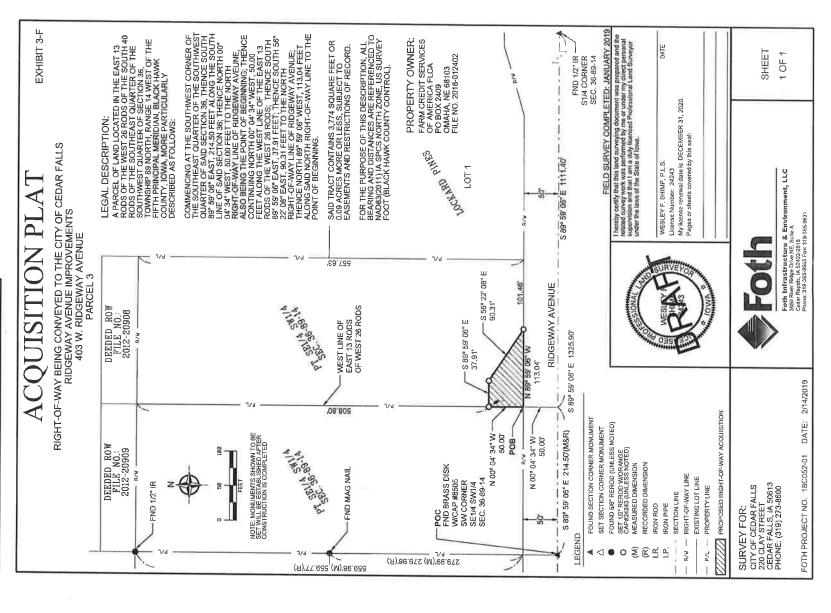
Name(s) of individual(s) as Charle Humida Burger (Sunor Montage authority, such as officer or trustee) of the name of party on behalf of whom record was executed).  Signature of notarial officer  Signature of notarial officer  Title of office  IMy commission expires: That how the name of panels of the name of the nam	STATE OF IOWA, COUNTY OF BLACK HAWK, ss:	This instrument was acknowledged before me on the day of, 20, by James P. Brown Mayor and Jacqueline Danielsen MMC. City Clark of the City of Cedar Ealls, Journ
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Notary Public in and for the State of lowa

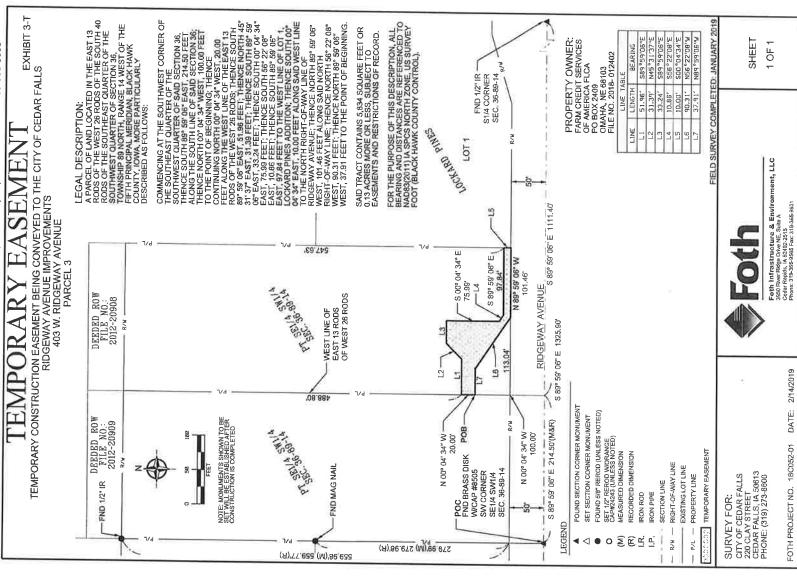
Notary Stamp Above

7

	Index Legend
Location:	SE of SW, Section 36, Township 89 N, Range 14 W
Requestor:	Requestor: City of Cedar Falls
Proprietor:	Proprietor: Farm Credit Services of America FLCA
Surveyor:	Wesley Shimp
Surveyor Company:	Foth Infrastructure & Environment, LLC
Return To:	3950 River Ridge Drive NE, Suite A Return To: Cedar Rapids, IA 52402   (319) 365-9565



Prepared by Wesley Shirnp, 3950 River Ridge Drive NE, Suite A, Cedar Rapids, IA 52402 Phone: 319-365-9565



### **OWNER PURCHASE AGREEMENT** CITY OF CEDAR FALLS

PROPERTY ADDRESS: 419 Ridgeway Avenue, Cedar Falls, IA 50613 COUNTY TAX PARCEL NO. 8914-36-376-017 PARCEL NO. 2	PROJECT NO. <u>RC-293-3172</u> PROJECT NAME: <u>Ridgeway Avenue Improvement</u> THIS AGREEMENT entered into this	the Buyer and the River agrees to purchase	real estate, or interest in real estate, hereinafter referred to as the premises, described as follows:  See Attached FEE Acquisition Area and Temporary Easement Area,	and which include the following improvements of whatever type situated on the premises:	The premises include the estates, rights, titles and interests, including easements, as are described herein. Seller consents to any change of grade of the street or highway which is adjacent to the premises, and accepts payment under this agreement for any and all damages arising therefrom. SELLER ACKNOWLEDGES full settlement and payment from the Buyer for all claims per the terms of this agreement and discharges the Buyer from liability because of this agreement and the construction of this public improvement project.	Possession of the premises is the essence of this agreement and the Buyer may enter and assume full use and enjoyment of the premises in accordance with the terms of this agreement. The Seller grants the Buyer the immediate right to enter the premises for the purpose of gathering survey and soil data. When Buyer has paid Seller the payment amount described in the following paragraph, and when Seller has executed and delivered a warranty deed and temporary easement agreement(s), conveying title, or an interest in title, to the premises to Seller, as described in this agreement, Buyer shall then be entitled to immediate possession of the premises.	Buyer agrees to pay and SELLER AGREES to grant the right of possession, convey title, or an interest in title, as provided in this agreement, and to surrender physical possession of the premises as shown on or before the dates listed below.	Payment Amount Agreed Performance Date	\$ on right of possession on conveyance of title on surrender of possession on possession and conveyance conveyance of I.IMP SLIM
ROPERT COUNTY TARGET	ROJECT ROJECT HIS AGRE	etween Ca 1. The	rea <u>l</u>	and	2. The here pren SEL of the cons	3. Poss full ugran soil (and and and agree)	4. Buye inter as sl	<u>.</u>	**************************************

	\$14,427.00	S	\$2,246.00	8	S	↔
	sq. ft.	sq. ft.	sq. ft.	sq. ft.		
BREAKDOWN:	Land by Fee Title 6,412	Underlying Fee Title	Temporary Easement 9,986	Permanent Easement	Buildings	Severance Damages

Seller also agrees to execute a Temporary Grading Easement for Construction, a copy of which is attached hereto. Any portion of the premises served by the above project shall be graded, shaped and seeded, if applicable, upon completion of the project by Buyer. The Temporary Construction Easement shall terminate upon completion of the project. ď.

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ne Seller Warrar	TAMMY O	

This agreement shall apply to and bind the legal successors in interest of the Seller, and the special assessments payable until surrender of possession, as required by Section 427.2 of the SELLER AGREES to pay all liens and assessments against the premises, including all taxes and Code of lowa, and agrees to warrant good and sufficient title. 7

- Each page and each attachment is by this reference made a part hereof and the entire agreement pages. 9 consists of ထ
- The Buyer may include mortgagees, lien holders, encumbrances and taxing authorities as payees on warrants as payment on the agreement. If this agreement involves a total taking, SELLER WILL furnish and deliver to the City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613, an abstract of itle to be updated, if requested by City. The abstract continued to date, or a title report obtained by the City if this agreement does not involve a total taking, must show merchantable title to the AGREES to obtain court approval of this agreement, if requested by the Buyer, if 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 the Buyer, but not attorney fees. Claims for such transfer costs shall be paid in amounts supported by paid receipts or premises vested in Seller. Buyer agrees to pay the cost of any abstract continuation. signed bills. <u>ග</u>
- If the Seller holds title to the premises in joint tenancy with full rights of survivorship and not as enants 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 nas not been destroyed by operation of law or acts of the Seller. 10
- This written agreement and the attachments together constitute the entire agreement between the specifically provided for herein. This agreement is subject to the approval of the Cedar Falls City Suyer and the Seller and there is no agreement to do or not to do any act or deed except 7.
- maintenance damages not apparent at the time of the signing of this agreement, as required by The Seller shall have five years from the date of settlement to renegotiate construction Section 6B.52 of the Code of lowa. 12

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.

manageny above Pack Es	61-1-1	e) by	CONNIE R HIX COMMISSION NO. 160858 MY COMMISSION EXPIRES JUNE 3, 2018		me on(Date) by	(type of authority, such as officer or trustee)	
Colder	1. For an acknowledgment in an individual capacity: State of $\overline{T}$ , $\mathcal{OUC}$ County of $\mathcal{D}/\mathcal{A}\mathcal{C}\mathcal{K}$ $\mathcal{A}\mathcal{L}\mathcal{D}\mathcal{K}$	(Date of notarial officer	Stamp  L  Title of Office  [My commission expires: 432018]	For an acknowledgment in a representative capacity:  State of	This record was acknowledged before me on (Date)	Name(s) of individual(s) as	of3
Della Cafaro				2. For			

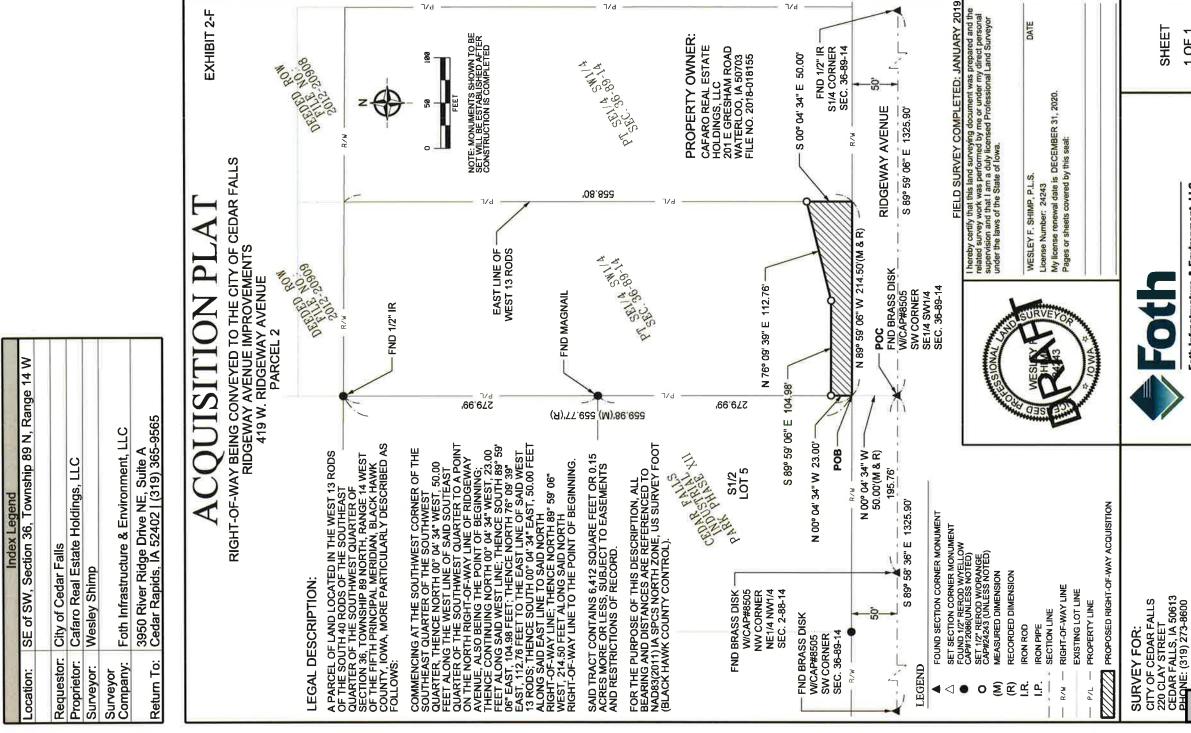
(name of party on behalf of whom record was executed)...

Signature of notarial officer
Stamp
[] Title of Office
[My commission expires:]
BUYER'S APPROVAL
By: James P. Brown, Mayor (date)
By: Jacqueline Danielsen, MMC (date) City Clerk
MUNICIPALITIES ACKNOWLEDGMENT
STATE OF IOWA, COUNTY OF BLACK HAWK, ss:
This instrument was acknowledged before me on the day of, 20, James P. Brown, Mayor, and Jacqueline Danielsen, MMC, City Clerk, of the City of Cedar Falls, Iowa.

Notary Public in and for the State of Iowa

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Notary Stamp Above

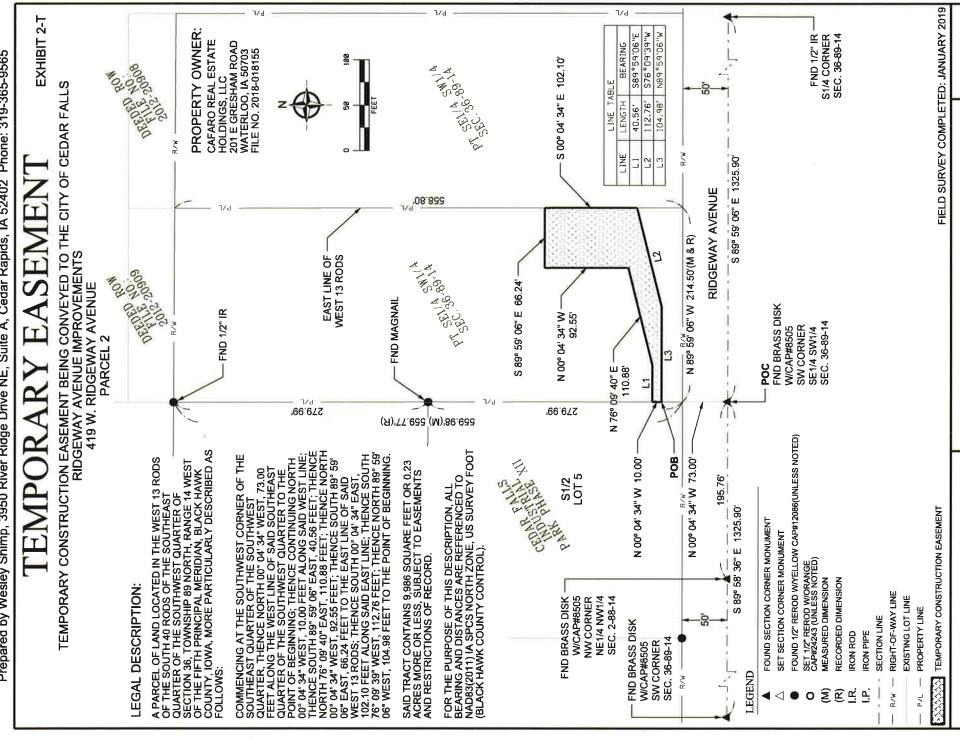


Foth Infrastructure & Environr 3950 River Ridge Drive NE, Suite A Cedar Rapids, IA 52402-2515 Phone: 319-365-565 Fax: 319-365-9631

SHEET 1 OF

PROJECT NO. 18C052-01

Prepared by Wesley Shimp, 3950 River Ridge Drive NE, Suite A, Cedar Rapids, IA 52402 Phone: 319-365-9565



SURVEY FOR: CITY OF CEDAR FALLS 220 CLAY STREET CEDAR FALLS, IA 50613 PHONE: (319) 273-8600

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SHEET 1 OF

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DATE: I PROJECT NO. 18C052-01

2/14/2019

### DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197

www.cedarfalls.com

**MEMORANDUM** 

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Matthew Tolan, EI, Civil Engineer II

**DATE:** April 11<sup>th</sup>, 2019

**SUBJECT:** 2019 Permeable Alley Project

Project No. ST-056-3149

**Bid Opening** 

On Tuesday, April 9, 2019 at 2:00 p.m., bids were received and opened for the 2019 Permeable Alley Project. A total of four (4) bids were received, with Benton's Sand & Gravel, Inc. of Cedar Falls, Iowa the low bidder:

	Bid Total
Benton's Sand & Gravel, Inc.	\$202,362.40
K. Cunningham Construction Co. Inc.	\$209,543.00
Lodge Construction, Inc.	\$215,181.25
Vieth Construction Corporation	\$229,390.93

The Engineer's Estimate for this project was \$251,231.70. Benton's Sand & Gravel, Inc. of Cedar Falls, Iowa submitted the low bid in the amount of \$202,362.40, which is 19% below the Engineer's Estimate. Attached is a bid tab for your reference.

As a result of the competitive bids, we recommend acceptance of the low bid from Benton's Sand & Gravel, Inc. in the amount of \$202,362.40. On May 6<sup>th</sup>, 2019, the Contract, Bonds and Insurance Certificate will be submitted for City Council approval.

If you have any questions or comments feel free to contact me.

xc: Stephanie Houk Sheetz, Director of Community Development Chase Schrage, Principal Engineer

### PROJECT BID TAB

PROJECT NAME: 2019 PERMEABLE ALLEY PROJECT

CITY PROJECT NUMBER: ST-056-3149 BID OPENING: APRIL 9, 2019 DEPARTMENT OF COMMUNITY DEVELOPMENT

ENGINEERING DIVISION			ENGINEER'S ESTIMATE Benton's Sand & Gravel, Inc. K		K Cunningham Construction Co., Inc.		Lodge Construction, Inc.		Vieth Construction Corporation					
ITEM NO.	ITEM CODE	DESCRIPTION	UNITS	ESTIMATED QUANTITY	UNIT PRICES	EXTENDED PRICES	UNIT PRICES	EXTENDED PRICES	UNIT PRICES	EXTENDED PRICES	UNIT PRICES	EXTENDED PRICES	UNIT PRICES	EXTENDED PRICES
1	2010-1.08-A	CLEARING & GRUBBING	UNITS		\$300.00	\$16,500.00	\$50.00	\$2,750.00	\$50.00	\$2,750.00	\$30.00	\$1,650.00	\$135.00	\$7,425.00
2	2010-1.08-D	TOPSOIL, FURNISH & SPREAD	C.Y.	77.3	\$50.00	\$3,865.00	\$40.00	\$3,092.00	\$40.00	\$3,092.00	\$42.00	\$3,246.60	\$40.00	\$3,092.00
3	2010-1.08-E	EXCAVATION, CLASS 10, ROADWAY WASTE	C.Y.	711.3	\$18.00	\$12,803.40	\$15.00	\$10,669.50	\$15.00	\$10,669.50	\$20.00	\$14,226.00	\$15.00	\$10,669.50
4	4040-1.08-C	SUBDRAIN CLEANOUT, TYPE A-1, 6"	EACH	6.0	\$250.00	\$1,500.00	\$500.00	\$3,000.00	\$500.00	\$3,000.00	\$500.00	\$3,000.00	\$425.00	\$2,550.00
5	5020-1.08-E	VALVE EXTENSION	EACH	3.0	\$260.00	\$780.00	\$175.00	\$525.00	\$175.00	\$525.00	\$500.00	\$1,500.00	\$225.00	\$675.00
6	6010-1.08-H	REMOVE INTAKE	EACH	1.0	\$600.00	\$600.00	\$500.00	\$500.00	\$500.00	\$500.00	\$1,000.00	\$1,000.00	\$1,250.00	\$1,250.00
7	7010-1.08-A	PAVEMENT, P.C.C., 12' WIDTH, 6"	S.Y.	50.7	\$50.00	\$2,535.00	\$58.75	\$2,978.63	\$57.00	\$2,889.90	\$47.00	\$2,382.90	\$62.00	\$3,143.40
8	7010-1.08-E	CURB & GUTTER, P.C.C., 2.5' WIDE	L.F.	158.5	\$50.00	\$7,925.00	\$31.25	\$4,953.13	\$30.25	\$4,794.63	\$30.00	\$4,755.00	\$33.00	\$5,230.50
9	7030-1.08-A	REMOVAL OF DRIVEWAY	S.Y.	167.3	\$10.00	\$1,673.00	\$9.00	\$1,505.70	\$9.00	\$1,505.70	\$12.00	\$2,007.60	\$14.50	\$2,425.85
10	7030-1.08-A	REMOVAL OF SIDEWALK	S.Y.	73.3	\$10.00	\$733.00	\$9.00	\$659.70	\$9.00	\$659.70	\$12.00	\$879.60	\$19.00	\$1,392.70
11	7030-1.08-E	SIDEWALK, 6" P.C.C.	S.Y.	85.9	\$50.00	\$4,295.00	\$81.00	\$6,957.90	\$85.00	\$7,301.50	\$47.00	\$4,037.30	\$85.00	\$7,301.50
12	7030-1.08-H	DRIVEWAY, 6" P.C.C.	S.Y.	173.3	\$50.00	\$8,665.00	\$71.75	\$12,434.28	\$69.50	\$12,044.35	\$47.00	\$8,145.10	\$75.00	\$12,997.50
13	7030-1.08-H	DRIVEWAY, GRANULAR	S.Y.	35.4	\$35.00	\$1,239.00	\$6.75	\$238.95	\$6.75	\$238.95	\$10.00	\$354.00	\$21.00	\$743.40
14	7040-1.08-A	PATCH, FULL DEPTH, P.C.C. 'M' MIX	S.Y.	33.0	\$300.00	\$9,900.00	\$110.00	\$3,630.00	\$112.00	\$3,696.00	\$70.00	\$2,310.00	\$137.00	\$4,521.00
15	7040-1.08-I	REMOVAL OF CURB & GUTTER	L.F.	158.5	\$10.00	\$1,585.00	\$10.00	\$1,585.00	\$5.00	\$792.50	\$20.00	\$3,170.00	\$15.00	\$2,377.50
16	7080-1.08-B	ENGINEERING FABRIC	S.Y.	2,185.2	\$5.00	\$10,926.00	\$4.00	\$8,740.80	\$4.00	\$8,740.80	\$3.00	\$6,555.60	\$3.00	\$6,555.60
17	7080-1.08-C	UNDERDRAIN, 6" PLASTIC PERFORATED, TYPE S	L.F.	1,087.0	\$15.00	\$16,305.00	\$10.00	\$10,870.00	\$10.00	\$10,870.00	\$16.00	\$17,392.00	\$15.50	\$16,848.50
18	7080-1.08-D	STORAGE AGGREGATE, 8"	S.Y.	1,416.8	\$17.00	\$24,085.60	\$12.00	\$17,001.60	\$12.00	\$17,001.60	\$14.00	\$19,835.20	\$15.00	\$21,252.00
19	7080-1.08-E	FILTER AGGREGATE, 4"	S.Y.	1,416.8	\$12.00	\$17,001.60	\$6.00	\$8,500.80	\$6.00	\$8,500.80	\$7.00	\$9,917.60	\$8.00	\$11,334.40
20	7080-1.08-F	PERMEABLE INTERLOCKING PAVERS, CLAY BRICK	S.F.	3,697.9	\$12.00	\$44,374.80	\$10.50	\$38,827.95	\$10.19	\$37,681.60	\$12.00	\$44,374.80	\$11.00	\$40,676.90
21	7080-1.08-G	PCC EDGE RESTRAINT, 6" CONCRETE SLAB, 4' WIDE	S.Y.	447.1	\$50.00	\$22,355.00	\$58.75	\$26,267.13	\$57.00	\$25,484.70	\$52.00	\$23,249.20	\$61.00	\$27,273.10
22	7080-1.08-G	PCC EDGE RESTRAINT, 6" CONCRETE SLAB, 5' WIDE	S.Y.	502.5	\$50.00	\$25,125.00	\$52.50	\$26,381.25	\$51.00	\$25,627.50	\$52.00	\$26,130.00	\$55.00	\$27,637.50
23	8030-1.08-A	TRAFFIC CONTROL	L.S.	1.0	\$4,500.00	\$4,500.00	\$1,750.00	\$1,750.00	\$12,500.00	\$12,500.00	\$1,750.00	\$1,750.00	\$1,750.00	\$1,750.00
24	9010-1.08-B	HYDRAULIC SEEDING	S.F.	4,170.2	\$1.50	\$6,255.30	\$0.40	\$1,668.08	\$0.36	\$1,501.27	\$1.25	\$5,212.75	\$0.40	\$1,668.08
25	9040-1.08-F	WATTLE, STRAW, 9"	L.F.	300.0	\$5.00	\$1,500.00	\$5.00	\$1,500.00	\$6.00	\$1,800.00	\$5.00	\$1,500.00	\$5.50	\$1,650.00
26	9040-1.08-T	INLET PROTECTION DEVICE	EACH	3.0	\$220.00	\$660.00	\$325.00	\$975.00	\$300.00	\$900.00	\$350.00	\$1,050.00	\$250.00	\$750.00
27	9040-1.08-T	INLET PROTECTION DEVICE, MAINTENANCE	EACH	3.0	\$115.00	\$345.00	\$100.00	\$300.00	\$125.00	\$375.00	\$100.00	\$300.00	\$150.00	\$450.00
28	CF DETAIL	INTAKE, SINGLE FLAT	EACH	1.0	\$3,200.00	\$3,200.00	\$4,100.00	\$4,100.00	\$4,100.00	\$4,100.00	\$5,250.00	\$5,250.00	\$5,750.00	\$5,750.00
					TOTAL	\$251,231.70	TOTAL	\$202,362.40	TOTAL	\$209,543.00	TOTAL	\$215,181.25	TOTAL	\$229,390.93

CITY OF CEDAR FALLS DEPARTMENT OF COMMUNITY DEVELOPMENT **ENGINEERING DIVISION** 

### DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197 www.cedarfalls.com

**MEMORANDUM** 

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Matthew Tolan, EI, Civil Engineer II

**DATE:** April 11<sup>th</sup>, 2019

**SUBJECT:** Developmental Procedures Agreement

Park Ridge Estates Subdivision, BJW Holdings, LLC.

Storm Sewer Over-sizing Project No. SU-345-3186

As a part of the development of Park Ridge Estates Subdivision, the City will require installation of a storm sewer that is larger than necessary to meet the requirements of the platted area, but necessary to complete the City storm sewer system as it relates to both the area being platted and existing areas. The enclosed Developmental Procedures Agreement pays the Developer, BJW Holdings, LLC., the difference in the cost of the pipe and installation between the storm sewer structures required for the subdivision plat and the larger storm sewer structure necessary to serve the larger area beyond the boundaries of the plat as defined in the Lakeshore Dr. and Lilliput Ln. storm water report. The larger storm sewer structure is a 36-inch diameter pipe that will be used to reconstruct a new future storm sewer system along Lakeshore Drive in future improvements. The storm sewer structure needed to serve the Park Ridge Estates Subdivision currently without improvements would be an 18-inch diameter pipe. The larger storm sewer structure is projected to serve more than 16.1 acres of existing development of the Lakewood Hills and Lakewood Estates additions. The estimated increased cost of installing the larger storm sewer structure is \$27,312.10; a breakdown of this cost is included within the Developmental Procedures Agreement as Exhibit A.

The larger storm sewer structure has been designed and will be constructed as part of the public improvements in the Park Ridge Estates Subdivision. The City will reimburse the Developer when all of the public improvements are completed and accepted by the City Council. A location map of the larger storm sewer structure is included within the Developmental Procedures Agreement as Exhibit B for your reference.

Local funding for this project is proposed to come from the Capitola Improvements Program, outlined by item no. 35: Industrial & City Development: Infrastructure Oversizing program.

The Engineering Division recommends approving the Developmental Procedures If you have any questions or comments feel free to contact me.

xc: Stephanie Houk Sheetz, Director of Community Development Chase Schrage, Principal Engineer Prepared by: Matthew Tolan, 220 Clay Street, Cedar Falls, IA 50613

(319) 268-5161

### DEVELOPMENTAL PROCEDURES AGREEMENT PARK RIDGE ESTATES SUBDIVISION CITY OF CEDAR FALLS, BLACK HAWK COUNTY, IOWA

This Agreement is made and entered into this	day of	, 2018, by and between the
CITY OF CEDAR FALLS, IOWA ("City") and BJW	Holdings, LLC.,	("Subdivider"), for the purpose of
outlining procedures to be followed for the subdivi	ision of certain la	and located in the vicinity of Lilliput
Lane and Lakeshore Drive, to be known as Park	Ridge Estates S	ubdivision, City of Cedar Falls,
Black Hawk County, Iowa, and containing approx	imately 20.72 ac	res, said land legally described as
follows:		

THAT PART OF THE NORTHWEST QUARTER (NW 1/4), OF THE SOUTHEAST QUARTER (SE 1/4) OF SECTION THREE (3), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FOURTEEN WEST (R14W) OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF CEDAR FALLS, BLACK HAWK, COUNTY, IOWA, LYING NORTH OF LAKEWOOD HILLS, EXCEPT THE EAST SIX HUNDRED FIVE (605) FEET THEREOF.

**ALSO** 

THAT PART OF THE NORTHEAST QUARTER (NE 1/4), OF THE SOUTHWEST QUARTER (SW 1/4) OF SECTION THREE (3), TOWNSHIP EIGHTY-NINE NORTH (T89N), RANGE FOURTEEN WEST (R14W) OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF CEDAR FALLS, BLACK HAWK, COUNTY, IOWA, LYING NORTH OF LAKEWOOD HILLS, EXCEPT THE WEST ONE THOUSAND TWO HUNDRED FORTY-EIGHT (1,248) FEET THEREOF

### RECITALS

Whereas, pursuant to Section 24-5 of the Cedar Falls Code of Ordinances, a subdivider is required to install and construct certain minimum improvements, including, but not limited to streets, sidewalks, a sanitary sewer system, a storm sewer system and other improvements necessary to develop the platted area in a manner that contributes to the logical and efficient extension of infrastructure to the larger community; and

Whereas, the City may require, as a condition of approval of a plat, dedication and improvement of specified infrastructure that is greater in size or extent than necessary to meet the needs of the platted area, but necessary to complete a logical and efficient system of infrastructure for the entire community; and

Whereas, in such a circumstance, the City shall pay the subdivider the difference in cost between the infrastructure necessary to serve the platted area and the cost of the oversized infrastructure necessary to serve the larger community, as determined by the City; and

Whereas, pursuant to the subdivision of Park Ridge Estates, the City requires and the Subdivider acknowledges the necessity of installing a larger storm sewer to meet the needs of the platted area in a manner that contributes to the logical and efficient system of storm sewer service to the community. The City shall pay the Subdivider the difference in cost of the pipe and installation between the storm sewer structure typically required for the subdivision plat and the larger storm sewer structures necessary to serve the larger community. The calculation of the cost difference is attached hereto as Exhibit A and by this reference incorporated herein; and

Whereas, it is the desire of the City to see that the development proceeds in an orderly manner.

NOW THEREFORE, for valuable consideration, the receipt and sufficiency of which is acknowledged by the parties, the parties agree as follows:

- 1. <u>Recitals.</u> The Recitals are incorporated herein by reference.
- 2. <u>Storm Sewer Extension</u>. The Subdivider shall extend a 36" public storm sewer from an existing manhole No. 661 adjacent to Lakeshore Drive, north approximately 164 feet to manhole I-01 as shown in Exhibit B attached hereto and by this reference incorporated herein.
- 3. Reimbursement to Subdivider. Upon completion of the oversized storm sewer extension work, and upon final acceptance and approval of said public improvements by the City in accordance with all City requirements, the storm sewer facilities shall become the property of the City, and the City shall reimburse the Subdivider for the oversize cost, within 30 days of submittal of the payment request from the Subdivider. The amount of reimbursement shall be according to the calculation of the cost difference of the oversized storm sewer, as defined herein and as shown in Exhibit A attached.
- 4. <u>Minimum Requirements</u>. All work called for under this Agreement shall be in full compliance with all City requirements based on the Cedar Falls Code of Ordinances and City engineering policies and procedures, and shall be subject to approval by the City Engineer of City.
- 5. <u>Condition of Plat Approval</u>. Subdivider's compliance with the provisions of this Agreement shall be a condition for approval of the final plat of the Development Property known as Park Ridge Estates Subdivision, City of Cedar Falls, Black Hawk County, Iowa.
- 6. <u>Governing Law.</u> This agreement is a contract made under the laws of the State of Iowa and is governed by, and construed in accordance with, the laws of the State of Iowa.
- 7. <u>Validity.</u> If any portion, section, subsection, sentence, clause, paragraph, or phrase of this Agreement is for any reason held invalid, such decision will not affect the validity of the remaining portion of this Agreement.

- 8. <u>Waiver.</u> The action or inaction of either party will not constitute a waiver of or amendment to the provisions of this Agreement. To be binding, amendments or waivers must be in writing, signed by both parties, and approved by written resolution of the City Council. A party's failure to take legal action promptly to enforce this Agreement will not be a waiver or a release.
- 9. <u>Binding Agreement.</u> The provisions of this Agreement shall inure to the benefit of, and shall be binding upon, the City and the Subdivider, and their respective successors and assigns. This Agreement, together with the attached exhibits referred to herein, constitute a complete statement of the understanding of the parties with respect to this matter, and this Agreement may not be amended except by a writing signed by both parties. All obligations of the Subdivider contained in this Agreement shall be covenants that run with the land. The City shall release the obligations of Subdivider under this Agreement only when Subdivider has, in the City's reasonable judgment, fully completed its obligations under this Agreement, or, in the City's sole discretion, when the Subdivider has provided the City with adequate written assurances, secured in a manner deemed appropriate by the City, that Subdivider will complete its responsibilities and obligations under this Agreement.
- 10. <u>Obligation to Perform.</u> The Subdivider and City agree they are fully obligated to perform as provided in this Agreement. The City and Subdivider are liable and responsible for each obligation that they agree to undertake in this Agreement.
- 11. <u>Authorized Representatives.</u> The City and Subdivider have executed this Agreement by their duly authorized representatives.

	CITY OF CEDAR FALLS, IOWA
	By: James P. Brown, Mayor
ATTEST:	
Jacque Danielsen, MMC, City Clerk	
	BJW Holdings, LCC.
	By: Brian J Wingert, Owner
STATE OF IOWA ) ss:	
COUNTY OF BLACK HAWK )	
	od before me on the day of, 2019, by Danielsen, MMC, as City Clerk, of the City of Cedar Falls,

My Commission Expires:	Notary Public in and for the State of Iowa
<del>-</del>	
STATE OF IOWA ) ) ss:	
COUNTY OF BLACK HAWK)	
This instrument was acknowl Brian J Wingert, as Owner of BJW H	edged before me on the the day of April , 2018, by
	Notary Public in and for the State of Iowa
My Commission Expires:	
May 28, 2021	_
V	JOANNE GOODRICH Commission Number 790191 My Commission Expires May 28, 2021

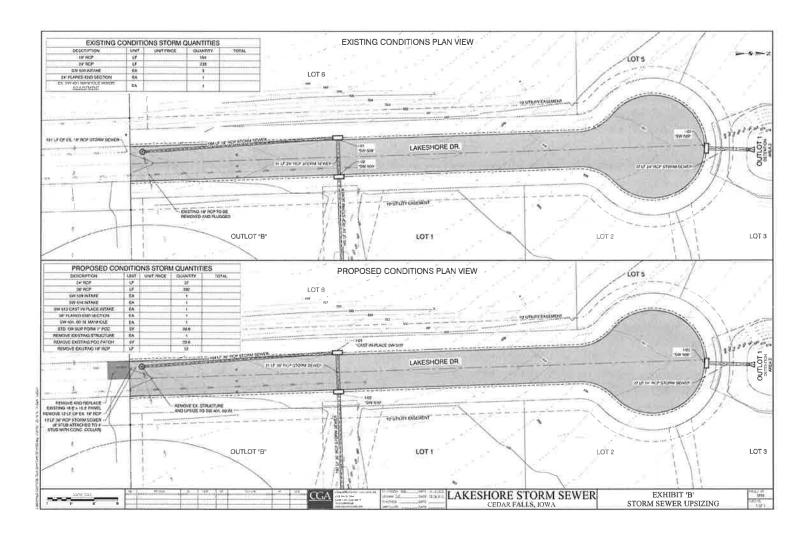
### STORM SEWER DIFFERENTIAL

PROJECT: PARK RIDGE ESTATES
OWNER: BJW HOLDINGS LLC

ITEM NO.	ITEM	UNIT	QUANTITY	S WIII	UNIT PRICE	1114	TOTAL
EX.1	18" RCP	CY	-164	\$	37.25	\$	(6,109.00
EX.2	24" RCP*	LF	-233	\$	48.75	\$	(11,358.75
EX.3	SW-509 INTAKE	LF	-3	\$	5,525.00	\$	(16,575.00
EX.4	24" FLARED END SECTION	EA	-1	\$	990.00	\$	(990.00
EX.5	EX. SW-401 MANHOLE - MINOR ADJUSTMENT	EA	-1	\$	175.00	\$	(175.00
UP.1	24" RCP*	LF	37	\$	54.00	\$	1,998.00
UP.2	36" RCP	LE	392	\$	82.00	\$	32,144.00
UP.3	SW-509 INTAKE	ΕA	1	\$	5,525.00	\$	5,525.00
UP.4	SW-510 INTAKE	EΑ	1	\$	5,750.00	\$	5,750.00
UP.5	SW-510 CAST-IN-PLACE INTAKE	EA	1	\$	5,750.00	\$	5,750.00
UP.6	36" FLARED END SECTION	EA	1	\$	1,850.00	\$	1,850.00
UP.7	SW-401, 60 IN. MANHOLE	EA	1	\$	4,200.00	\$	4,200.00
UP.8	ST. OR SLIPE FORM 7" PCC	SY	28.6	\$	61.25	\$	1,751.75
UP.9	REMOVE EXISTING STRUCTURE	EA	1	\$	950.00	\$	950.00
UP.10	REMOVE EXISTING PCC PATCH	SY	28.6	\$	38.50	\$	1,101.10
UP.11	REMOVE EXISTING 18" RCP	LF	12	\$	125.00	\$	1,500.00
J. C. T. W. L. S.				X I I I	Differential	Ś	27,312.10

<sup>\*</sup>Difference in unit cost is due to overall quantity differences





### DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197

www.cedarfalls.com

MEMORANDUM

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Chase Schrage, Principal Engineer

**DATE:** April 10, 2019

**SUBJECT:** Professional Services Agreement

Cedar Heights Drive Reconstruction

Snyder & Associates Inc. Project No. RC-000-3171

Please find attached the Professional Services Agreement with Snyder & Associates, Inc. that outlines the scope of services and costs for the Cedar Heights Drive Reconstruction Project.

Request for proposals were sent out to various engineering firms and ranked by a selection committee on specific focuses. Snyder & Associates, Inc. was the firm selected by Community Development. The enclosed agreement with Snyder & Associates, Inc. provides for the design of Cedar Heights Drive from Viking Road to Greenhill Drive. The cost of this agreement is in the amount not to exceed \$424,800.00.

The Department of Community Development requests your consideration and approval of this Professional Service Agreement with Snyder & Associates, Inc. for the Cedar Heights Drive Reconstruction Project.

If you have any questions or comments feel free to contact me.

xc: Stephanie Houk Sheetz, Director of Community Development

### C E D A R F A L L S Towa

### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 www.cedarfalls.com

Administration Division \* Planning & Community Services Division Phone: 319-273-8600 Fax: 319-273-8610

Engineering Division \* Inspection Services Division Phone: 319-268-5161 Fax: 319-268-5197

Water Reclamation Division

Phone: 319-273-8633 Fax: 319-268-5566

### PROFESSIONAL SERVICE AGREEMENT

Cedar Heights Drive Reconstruction Project
Cedar Falls, Iowa
City Project Number: RC-000-3171

**This Agreement** is made and entered by and between Snyder & Associates, Inc., 5005 Bowling Street SW Suite A, Cedar Rapids, IA 52404, hereinafter referred to as "CONSULTANT" and City of Cedar Falls, 220 Clay Street, Cedar Falls, Iowa, hereinafter referred to as "CLIENT."

**IN CONSIDERATION** of the covenants hereinafter set forth, the parties hereto mutually agree as follows:

### I. SCOPE OF SERVICES

CONSULTANT shall perform professional Services (the "Services") in connection with CLIENT's facilities in accordance with the Scope of Services set forth in Exhibit A attached hereto.

### II. CONSULTANT'S RESPONSIBILITIES

CONSULTANT shall, subject to the terms and provisions of this Agreement:

- (a) Appoint one or more individuals who shall be authorized to act on behalf of CONSULTANT and with whom CLIENT may consult at all reasonable times, and whose instructions, requests, and decisions will be binding upon CONSULTANT as to all matters pertaining to this Agreement and the performance of the parties hereunder.
- (b) Use all reasonable efforts to complete the Services within the time period mutually agreed upon, except for reasons beyond its control, as set forth in Exhibit A.
- (c) Perform the Services in accordance with generally accepted professional engineering standards in existence at the time of performance of the Services. If during the two year period following the completion of Services, it is shown that there is an error in the Services solely as a result of CONSULTANT's failure to meet these standards, CONSULTANT shall re-perform such substandard Services as may be necessary to remedy such error at no cost to CLIENT. Since CONSULTANT has no control over local conditions, the cost of labor and materials, or over competitive bidding and market conditions, CONSULTANT does not guarantee the accuracy of any construction cost estimates as compared to contractor's bids or the actual cost to the CLIENT. CONSULTANT makes no other warranties either express or implied and the parties' rights, liabilities, responsibilities and remedies with respect to the quality of Services, including claims alleging negligence, breach of warranty and breach of contract, shall be exclusively those set forth herein.

- (d) CONSULTANT shall, if requested in writing by CLIENT, for the protection of CLIENT, require from all vendors and subcontractors from which CONSULTANT procures equipment, materials or services for the project, guarantees with respect to such equipment, materials and services. All such guarantees shall be made available to CLIENT to the full extent of the terms thereof. CONSULTANT's liability with respect to such equipment, and materials obtained from vendors or services from subcontractors, shall be limited to procuring guarantees from such vendors or subcontractors and rendering all reasonable assistance to CLIENT for the purpose of enforcing the same.
- (e) CONSULTANT will be providing estimates of costs to the CLIENT covering an extended period of time. CONSULTANT does not have control over any such costs, including, but not limited to, costs of labor, material, equipment or services furnished by others or over competitive bidding, marketing or negotiating conditions, or construction contractors' methods of determining their prices. Accordingly, it is acknowledged and understood that any estimates, projections or opinions of probable project costs provided herein by CONSULTANT are estimates only, made on the basis of CONSULTANT's experience and represent CONSULTANT's reasonable judgment as a qualified professional. CONSULTANT does not guarantee that proposals, bids or actual project costs will not vary from the opinions of probable costs prepared by CONSULTANT, and the CLIENT waives any and all claims that it may have against CONSULTANT as a result of any such variance.

### III. <u>CLIENT'S RESPONSIBILITIES</u>

CLIENT shall at such times as may be required for the successful and expeditious completion of the Services:

- (a) Provide all criteria and information as to CLIENT's requirements; obtain all necessary approvals and permits required from all governmental authorities having jurisdiction over the project; and designate a person with authority to act on CLIENT's behalf on all matters concerning the Services.
- (b) Furnish to CONSULTANT all existing studies, reports and other available data pertinent to the Services, and obtain additional reports, data and services as may be required for the project. CONSULTANT shall be entitled to rely upon all such information, data and the results of such other services in performing its Services hereunder.

### IV. <u>INSURANCE REQUIREMENTS FOR CONTRACTORS FOR THE CITY OF CEDAR FALLS</u>

The provisions of the document entitled, "Insurance Requirements for Consultants for the City of Cedar Falls," which are attached hereto, marked Exhibit B, are hereby made a part of this Agreement as if set out word for word herein.

CONSULTANT shall furnish to CLIENT a certificate or certificates of insurance containing all coverages, endorsements and other provisions required by the Insurance Requirements set forth in Exhibit B. In the event of any conflict between the provisions of Exhibit B and the other terms of this Agreement, the provisions of Exhibit B shall control.

CONSULTANT shall obtain and maintain an insurance policy or policies that meet the provisions set out in the Insurance Requirements for Contractors for the City of Cedar Falls, attached hereto and marked Exhibit B.

### V. <u>STANDARD TERMS AND CONDITIONS FOR CONTRACTS BETWEEN CONTRACTORS WHO</u> PERFORM PROFESSIONAL SERVICES AND THE CITY OF CEDAR FALLS

The provisions of the documents entitled "Standard Terms and Conditions for Contracts Between Contractors Who Perform Professional Services and the City of Cedar Falls," consisting of two pages are incorporated into this Agreement by the Client and attached as Exhibit C.

### VI. COMPENSATION AND TERMS OF PAYMENT

Compensation for the services shall be on an hourly basis in accordance with the hourly fees and other direct expenses in effect at the time the services are performed. Total compensation is a not to exceed a fee of Four Hundred Twenty-Four Thousand Eight Hundred Dollars (\$424,800).

CONSULTANT may bill the CLIENT monthly for services completed at the time of billing. CLIENT agrees to pay CONSULTANT the full amount of such invoice within thirty (30) days after receipt thereof. In the event CLIENT disputes any invoice item, CLIENT shall give CONSULTANT written notice of such disputed item within ten (10) days after receipt of invoice and shall pay to CONSULTANT the undisputed portion of the invoice according to the provisions hereof. CLIENT agrees to abide by any applicable statutory prompt pay provisions currently in effect.

### VII. TERMINATION

CLIENT may, with or without cause, terminate the Services at any time upon fourteen (14) days written notice to CONSULTANT. The obligation to provide further Services under this Agreement may be terminated by either party upon fourteen (14) days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof through no fault of the terminating party, providing such defaulting party has not cured such failure, or, in the event of a non-monetary default, commenced reasonable actions to cure such failure. In either case, CONSULTANT will be paid for all expenses incurred and Services rendered to the date of the termination in accordance with compensation terms of Article VI.

### VIII. OWNERSHIP OF DOCUMENTS

- (a) Sealed original drawings, specifications, final project specific calculations and other instruments of service which CONSULTANT prepares and delivers to CLIENT pursuant to this Agreement shall become the property of CLIENT when CONSULTANT has been compensated for Services rendered. CLIENT shall have the right to use such instruments of service solely for the purpose of the construction, operation and maintenance of the Facilities. Nothing contained in this paragraph shall be construed as limiting or depriving CONSULTANT of its rights to use its basic knowledge and skills to design or carry out other projects or work for itself or others, whether or not such other projects or work are similar to the work to be performed pursuant to this Agreement.
- (b) Any files delivered in electronic medium may not work on systems and software different than those with which they were originally produced and CONSULTANT makes no warranty as to the compatibility of these files with any other system or software. Because of the potential degradation of electronic medium over time, in the event of a conflict between the sealed original drawings and the electronic files, the sealed drawings will govern.

### IX. MEANS AND METHODS

(a) CONSULTANT shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures and programs including enforcement of Federal and State safety requirements, in connection

with construction work performed by CLIENT's construction contractors. Nor shall CONSULTANT be responsible for the supervision of CLIENT's construction contractors, subcontractors or of any of their employees, agents and representatives of such contractors; or for inspecting machinery, construction equipment and tools used and employed by contractors and subcontractors on CLIENT's construction projects and shall not have the right to stop or reject work without the thorough evaluation and approval of the CLIENT. In no event shall CONSULTANT be liable for the acts or omissions of CLIENT's construction contractors, subcontractors or any persons or entities performing any of the construction work, or for the failure of any of them to carry out construction work under contracts with CLIENT.

### X. INDEPENDENT CONTRACTOR

CONSULTANT shall be an independent contractor with respect to the Services to be performed hereunder. Neither CONSULTANT nor its subcontractors, nor the employees of either, shall be deemed to be the servants, employees, or agents of CLIENT.

### XI. PRE-EXISTING CONDITIONS

Anything herein to the contrary notwithstanding, CONSULTANT shall have no legal responsibility or liability for any and all pre-existing contamination. "Pre-existing contamination" is any hazardous or toxic substance present at the site or sites concerned which was not brought onto such site or sites by CONSULTANT. CLIENT agrees to release CONSULTANT from and against any and all liability to the CLIENT which may in any manner arise in any way directly or indirectly caused by such pre-existing contamination except if such liability arises from CONSULTANT's sole negligence or willful misconduct.

CLIENT shall, at CLIENT's sole expense and risk, arrange for handling, storage, transportation, treatment and delivery for disposal of pre-existing contamination. CLIENT shall be solely responsible for obtaining a disposal site for such material. CLIENT shall look to the disposal facility and/or transporter for any responsibility or liability arising from improper disposal or transportation of such waste. CONSULTANT shall not have or exert any control over CLIENT in CLIENT's obligations or responsibilities as a generator in the storage, transportation, treatment or disposal of any pre-existing contamination. CLIENT shall complete and execute any governmentally required forms relating to regulated activities including, but not limited to generation, storage, handling, treatment, transportation, or disposal of pre-existing contamination.

For CONSULTANT's Services requiring drilling, boring, excavation or soils sampling, CLIENT shall approve selection of the contractors to perform such services, all site locations, and provide CONSULTANT with all necessary information regarding the presence of underground hazards, utilities, structures and conditions at the site.

### XII. <u>DISPUTE RESOLUTION</u>

If a dispute arises out of, or relates to, the breach of this Agreement and if the dispute cannot be settled through negotiation, then the CONSULTANT and the CLIENT agree to submit the dispute to mediation. In the event CONSULTANT or the CLIENT desires to mediate any dispute, that party shall notify the other party in writing of the dispute desired to be mediated. If the parties are unable to resolve their differences within 10 days of the receipt of such notice, such dispute shall be submitted for mediation in accordance with the procedures and rules of the American Arbitration Association (or any successor organization) then in effect. The deadline for submitting the dispute to mediation can be changed if the parties mutually agree in writing to extend the time between receipt of notice and submission to mediation. The expenses of the mediator shall be shared 50 percent by CONSULTANT and 50 percent by the CLIENT. This requirement to seek mediation shall be a condition required before filing an action at law or in equity. However, prior to or during the negotiations or the mediation either party may initiate litigation that would otherwise be barred by a statute of limitations, and

CONSULTANT may pursue any property liens or other rights it may have to obtain security for the payment of its invoices.

This Agreement shall be governed by the laws of the State of lowa and any action at law or other judicial proceeding arising from this Agreement shall be instituted in Black Hawk County District Court, Waterloo, Iowa.

#### XIII. **MISCELLANEOUS**

- This Agreement constitutes the entire agreement between the parties hereto and supersedes (a) any oral or written representations, understandings, proposals, or communications heretofore entered into by or on account of the parties and may not be changed, modified, or amended except in writing signed by the parties hereto. In the event of any conflict between this contract document and any of the exhibits hereto, the terms and conditions of Exhibit C shall control. In the event of any conflict among the exhibits, Exhibit C shall control.
- This Agreement shall be governed by the laws of the State of Iowa. (b)
- CONSULTANT may subcontract any portion of the Services to a subcontractor approved by (c) CLIENT. In no case shall CLIENT's approval of any subcontract relieve CONSULTANT of any of its obligations under this Agreement.
- In the event CLIENT uses a purchase order form to administer this Agreement, the use of (d) such form shall be for convenience purposes only, and any typed provision in conflict with the terms of this Agreement and all preprinted terms and conditions contained in or on such forms shall be deemed stricken and null and void.
- This Agreement gives no rights or benefits to anyone other than CLIENT and CONSULTANT (e) and does not create any third party beneficiaries to the Agreement.
- Except as may be explicitly set forth above, nothing contained in this Agreement or its exhibits (f) limits the rights and remedies, including remedies related to damages, of either party that are available to either party under the law.

APPROVED FOR CONSULTANT

IN WITNESS WHEREOF, the parties hereto have executed this agreement on the day and year written below.

APPROVED FOR CLIENT	APPROVED FOR CONSULTANT		
Ву:	By: Lindsay Blaman		
Printed Name:James P. Brown	Printed Name: <u>Lindsay Beaman</u>		
Title: Mayor of Cedar Falls	Title: Business Unit Leader		
Date:	Date: April 9, 2019		

#### **Exhibit A**

# Cedar Heights Drive Reconstruction Project Cedar Falls, Iowa City Project Number: RC-000-3171

#### **SCOPE OF SERVICES**

The Scope of Services to be performed by the CONSULTANT shall include the services and supplies to complete the following tasks:

Objective: The CLIENT seeks to reconstruct Cedar Heights Drive from the intersection with E. Viking Road north and east through the intersection with E. Greenhill Road. The reconstruction of the Cedar Heights Drive and E. Greenhill Road intersection is to include replacement of the existing signals with a roundabout. Ancillary benefits will include improved street rideability, improved traffic flow and capacity, and bringing adjacent intersection pedestrian ramps and landings into compliance with the Americans with Disabilities Act. The Project includes:

- 1. Reconstructed street segments
- 2. Conversion from a rural two lane to an urban three lane section (with a center turn lane)
- 3. New sidewalk design
- 4. Upgrade of all existing non-conforming sidewalk ramps
- 5. Water valve and hydrant adjustment and/or replacement
- 6. Installation of storm sewer and intakes
- 7. Traffic signal removal at the intersection of Cedar Heights Drive and E. Greenhill Road
- 8. Roundabout at the intersection of Cedar Heights Drive and E. Greenhill Road

The CONSULTANT will perform survey and mapping, including right-of-way survey, plats and exhibits, and locate and document existing monuments; develop preliminary, check and final plans, and provide assistance to the CLIENT during the DOT letting phase of the Project. One (1) construction package shall be administered.

#### TASK A – CONTRACT MANAGEMENT

#### 1.0 Project Administration

#### 1.1 Monitoring Project Schedule

The CONSULTANT shall prepare and submit monthly email updates (1-page), outlining the following: activities during the reporting period, activities planned for the following month, problems encountered and recommended solutions, and overall Project status. If design work is not progressing in a manner to comply with

the anticipated completion date, the CONSULTANT shall provide a brief summary of the actions to be taken to reduce or eliminate any delays in completing the design in accordance with the agreed upon schedule. The monthly update shall include a list of requested information from the CLIENT with a desired response date noted to avoid delay of the CONSULTANT's services.

#### 1.2 Monitoring Project Scope

This includes task identification, scheduling, task assignment, and coordination with other members of the Project team. The CONSULTANT shall inform the CLIENT of any services required which may not be included in the scope of the design services contract approved by the CLIENT for this Project. It will be the responsibility of the CONSULTANT to make the CLIENT aware of any potential amendments to the contract before the services are rendered. This notice must occur prior to any extra services being performed. Only those services approved by the CLIENT are eligible for compensation.

#### 1.3 Project Management Team (PMT) Meetings

The CONSULTANT shall meet with the CLIENT, or its designated representative, to review progress and to discuss specific elements of the Project design. The meetings will also serve to establish schedules, develop Project goals, establish design parameters, promote a dialog between the various entities, improve the decision-making process, and expedite design development. The CONSULTANT shall keep documentation of all communications.

The following meetings are included with the scope of work:

- 1. Kickoff Meeting
- 2. Preliminary Design (60% level)
- 3. Check Plans Design (95% level)
- 4. Other Miscellaneous Design Meetings (3)

#### 1.4 Quality Control Plan

The Consultant shall establish review and checking procedures for Project deliverables. The CONSULTANT shall be responsible for implementation of the plan.

#### 1.5 Invoice Processing and Review

The CONSULTANT shall create, process, and review invoices to ensure these meet CLIENT standards and all necessary information is included. Coordinate with CLIENT staff as necessary and answer any questions. Verify percent work complete on Project is in line with percent billed. Includes all other general Project administration necessary to complete the Project.

#### 2.0 Communication Plan

The CONSULTANT will implement a Project Communication Plan. The Communication Plan will include public notices, one-on-one meetings and public meetings.

#### 2.1 Property Owner Coordination – Public Notices

The following Public Notices are anticipated as part of this Project:

- 1. Open House Invitation letters
- 2. Post Open House letters
- 3. Incidental letters (tree removals, Orangeburg, Project schedule update)

The CONSULTANT shall prepare templates and draft letters to be provided to the CLIENT for them to mail. Property Owners will be encouraged to respond directly to the CLIENT with comments and concerns. The CONSULTANT shall assist in tracking public comments and incorporate suggestions into the Project, as appropriate.

#### 2.2 Property Owner Coordination – Public Meetings

The CONSULTANT will attend three (3) public informational meetings. The purpose of the meetings will be to provide a brief overview of the proposed improvements to the surrounding property owners/businesses, and stakeholders, and a discussion of the improvement plan, as well as gather information on the concerns, priorities and specific issues of the adjacent property owners and other affected parties. The CONSULTANT shall provide the following services:

- 1. Participation in one (1) pre-planning Skype meeting approximately one week prior to the public meeting.
- 2. Preparation of a Power Point presentation for the public meeting.
- 3. Preparation of 1-2 strip maps showing the proposed improvements.
- 4. Preparation of a Project Fact Sheet.
- 5. Attendance at and participation in presentation at meetings.

#### 2.3 One-on-One Meetings

Meetings with individual property owners and the CONSULTANT are not included with this scope of services. If these services are deemed necessary by the CONSULTANT and the CLIENT during the Project then these will be added by a supplemental agreement.

#### TASK B – DESIGN SURVEY, ENVIRONMENTAL AND OUTSIDE

#### 1.0 Design Surveys

The CONSULTANT shall perform field and office tasks required to collect topographic information deemed necessary to complete the Project. The CLIENT shall provide aerial photographic and other available mapping, including utilities, of the Project area. The specific survey tasks to be performed include the following:

#### 1.1 Control Surveys

The CONSULTANT will establish horizontal and vertical control for the Project area in accordance with industry standards. Each permanent control point or benchmark shall have horizontal coordinates or elevation, and shall provide monument tie notes including monument descriptions. Accurate descriptions of the horizontal control points and benchmarks will be created and recorded on the plan sheets. Horizontal control shall be in state-plane coordinates and vertical control per USGS datum. CONSULTANT shall provide sufficient control for construction. If it is determined by the CLIENT that control is insufficient, the CONSULTANT shall add control points.

#### 1.2 Topographic Survey

The CONSULTANT will perform topographic surveys required for the development of the Project. Topographic surveys are anticipated to require detailed elevation information for proper construction installation, including, but not limited to:

- 1. Full width of the Public right-of-way
- 2. Private properties as determined by the CONSULTANT
- 3. Driveway elevations where rehabilitation presents elevation concerns
- 4. Gutter and/or roadway profiles as necessary for drainage concerns or ultimate roadway profile condition needs
- 5. Sidewalk ramps and landings within the public right-of-way
- 6. Fences, signs, buildings, retaining walls, etc.
- 7. Vegetation 4" diameter and larger
- 8. Utility appurtenances likely to be impacted by the Project
- 9. Sanitary and storm sewer above ground structures and invert elevations
- 10. Water main above ground appurtenances

#### 1.3 Utility Surveys

Public and private utility facilities will be identified through the Iowa One Call process. The CONSULTANT shall perform utility surveys required for the development of the Project and shall establish coordinates and elevations (if possible) for utilities that fall within the limits of the Project and are visible.

This task consists of field survey indicating the location of utilities within the existing right-of-way for the Project. The CONSULTANT shall field locate visible valves and utility access within the Project limits to accurately account for adjustment and/or replacement. Underground utilities will be incorporated into the Project through map requests to the utility companies and drawn into the design file. Utilities include phone, gas, fiber optic, water main, overhead/underground electrical, sanitary sewer, storm sewer, and in-pavement traffic control equipment (including power poles, pedestals, valves and manholes).

To minimize potholing needs (refer to 1.4), CONSULTANT shall remove existing water main valve covers and measure from the surface to the valve stem to estimate water main depth.

#### 1.4 Subsurface Utility Investigation

Subsurface Utility Investigation (i.e. potholing) is not included with this scope of services. If these services are deemed necessary by the CONSULTANT and the CLIENT during the Project then these will be added by a supplemental agreement.

#### 1.5 Right-of-Way Surveys, Plats and Exhibits

The CONSULTANT shall determine the location of existing Right-of-Way (ROW) and identify property owners adjacent to the Project. This task consists of researching record documents at the City and County and locating existing monumentation (including, but not limited to, property pins, government corners, and other monuments) along the corridor. All found monuments shall be shown in contract drawings.

The following lists the estimated number of acquisition documents. The CONSULTANT shall provide 6 signed copies of each.

- 1. Right-of-way (fee title; plat signed by an LS) 2
- 2. Permanent easement (plat signed by an LS) 0
- 3. Temporary easement (exhibit; no signature required) 19

The CONSULTANT will provide State of Iowa licensed real estate agents who will negotiate and endeavor to acquire for the CLIENT all of the necessary easements and/or real property parcels needed for the Project. Mary Ann Carnock and Brian DePrez are employees of CONSULTANT, and are state of Iowa licensed real estate sales persons with SNYDER & ASSOCIATES RIGHT-OF-WAY SERVICES, LLC, Ankeny, Iowa, a State of Iowa licensed real estate broker and a wholly owned subsidiary of CONSULTANT. Mary Ann Carnock and Brian DePrez will be designated as "Appointed Agents" and will represent the CLIENT in a "Buyer Exclusive Agency" capacity in all matters pertaining to the negotiation and acquisition of easements and/or real property for said public improvement project. CLIENT shall also be a CLIENT of Appointed Agent.

The CLIENT does hereby request Appointed Agent to select, prepare and complete form documents for use incidental to a residential real estate transaction of four units or less, as provided by the CLIENT. Such documents shall be limited to those listed in Section 1.5, provided the parties are given written notice that these are binding legal documents and competent legal advice should be sought before signing.

The CLIENT and CONSULTANT acknowledge and agree that the Appointed Agents are required to adhere to Federal and State of Iowa statutes; the rules of the Supreme Court of Iowa, as they may pertain to real estate agents; the rules and regulations

promulgated by the Iowa Real Estate Commission; and the Iowa Administrative Rules and regulations in regards to real estate agents' conduct, responsibilities, and duties. Said statutes, rules, and regulations will supersede and be paramount to any provision contained herein, anything to the contrary notwithstanding.

In regards to acquisitions, the CONSULTANT will:

- 1. Attend initial project meetings with the representatives of the CLIENT to establish lines of communication regarding elements of the scope and schedule and to set property acquisition parameters for the Project;
- 2. Complete a parcel file for each property involved with the Project in accordance with the needs of the CLIENT and/or the Project requirements;
- 3. Prepare legal descriptions and acquisition plats for each easement and/or fee title acquisition, if requested by the CLIENT;
- 4. Retain and coordinate the services of a licensed, certified appraiser (hereinafter referred to as "Appraiser") who, subject to the approval of the CLIENT, will be a subconsultant to the CONSULTANT. The Appraiser will prepare appraisals and/or Project Data Books, as needed. The Appraisers' work will be reviewed by a second party as approved by the CLIENT and as required by Local, State and /or Federal Right-of-Way acquisition procedures. The Appraiser will prepare, sign and furnish to the CONSULTANT and CLIENT appraisal documentation following accepted appraisal principles and techniques in accordance with the lowa DOT "Appraisal Policy & Procedures Manual". The CLIENT will review and forward written approval of all findings by the Appraiser;
- 5. Retain and coordinate the services of an abstractor, who will be a Subconsultant to the CONSULTANT, who will prepare Certificates of Title for parcels where fee title and permanent easements are required.
- 6. Use acquisition forms and documents provided by the CLIENT or prepare acquisition documents under the direction, review and approval of the CLIENT's legal department. Acquisition documents may include, but not be limited to: (1) Offer to Purchase, (2) 10 day-waiver, (3) real estate purchase agreement, (4) Easements, (5) title clearing documents as directed by CLIENT's attorney, and (6) release of tenant interest and leasehold claims; (7) Warranty Deed would be prepared by the CLIENT's attorney and facilitated through the CLIENT's staff.
- 7. Make (through the Appointed Agent) personal and private contacts with each property owner and tenant (the Parties) or their representative to explain the effect of the acquisition, answer questions, present a written offer, and consider counter offers and to make approved offers for administrative settlements. Non-resident property owners will be contacted by certified or registered mail or by U.P.S.
- 8. Make a good faith effort to acquire the necessary property within 90 days after a written offer has been submitted to the owner and tenant. Negotiations will be considered complete upon occurrence of one of the following: (1) the parties accept the offer, (2) the parties accept an administrative settlement, (3) the parties fail or

refuse to accept the offer or administrative settlement, and/or (4) in the judgment of the CONSULTANT, negotiations have reached an impasse;

- 9. Notify the CLIENT of every parcel on which negotiations have reached an impasse or which cannot be acquired by negotiated Agreement at the completion of the negotiations phase of the work. If the CLIENT is to condemn, the CONSULTANT will deliver as much of the file to the CLIENT as is necessary for the CLIENT's condemnation attorneys to begin preparation for the condemnation of the parcel. The CLIENT will provide written notice to the parties that the parcel is being prepared for condemnation. The CONSULTANT, when notified in writing by the CLIENT, will continue in an attempt to negotiate an Agreement after notice has been sent that condemnation is being prepared, but before notice of condemnation has been served, negotiations will cease unless requested by the CLIENT to continue as additional services.
- 10. Deliver all signed acquisition documents and title clearing (as directed by the CLIENT's attorney), to the CLIENT for payment and closing tasks.
- 11. No relocation services are included by the CONSULTANT.

<u>CLIENT'S RESPONSIBILITIES</u>. The CLIENT understands and agrees that it will be responsible for and will provide the following, in a timely manner:

- 1. Provide all licenses, permits, and government or agency approvals that may be necessary to complete the Work and/or Project;
- Provide all necessary forms and/or documents to complete each acquisition and/or provide the services of the CLIENT'S attorney to supervise, review and approve any and all legal documents prepared by the CONSULTANT.
- 3. Coordinate the timing and sequence of the CONSULTANT's Services with the Services of others to the Project;
- 4. Make interim and final decisions utilizing information supplied by the CONSULTANT.
- 5. Process Council Roll Calls/Requisitions.
- 6. Perform the following task for closings: Provide title opinions; prepare and distribute proceed checks to owners and tenants; prepare closing statements; prepare 1099 tax forms; update abstracts; record all pertinent documents.

The CONSULTANT shall provide plats and/or exhibits for each acquisition required. Temporary Easement Exhibits shall be prepared to clearly depict the areas required on the property. No legal descriptions should be included with temporary easements. The submission of these documents will be completed following the Acquisition & Utility Submittal and incorporation of the CLIENT's review comments.

Utilize Iowa Department of Transportation (DOT) style symbols when preparing ROW and property boundary exhibits for use during design and easement acquisitions.

#### 2.0 Environmental Analysis

The CONSULTANT shall perform field and office tasks required for collecting environmental information necessary for permitting of the project. The specific environmental analysis items to be performed include the following:

#### 2.1 Wetland and Stream Delineation

The CONSULTANT will provide Wetland and Stream Delineation for the above referenced project. The Delineation will be performed to determine the upper boundaries of wetland and stream areas at the project site. The CONSULTANT will review United States Geological Survey topographic maps, National Wetland Inventory maps, Soil Survey, and aerial photographs as part of a preliminary data search. On-site visits will be performed to gather data pertaining to wetland vegetation, wetland hydrology, and hydric soils. The boundary of each wetland and stream located within the project limits will be surveyed. Field work will be conducted in accordance with procedures outlined in the 1987 US Army Corps of Engineers Wetland Delineation Manual and Midwest Supplement. The CONSULTANT will provide copies of the Wetland and Stream Delineation Report summarizing the findings of the data searches and the on-site wetland delineation.

The CLIENT will coordinate with the landowners prior to the site visit to ensure access to properties required for field investigation. A report summarizing the findings of the field delineation will be prepared.

#### 2.2 Wetland and Stream Permitting

A permit application will be submitted to the US Army Corps of Engineers (USACE). The CONSULTANT will act as the Authorized Agent throughout the permitting process. During this process, the CONSULTANT's staff will respond to inquiries from USACE. It is assumed that a Nationwide Permit will be obtained for this project. An Individual Permit is beyond the scope of services. The CONSULTANT assumes that wetland and stream credits will be purchased as mitigation. Development of a mitigation design plan is beyond the scope of services.

#### 2.3 Bat Habitat Survey

The CONSULTANT will evaluate potential Indiana and northern long-eared bat habitat at the project site. The CONSULTANT will conduct a web search for all pertinent information regarding the bat species and their potential for roosting within the proposed project area. The CONSULTANT will also contact local species specialists, if they are known, to inquire about the specialty areas of the identified specialists. Reference to all identified sources will be included in an all-inclusive bibliography in a final report provided by the CONSULTANT.

Environmental staff will complete a site visit to identify potential roost trees for Indiana bats within the project area. Trees meeting the guidelines will be measured at breast height and the locations recorded with a handheld GPS Receiver.

A report documenting the findings and all pertinent information identified during the research period will be provided to the CLIENT. The CONSULTANT will also provide a Section 7 Memo documenting its finding of no effect, may affect but not adversely, or will adversely affect.

#### 2.4 Threatened and Endangered Species Review

The CONSULTANT will coordinate with the Iowa Department of Natural Resources (DNR) and US Fish and Wildlife Service to determine which state and federally listed species may be present, are known to be present, or have potential habitat at or near the project sites. Using current aerial photography, the CONSULTANT will develop a map identifying potential habitat areas within the project limits. The maps and data from the state and federal agencies will be provided to the CLIENT for review.

A windshield survey will be completed in the spring, or earlier at the CLIENT's request, to determine the potential for suitable habitat. The survey will also include an inventory of natural and manmade areas. A report summarizing the findings of the site visit, including locations and descriptions of sensitive habitats, habitats with potential for listed species, and listed species identified at the sites will be provided. The report will also include photos and maps of potential habitat and listed species observed.

The Threatened and Endangered Species Review is not intended to be an exhaustive survey identifying state and federally listed species at the project site. The survey will identify areas within the project sites that have the potential for use by state and federally listed species. The report will make recommendations on additional species-specific surveys that should be completed to properly document the presence or absence of listed species. The additional species-specific surveys are beyond the scope of this proposal.

#### 2.5 Phase I Environmental Site Assessment

The CONSULTANT will complete a Phase I Environmental Site Assessment (ESA) for the project site. The Phase I ESA will include a review of state and federal environmental record sources and site history, along with a visual inspection of the site to identify any recognized environmental conditions associated with the subject property. Review of environmental record sources shall include information provided by the Environmental Protection Agency Region VII through the Freedom of Information Act. These records include the National Priority List, Comprehensive Environmental Response Compensation and Liability Information System, and Resource Conservation and Recovery Information System. The review shall include a search for any information related to the subject properties and surrounding area. The CONSULTANT shall review data provided by the Iowa DNR for any information concerning underground storage tank registration or removal, leaking underground storage tanks, permitted sanitary landfills, hazardous substance disposal sites, RCRIS compliance violators, and emergency response actions. For the site history review,

available aerial photographs, topographic maps, fire insurance maps, historic street directories, and chain of title (if available) for the subject properties shall be examined.

The CONSULTANT will perform a site reconnaissance at the locations to investigate each building, current uses, and to identify conditions or activities related to the treatment, storage, disposal, or generation of hazardous substances or petroleum products on the subject sites. Interviews not already completed with persons familiar with the use or prior use of the properties shall be included in the assessment.

The CONSULTANT will provide to the CLIENT written reports for the Phase I ESA to include discussion on the site history, environmental record source review, geology and hydrogeology, site reconnaissance, interviews, and recommendations. The CLIENT will provide landowner information including, names, addresses, and phone numbers.

The Phase I EASA will conform to ASTM Practice E 1527-13 and the All Appropriate Inquiries Act under the Small Business Relief and Brownfields Revitalization Act of 2002.

#### 3.0 Outside Services

#### 3.1 Borings

CONSULTANT's Subconsultant shall perform borings at five (5) street locations and provide the CONSULTANT with a geotechnical engineering report. The CONSULTANT's subconsultant shall perform laboratory testing on the samples to evaluate site conditions and develop engineering recommendations for the Project. This information will be used as part of the street design. The CONSULTANT shall survey the location of the borings.

Based on the results of the geotechnical evaluation, the CONSULTANT's subconsultant will prepare an engineering report that details the results of the testing performed, provides logs of the borings, and a diagram of the site/boring layout. The report will include the following:

- 1. Computer generated boring logs with soil stratification based on visual soil classification.
- 2. Summarized laboratory data.
- 3. Groundwater levels observed during drilling and sampling.
- 4. Boring location plan.
- 5. Subsurface exploration procedures.
- 6. Existing pavement thicknesses, if boring obtained in roadway.
- 7. Encountered soils conditions.
- 8. Soil subgrade parameters for pavement design.

- 9. Pavement thickness recommendations (design traffic required).
- 10. Subgrade preparation/ earthwork recommendations.
- 11. Trench excavation considerations.

A digital PDF copy of the geotechnical report will be given to the CLIENT.

Iowa DOT S3 and S4 submittals are not included with this scope of services. If these submittals are deemed necessary they should be added by a supplemental

#### 3.2 Pavement Design

The CONSULTANT shall perform pavement design and provide the CLIENT with data.

#### **TASK C – PLAN DESIGN DEVELOPMENT**

#### 1.0 Design Sheet Criteria

The Sheet Numbering System should generally follow Iowa DOT Design Manual Chapter 1, Section 1F-1, Plan Sheets – General Information for this Project.

#### 2.0 Acquisition & Utility Submittal (20%)

The CONSULTANT shall develop a plan submittal for utility, easements, and right-of-way needs.

The following specific design items are to be included:

- 1. Pavement reconstruction/rehabilitation limits, profile and typical section
- 2. Preliminary analysis of storm water system to ensure the corridor meets typical design standards including, but not limited to, intakes, storm pipes, and overland relief along with identification of any surface and parkway drainage concerns
- 3. Preliminary roundabout layout
- 4. Preliminary identification of property owner impacts: access, parkway grading, impacted landscaping, trees, mailboxes, driveway concerns, etc.
- 5. Identification of utility conflicts
- 6. Identification of easement and right-of-way needs

#### 2.1 Utility Coordination

Utility coordination includes meetings with the utility company representatives during the preliminary and final design phases to identify conflicts, review of utility relocation plans prepared by the utility companies, and help facilitate a schedule with the CLIENT and utility companies to perform relocations prior to the PROJECT construction.

#### 3.0 Preliminary Plans (60%)

#### 3.1 Preliminary Plan Preparation

The CONSULTANT shall develop Preliminary Design Plans for an Iowa DOT Project letting. Upon completion, the design plans will be approximately 60% complete.

The following specific design items are to be included:

- 1. Layout of sidewalk, including ADA compliant sidewalk ramps
- 2. Additional analysis of storm water system to ensure the corridor meets typical design standards including, but not limited to, intakes, storm pipes, and overland relief, along with identification of any surface and parkway drainage concerns. (is a drainage report needed for City review)
- 3. Storm sewer system layout
- 4. Water main adjustment (as necessary)
- 5. Replacement of impacted sanitary sewer services
- 6. Roundabout layout
- 7. Corridor lighting improvements
- 8. Refinement of property owner impacts: access, parkway grading, impacted landscaping, trees, mailboxes, driveway concerns, etc.
- 9. Preliminary construction staging and detour
- 10. Design Exceptions
- 11. Anticipated regulatory permit needs (e.g. NPDES, DNR water and/or sewer construction permits)

Preliminary Plans shall be completed to provide the CLIENT the level of detail necessary to evaluate and budget for ultimate Project improvement goals including pavement rehabilitation, ADA sidewalk ramp compliance, and an understanding of property owner impacts.

#### 3.2 Preliminary Opinion of Probable Construction Cost

The CONSULTANT shall prepare a preliminary opinion of probable construction cost for the Project. Preliminary cost estimates shall be based on representative major Project elements and based on recent bid information. Detailed quantity takeoffs will not be developed for the preliminary cost estimate.

#### 3.3 Quality Control - Plan Set

Involve ongoing quality control input from the Project Team and the CONSULTANT's senior technical staff throughout the development of preliminary plans and documents for each Project segment. The CONSULTANT is responsible for making specific recommendations and ensuring that critical issues are discussed and resolved prior to submittal of the preliminary plan set to the PMT.

#### 3.4 Field Exam

A Field Exam will be held with the PMT to discuss key issues and design concepts, with the main emphasis focused on access control and traffic control/stage construction. The review will determine the completion of the plan design, identify needed adjustments to minimize potential property impact and confirm the proposed staging plans. Revisions will be noted for preparation of the final design.

#### 3.5 Deliverables

- 1. Electronic set of 60% plans
- 2. Cover sheet with designer and reviewer initials after completion of Quality Control
- 3. Cost Opinion

#### 4.0 Check Plans (95%)

After written authorization of approval from the CLIENT of the Preliminary Plans, the CONSULTANT shall proceed with the development of Check Plans. Upon completion, the design plans will be approximately 95% complete. It is assumed that no geometric revisions to the roadway design will occur after the start of the development of the Check Plans. Check Plans shall be completed in preparation of the letting.

#### 4.1 Incorporate Comments from Intermediate Plan Review

The CONSULTANT will respond to comments resulting from the CLIENT's plan review. Recommended modifications will be incorporated into the plan set.

#### 4.2 Opinion of Probable Construction Cost

The CONSULTANT shall prepare an opinion of probable construction cost for the Project. The cost estimates shall be based on representative major Project elements and recent bid information.

#### 4.3 Quality Control Review

Involve ongoing quality control input from the PMT and the CONSULTANT's senior technical staff throughout the development of Check Plans and documents for each Project segment including roadway and traffic phasing. The CONSULTANT is responsible for making specific recommendations and ensuring that critical issues are discussed and resolved prior to submittal of the Check Plan set to the Project Team. Review the Check Plan set for technical accuracy, as well as for general constructability and conformance with the Project design criteria.

#### 4.4 Deliverables

- 1. Electronic set of 95% plans
- 2. Cover sheet with designer initials and reviewer initials after completion of Quality Control

- 3. Electronic copy of CLIENT 60% design comments
- 4. Cost Opinion
- 5. Special Provisions
- 6. Notice of Intent and Public Notice for NPDES permit

#### **5.0** Print Documents

After approval of the Check Plans by the CLIENT, the CONSULTANT shall proceed with the development of Final Plans for the Project. Upon completion, the design plans will be ready for Council approval and the DOT letting process.

#### 5.1 Incorporate Comments from Check Plan Review

The CONSULTANT will respond to comments resulting from the Check Plan Review. Recommended modifications will be incorporated into the final plan set.

#### 5.2 Opinion of Probable Construction Cost

The CONSULTANT shall prepare opinion of probable construction cost for the Project. Final cost opinion shall include all Project elements. Quantity takeoffs will be developed for the final cost estimate. Published cost opinion should be rounded to the nearest \$10,000.

#### 5.3 Deliverables

- 1. Copies of Print Documents (Signed plans)
- 2. Cost Opinion
- 3. Permit Applications

#### **TASK D - Assessments**

#### 1.0 Assessment Services

Assessments are not included with this scope of services. If such services are deemed necessary they should be added by a supplemental agreement.

#### **TASK E – DOT Letting Services**

#### 1.0 Letting Services

The work tasks to be performed or coordinated by the CONSULTANT during the Bid Period Services are based on a single DOT bid letting and shall include the following:

#### 1.1 Plan Clarification and Addenda

The Consultant shall assist during the bid periods in responding to questions provided from the DOT regarding the design intent. The Consultant shall address questions presented by the CLIENT and/or DOT and prepare addendum.

#### 1.2 Recommendation of Award

The CONSULTANT shall review the bids for the Project following the letting and provide the CLIENT with recommendations of award regarding the construction contracts.

#### **TASK F – Construction Phase**

It is anticipated that the reconstruction of Cedar Heights Drive will occur over two construction seasons.

#### 1.0 Construction Administration

#### 1.1 Preconstruction Conference

The CONSULTANT shall attend a pre-construction meeting scheduled and held by the CLIENT to review the contract requirements, details of construction, utility conflicts and work schedule prior to construction. The CONSULTANT shall be responsible for the meeting notices, facilitating the meeting, and meeting minutes.

#### 1.2 Contractor Payment Requests

The CONSULTANT shall review the requests of the contractor for progress payments and shall approve a request, based on site observations, which recommends payments and is a declaration that the contractor's work has progressed to the point indicated.

#### 1.3 Notification of Nonconformance

The CONSULTANT shall notify the CLIENT of any known work which does not generally conform to the construction contract, make recommendations to the CLIENT for the correction of nonconforming work and, at the request of the CLIENT, see that these recommendations are implemented by the contractor.

#### 1.4 Shop Drawings

The CONSULTANT shall review shop drawings and other submissions of the Contractor for general compliance with the construction contract.

#### 1.5 Change Orders

The CONSULTANT shall negotiate and prepare change orders for approval by the CLIENT.

#### 1.6 Pre-Pour Meeting

The CONSULTANT shall schedule and coordinate pre-pour meeting/s to review project.

#### 1.7 General Coordination

The CONSULTANT shall assist with property owner coordination, assist with organizing and scheduling as well as attend bi-weekly construction meetings, and provide monthly project updates for the City's website as requested by the CLIENT.

#### 1.8 Spring 2021 Kickoff Meeting

The CONSULTANT shall schedule and coordinate a spring 2021 construction kickoff meeting following winter shutdown. This meeting shall take place prior to construction beginning in the spring. Schedules and remaining construction activities shall be discussed.

#### 1.9 Substantially Complete and Final Site Observation

The CONSULTANT shall perform a site observation to determine if the Project is substantially complete according to the plans and specifications and make a recommendation on final payment. This shall include the development of a punch list of items to be completed by the contractor for completion along with subsequent site review and correspondence.

#### 1.10 Completion Period

If the Contractor does not meet the completion period requirements, or if change orders or Project additions require additional construction time, the CONSULTANT will be compensated for any additional administration, construction observation and staking services when authorized by the CLIENT.

#### 1.11 Final Acceptance

It is understood that the CLIENT will accept any portion of a Project only after recommendation by the CONSULTANT. Final acceptance of a Project by the CLIENT shall not release the Contractor from responsibility that the work is free of defects in materials and workmanship.

#### 1.12 Record Drawings

The CONSULTANT shall furnish reproducible record drawings for the PROJECT according to CLIENT requirements. Such record drawings may contain a waiver of liability phrase in regard to unknown changes made by the Contractor without CLIENT/CONSULTANT approval.

The record drawings will include new water main fittings and valve locations and elevations, new storm sewer pipe flowline elevations and slopes, and new sanitary sewer main flowline elevations and slopes.

#### 1.13 Assessment Documentation

No assessment documentation is anticipated. If it is needed it should be added to the scope of services by a supplemental agreement.

#### 2.0 Construction Staking

The CONSULTANT shall be responsible for providing construction staking for the Project. The construction documents will contain a provision that the CONSULTANT will provide one set of stakes for each construction operation of the Project. Any staking that is destroyed due to construction will be replaced at the Contractor's expense.

#### 2.1 Reestablishment of Monuments

After completion of construction, the CONSULTANT shall perform field survey as required to verify which monuments found during the original survey and identified in the construction plans, if any, were disturbed or removed during construction. All disturbed or missing monuments shall be reset at their original location and a Monumentation Preservation Certificate in accordance with Iowa Code Section 355.6A shall be prepared and filed with the Black Hawk County Recorder.

#### 3.0 Construction Observation

The CONSULTANT will provide periodic site observation for the Project during the Construction Phase. The time spent on site is dependent upon the Contractor's schedule, rate of progress, and type of work. It is estimated that fulltime observation services will be provided. If a Contractor requests a waiver of any provisions of the plans and specifications, the CONSULTANT will make a recommendation to the CLIENT on the request. The CONSULTANT will give guidance to the Project during the construction period, including the following:

#### 3.1 Observation

Observation of the work for general compliance with plans and specifications.

#### 3.2 Record/Log

Keep a record of Contractor's activities throughout construction, including notation on the nature and cost of any extra work or changes ordered during construction.

#### 3.3 Resident Construction Services

Provide the Owner with representation at the job site during the Construction Phase of the Project, which results in an increase in the probability that the Project will be constructed in substantial compliance with the plans and specifications. However, such Resident Services do not guarantee the Contractor's performance. Nor do such Resident Services include responsibility for construction means, techniques, procedures or safety used in constructing the work described in this agreement.

#### 3.4 Testing/Monitoring

The CONSULTANT will coordinate the acceptance testing and monitoring according to the specifications, including the services provided by an independent testing laboratory. Testing services by an independent laboratory may be performed on behalf of the CONSULTANT and included with subsequent invoices. The CONSULTANT shall provide PCC air, slump testing and strength (if maturity is not

utilized), certified plant monitoring, and aggregate testing. It is anticipated that the Contractor will be responsible for compaction, moisture and density, and special compaction testing.

#### **WORK SCHEDULE**

This PROJECT, from design through the project letting period, shall be performed by the CONSULTANT in accordance with a schedule mutually developed by the CLIENT and the CONSULTANT. The milestone schedule shall generally be as follows and could be modified as the project progresses:

Notice to Proceed	April 2, 2019
Kick-off PMT Meeting	March 29, 2019
Topo and Boundary Survey	May 15, 2019
Preliminary Design Completion	August 16, 2019
Check Plan Completion	November 20, 2019
Council Meeting & Hearing Date	February 3, 2020
Bid Letting	February 11, 2020
Commence Construction (Early Start)	September 3, 2019
Complete Construction	Summer 2021
Project Closeout	Fall 2021

#### **COMPENSATION AND TERMS OF PAYMENT**

The CLIENT shall pay the CONSULTANT in accordance with the terms and conditions of the Agreement. Fees will be on the basis of the then current hourly rates and fixed expenses (current CONSULTANT Fee Schedule is included). Total fees shall not exceed the following unless Additional Services are added by a written change order, amendment, or supplemental agreement signed by both parties. The table below provides an estimated budget summary.

Estimated Budget S	Summary	,
The estimated budgets for each task li		
total not to exceed project cost shall	be the to	tal listed below.
<u>Tasks</u>		<u>Base</u>
Project Administration	\$	46,900
Survey, Field & Geotechnical Services	\$	62,507
Environmental Services	\$	21,193
Acquisition & Utility Submittal	\$	60,800
Preliminary Plans	\$	78,600
Utility Coordination	\$	9,000
ROW Acquisition	\$	40,000
Check Plans	\$	89,500
Print Documents	\$	8,800
Letting Services	\$	7,500
Construction Services	To be a	added at a later date
Total:	\$	424,800

#### SNYDER & ASSOCIATES, INC. 2019-20 STANDARD FEE SCHEDULE

Billing Classification/Level	Billing Rate		
Professional			
Engineer, Landscape Architect, Land Surveyor, GIS, Enviror	nmental Scientist		
Project Manager, Planner, Right-of-Way, Graphic Designer			
Principal II	\$208.00 /hour		
Principal I	\$197.00 /hour		
Senior	\$177.00 /hour		
VIII	\$163.00 /hour		
VII	\$155.00 /hour		
VI	\$148.00 /hour		
V	\$138.00 /hour		
IV	\$128.00 /hour		
III	\$116.00 /hour		
II	\$106.00 /hour		
I	\$93.00 /hour		
Technical			
TechniciansCADD, Survey, Construction Observation			
Lead	\$125.00 /hour		
Senior	\$119.00 /hour		
VIII	\$111.00 /hour		
VII	\$103.00 /hour		
VI	\$92.00 /hour		
V	\$82.00 /hour		
IV	\$76.00 /hour		
III	\$64.00 /hour		
II	\$56.00 /hour		
I	\$48.00 /hour		
Administrative			
II	\$64.00 /hour		
I	\$52.00 /hour		
Reimbursables			
Mileage	Current IRS standard rate		
Outside Services	As Invoiced		

#### Exhibit B

# Cedar Heights Drive Reconstruction Project Cedar Falls, Iowa City Project Number RC-000-3171

03-27-2019

## INSURANCE REQUIREMENTS FOR CONSULTANTS FOR THE CITY OF CEDAR FALLS

\*\*\* This document outlines the insurance requirements for all Contractors who perform work for the City of Cedar Falls. The term "contractor" as used in this document shall be defined as the general contractor, artisan contractor, or design contractor that will be performing work for the City of Cedar Falls under contract.

- 1. All policies of insurance required hereunder shall be with an insurer authorized by law to do business in Iowa. All insurance policies shall be companies satisfactory to the City and have a rating of A-, VII or better in the current A.M. Best Rating Guide.
- 2. All Certificates of Insurance required hereunder shall include the Cancellation & Material Change Endorsement. A copy of this endorsement is attached in Exhibit 1.
- 3. Contractor shall furnish a signed Certificate of Insurance to the City of Cedar Falls, Iowa for the coverage required in <a href="Exhibit 1">Exhibit 1</a>. Such Certificates shall include copies of the following endorsements:
  - a) Commercial General Liability policy is primary and non-contributing
  - b) Commercial General Liability additional insured endorsement See Exhibit 1
  - c) Governmental Immunities Endorsement See Exhibit 1

Copies of additional insured endorsements, executed by an authorized representative from an Insurer duly authorized to transact business at the location of the jobsite, must be provided prior to the first payment.

Contractor shall, upon request by the City, provide Certificates of Insurance for all subcontractors and sub-sub contractors who perform work or services pursuant to the provisions of this contract.

4. Each certificate shall be submitted to the City of Cedar Falls.

- 5. Failure to provide minimum coverage shall not be deemed a waiver of these requirements by the City of Cedar Falls. Failure to obtain or maintain the required insurance shall be considered a material breach of this agreement.
- 6. Failure of the Contractor to maintain the required insurance shall constitute a default under this Contract, and at City's option, shall allow City to terminate this Contract for cause and/or purchase said insurance at Contractor's expense.
- 7. Contractor shall be required to carry the following minimum coverage/limits or greater, if required by law or other legal agreement; as per Exhibit 1:
  - ➤ This coverage shall be written on an occurrence, not claims made form. All deviations or exclusions from the standard ISO commercial general liability form CG 001 shall be clearly identified and shall be subject to the review and approval of the City.
  - Contractor shall maintain ongoing CGL coverage for at least 2 years following substantial completion of the Work to cover liability arising from the products-completed operations hazard and liability assumed under an insured contract.
  - Governmental Immunity endorsement identical or equivalent to form attached.
  - Additional Insured Requirement See Exhibit 1. The City of Cedar Falls, including all its elected and appointed officials, all its employees, its boards, commissions and/or authorities and their board members, employees shall be named as an additional insured on General Liability Policies for all classes of contractors.

Contractors shall include coverage for the City of Cedar Falls as an additional insured including ongoing and completed operations coverage equivalent to: ISO CG 20 10 07 04\* and ISO CG 20 37 07 04\*\*

- \* ISO CG 20 10 07 04 "Additional Insured Owners, Lessees or Contractors Scheduled Person or Organization"
- \*\* ISO CG 20 37 07 04 "Additional Insured Owners, Lessees or Contractors Completed Operations"

- 8. Errors & Omissions: If the contract's scope of services includes design work or other professional services, then Contractor shall maintain insurance coverage for errors, omissions and other negligent acts or omissions (except for intentional acts or omissions), arising out of the professional services performed by Contractor. Contractor shall maintain continuous Errors & Omissions coverage for a period commencing no later than the date of the contract, and continuing for a period of no less than 2 years from the date of completion of all work completed or services performed under the contract. The limit of liability shall not be less than \$1,000,000.
- 9. Separation of Insured's Provision: If Contractor's liability policies do not contain the standard ISO separation of insured's provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.
- 10. Limits: By requiring the insurance as set out in this Contract, City does not represent that coverage and limits will necessarily be adequate to protect Contractor and such coverage and limits shall not be deemed as a limitation on Contractor's liability under the indemnities provided to City in this Contract. The City will have the right at any time to require liability insurance greater than that otherwise specified in Exhibit 1. If required, the additional premium or premiums payable shall be added to the bid price.
- Indemnification (Hold Harmless) Provision: To the fullest extent permitted by law, the Contractor agrees to defend (for all non-professional claims), indemnify, and hold harmless the City of Cedar Falls, Iowa, its elected and appointed officials, directors, employees, and agents working on behalf of the City of Cedar Falls, Iowa against any and all claims, demands, suits or loss, including any and all outlay and expense connected therewith, and for damages which may be asserted, claimed or recovered against or from the City of Cedar Falls, lowa, its elected and appointed officials, directors, employees, and agents working on behalf of the City of Cedar Falls, lowa, including, but not limited to, damages arising by reason of personal injury, including bodily injury or death, and property damages, which arises out of or is in any way connected or associated with the work and/or services provided by the Contractor to the City of Cedar Falls, Iowa pursuant to the provisions of this contract to the extent arising out of the errors, omissions or negligent acts of the Contractor, its agents, employees, subcontractors or others working on behalf of the Contractor. It is the intention of the parties that the City of Cedar Falls, lowa, its elected and appointed officials, directors, employees, and agents working on behalf of the City of Cedar Falls, Iowa shall not be liable or in any way responsible for the injury, damage, liability, loss or expense incurred by the Contractor, its officers, employees, subcontractors, and others affiliated with the Contractor due to accidents, mishaps, misconduct, negligence or injuries either in person or property resulting from the work and/or services performed by the Contractor pursuant to the provisions of this contract, except for and to the extent caused by the negligence of the City of Cedar Falls, Iowa.

The Contractor expressly assumes full responsibility for damages or injuries which may result to any person or property by reason of or in connection with the work and/or services provided by the Contractor to the City of Cedar Falls, Iowa pursuant to this contract to the extent arising out of the errors, omissions or negligent acts of the Contractor, its agents, employees, subcontractors or others working on behalf of the Contractor, and agrees to pay the City of Cedar Falls, Iowa for all damages caused to the City of Cedar Falls, Iowa premises resulting from the work and/or services of the Contractor, its officers, employees, subcontractors, and others affiliated with the Contractor to the extent arising out of such errors, omissions or negligent acts.

The Contractor represents that its activities pursuant to the provisions of this contract will be performed and supervised by adequately trained and qualified personnel, and the Contractor will observe, and cause its officers, employees, subcontractors and others affiliated with the Contractor to observe all applicable safety rules.

12. Waiver of Subrogation: To the extent permitted by law, Contractor hereby releases the City of Cedar Falls, Iowa, its elected and appointed officials, its directors, employees, and agents working on behalf of the City of Cedar Falls, Iowa, from and against any and all liability or responsibility to the Contractor or anyone claiming through or under the Contractor by way of subrogation or otherwise, for any loss or damage to property caused by fire or any other casualty and for any loss due to bodily injury to Contractor's employees. This provision shall be applicable and in full force and effect only with respect to loss or damage occurring during the time of this contract or arising out of the work performed under this contract. The Contractor's policies of insurance (except for Professional Liability) shall contain a clause or endorsement to the effect that such release shall not adversely affect or impair such policies or prejudice the right of the Contractor to recover thereunder.

#### **Completion Checklist**

- Certificate of Liability Insurance (2 pages)
- Additional Insured CG 20 10 07 04
- Additional Insured CG 20 37 07 04
- Governmental Immunities Endorsement

#### **EXHIBIT 1 – INSURANCE SCHEDULE**

#### **General Liability (Occurrence Form Only):**

**Commercial General Liability** 

General Aggregate	\$2,	,000,000
Products-Completed Operations Aggregate Limit	<b>\$2</b> ,	,000,000
Personal and Advertising Injury Limit	<b>\$1</b> ,	,000,000
Each Occurrence Limit	<b>\$1</b> ,	,000,000
Fire Damage Limit (any one occurrence)	\$	50,000
Medical Payments	\$	5,000

Automobile:

(Combined Single Limit)

\$1,000,000

If the Contractor does not own any vehicles, coverage is required on non-owned and hired vehicles.

#### **Standard Workers Compensation**

Statutory for Coverage A Employers Liability:

Each Accident\$ 500,000Each Employee – Disease\$ 500,000Policy Limit – Disease\$ 500,000

<u>Umbrella:</u> \$3,000,000

The Umbrella/Excess Insurance shall be written on a per occurrence basis and if the Umbrella/Excess is not written on a follow form basis it shall have the same endorsements as required of the primary policy(ies).

#### **Errors & Omissions:**

\$1,000,000

## CITY OF CEDAR FALLS, IOWA ADDITIONAL INSURED ENDORSEMENT

The City of Cedar Falls, Iowa, including all its elected and appointed officials, all its employees, its boards, commissions and/or authorities and their board members, employees, are included as Additional Insureds, including ongoing operations CG 2010 07 04 or equivalent, and completed operations CG 2037 07 04 or equivalent. See Specimens.

This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess.

## GOVERNMENTAL IMMUNITIES ENDORSEMENT (For use when *including* the City as an Additional Insured)

- 1. <u>Nonwaiver of Government Immunity</u>. The insurance carrier expressly agrees and states that the purchase of this policy and the including of the City of Cedar Falls, Iowa as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Cedar Falls, Iowa under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
- 2. <u>Claims Coverage</u>. The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.
- 3. <u>Assertion of Government Immunity</u>. The City of Cedar Falls, lowa shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement shall prevent the carrier from asserting the defense of governmental immunity on behalf of the City of Cedar Falls, lowa.
- 4. <u>Non-Denial of Coverage</u>. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the City of Cedar Falls, lowa under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Cedar Falls, lowa.
- 5. <u>No Other Change in Policy</u>. The insurance carrier and the City of Cedar Falls, Iowa agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

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#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS
CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES
BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED
REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(les) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the

PRODUCER	CONTACT NAME:	
Your insurance Agency 123 Main Street	PHONE FAX (A/C, No):  E-MAIL ADDRESS PRODUCER	
Anytown, IA 00000	INSURER(S) AFFORDING COVERAGE	NAIG#
Business Name 123 Main Street	INSURER B: Carrier should reflect rating of A-, VIII or better	
Anytown, IA 0000	INSURER D :	
	INSURER E: INSURER F:	

CERTIFICATE NUMBER: REVISION NUMBER: COVERAGES

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR J.TR	TYPE OF INSURANCE	ADDL	SUBR	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	(YY) LIM(TS		
A	GENERAL LIABILITY  X COMMERCIAL GENERAL LIABILITY  CLAIMS-MADE X OCCUR  GEN'L AGGREGATE LIMIT APPLIES PER:	X	X	Policy Number		01/01/2016	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea eccurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMPJOP AGG	\$ \$ \$ \$	1,000,000 100,000 5,000 1,000,000 2,000,000
Α	POLICY X PRO- AUTOMOBILE LIABILITY  X ANY AUTO ALL OWNED AUTOS SCHEDULED AUTOS HIRED AUTOS NON-OWNED AUTOS	X	X	Policy Number	01/01/2015	01/01/2016	COMBINED SINGLE LIMIT (Ea accident)  BODILY INJURY (Per person)  BODILY INJURY (Per accident)  PROPERTY DAMAGE (Per accident)	\$ \$ \$ \$ \$ \$ \$ \$	1,000,000
A	X UMBRELLA LIAB X OCCUR EXCESS LIAB CLAIMS-MADE DEDUCTIBLE RETENTION \$	X		Policy Number	01/01/2015	01/01/2016	EACH OCCURRENCE AGGREGATE	\$ \$ \$	3,000,000
Α	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under SPECIAL PROVISIONS below	N/A	×	Policy Number	01/01/2015	01/01/2016	X WC STATU- TORY LIMITS OTH- EL. EACH ACCIDENT EL. DISEASE - EA EMPLOYEE EL. DISEASE - POLICY LIMIT		500,000 500,000 500,000
	Errors & Omissions			Policy Number	01/01/2015	01/01/2016	Each Occurence		\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

City of Cedar Falls, lowa, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees and volunteers are an Additional insured(s) on the general liability policy on a primary and non-contributory basis (CG2010 & CG2037). Governmental Immunities Endorsement including 30 Days Notice of Cancellation Included. Walver of Subrogation under the Work Comp & Gen Liab.

CERTIFICATE HOLDER	CANCELLATION			
City of Cedar Falls 220 Clay Street	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.			
Cedar Falls, IA 50613	AUTHORIZED REPRESENTATIVE			
ĵ <sup>o</sup>	24			

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

# ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):
·
Location(s) Of Covered Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

- A. Section II Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:
  - 1. Your acts or omissions; or
  - The acts or omissions of those acting on your behalf;
- in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.
- B. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:
  - This insurance does not apply to "bodily injury" or "property damage" occurring after:

- All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
- 2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

All terms and conditions of this policy apply unless modified by this endorsement.

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY CG 20 37 07 04

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

## ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

#### **SCHEDULE**

Name Of Additional Insured Person(s) Or Organization(s):
Location And Description Of Completed Operations
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at

the location designated and described in the schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

All terms and conditions of this policy apply unless modified by this endorsement.

OP ID: KN

DATE (MM/DD/YYYY)

03/12/2019

#### CERTIFICATE OF LIABILITY INSURANCE

ACORD'

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

tilis certificate does flot collier fr	giils to the certificate holder in hed of	i such endorsement(s).				
PRODUCER	515-288-8545	CONTACT Brian J Donaghy				
DONAGHY KEMPTON INSURORS PO BOX 3287		PHONE (A/C, No, Ext): 515-288-8545	FAX (A/C, No): 515-288-2422			
DES MOINES, IA 50316-0287 Brian J Donaghy		E-MAIL ADDRESS: brian@dki-ins.com				
		INSURER(S) AFFORDING COVE	NAIC #			
		INSURER A : UNITED FIRE GROUP	13021			
INSURED		INSURER B:				
Snyder & Associates Inc Snyder & Associates Engineers & Planners LLC 2727 SW Snyder Blvd Ankeny, IA 50023		INSURER C:				
		INSURER D :				
		INSURER E :				
		INSURER F:				
COVERAGES	CERTIFICATE NUMBER:	REVISION NUMBER:				

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMIT	s	
Α	X COMMERCIAL GENERAL LIABILITY						EACH OCCURRENCE	\$	1,000,000
	CLAIMS-MADE X OCCUR	Х	Х	60376805	10/01/2018	10/01/2019	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$	100,000
	χ Contractual Liab						MED EXP (Any one person)	\$	5,000
	χ XCU Included						PERSONAL & ADV INJURY	\$	1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	\$	2,000,000
	POLICY X PROT LOC						PRODUCTS - COMP/OP AGG	\$	2,000,000
	OTHER:						Ded	\$	0
Α	AUTOMOBILE LIABILITY						COMBINED SINGLE LIMIT (Ea accident)	\$	1,000,000
	X ANY AUTO	Х	Χ	60376805	10/01/2018	10/01/2019	BODILY INJURY (Per person)	\$	
	OWNED SCHEDULED AUTOS ONLY AUTOS						BODILY INJURY (Per accident)	\$	
	X HIRED ONLY X NON-OWNED						PROPERTY DAMAGE (Per accident)	\$	
								\$	
A	X UMBRELLA LIAB X OCCUR						EACH OCCURRENCE	Ψ	5,000,000
	EXCESS LIAB CLAIMS-MADE	Х		60376805	10/01/2018	10/01/2019	AGGREGATE	\$	5,000,000
	DED X RETENTION \$ 0							\$	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY						X PER OTH- STATUTE ER		
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?	$\left\  \left\ _{N/A} \right\ _{X} \right\ _{N}$		60376805	10/01/2018	10/01/2019	E.L. EACH ACCIDENT	Φ	1,000,000
		,					E.L. DISEASE - EA EMPLOYEE	Ψ	1,000,000
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - POLICY LIMIT	Ψ	1,000,000
	Property			60376805		10/01/2019			2,288,000
Α	Inland Marine			60376805	10/01/2018	10/01/2019	Lsd Equip		100,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required) See attached.

CERTIFICATE HOLDER		CANCELLATION
CITY OF CEDAR FALLS 220 CLAY ST	CITYCE4	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
CEDAR FALLS, IA 50613		AUTHORIZED REPRESENTATIVE  Bin J. Donashy

ACORD 25 (2016/03)

@ 1988-2015 ACORD CORPORATION. All righ

NOTEPAD:

HOLDER CODE INSURED'S NAME Snyder & Associates Inc

HOLDER CODE INSURED'S NAME Snyder & Associates Inc

OP ID: KN

Date 03/12/2019

The City of Cedar Falls, Iowa, including all its elected and appointed officials, all its employees and volunteers, all its boards, commissions and/or authorities and their board members, employees, and volunteers, are included as Additional Insureds, including ongoing and completed operations on General Liability per the attached CG7201 07717. This coverage shall be primary to the additional insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage be primary, contributing or excess. Governmental Immunities endorsement including 30 days notice of cancellation included. Waiver of Subrogation included on Workers Compensation and General Liability.

60376805

#### **EXTENDED ULTRA LIABILITY PLUS ENDORSEMENT**

#### COMMERCIAL GENERAL LIABILITY EXTENSION ENDORSEMENT SUMMARY OF COVERAGES

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary.

- \* Extended Property Damage
- \* Expanded Fire Legal Liability to include Explosion, Lightning and Sprinkler Leakage
- \* Coverage for non-owned watercraft is extended to 51 feet in length
- \* Property Damage Borrowed Equipment
- \* Property Damage Liability Elevators
- \* Coverage D Voluntary Property Damage Coverage \$5,000 Occurrence with a \$10,000 Aggregate
- \* Coverage E Care, Custody and Control Property Damage Coverage \$25,000 Occurrence with a \$100,000 Aggregate \$500 Deductible
- \* Coverage F Electronic Data Liability Coverage \$50,000
- \* Coverage G Product Recall Expense
  - \$25,000 Each Recall Limit with a \$50,000 Aggregate \$1,000 Deductible
- \* Coverage H Water Damage Legal Liability \$25,000
- \* Coverage I Designated Operations Covered by a Consolidated (Wrap-Up) Insurance Program Limited Coverage
- \* Increase in Supplementary Payments: Bail Bonds to \$1,000
- \* Increase in Supplementary Payments: Loss of Earnings to \$500
- \* For newly formed or acquired organizations extend the reporting requirement to 180 days
- \* Broadened Named Insured
- \* Automatic Additional Insured Owners, Lessees or Contractors Automatic Status When Required in Construction Agreement With You Including Upstream Parties
- \* Contractors Blanket Additional Insured Products Completed Operations Coverage Including Upstream Parties
- \* Automatic Additional Insured Vendors
- \* Automatic Additional Insured- Lessor of Leased Equipment Automatic Status When Required in Lease Agreement With
- \* Automatic Additional Insured Managers or Lessor of Premises
- \* Additional Insured Engineers, Architects or Surveyors Not Engaged by the Named Insured
- \* Additional Insured State or Governmental Agency or Subdivision or Political Subdivision Permits or Authorizations
- \* Additional Insured Consolidated Insurance Program (Wrap-Up) Off-Premises Operations Only Owners, Lessees or Contractors Automatic Status When Required in Construction Agreement With You
- \* Additional Insured Employee Injury to Another Employee
- \* Automatically included Aggregate Limits of Insurance (per location)
- \* Automatically included Aggregate Limits of Insurance (per project)
- \* Knowledge of occurrence Knowledge of an "occurrence", "claim or suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee
- \* Blanket Waiver of Subrogation
- \* Liberalization Condition
- \* Unintentional failure to disclose all hazards. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Form because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.
- \* "Insured Contract" redefined for Limited Railroad Contractual Liability
- \* Mobile equipment to include snow removal, road maintenance and street cleaning equipment less than 1,000 lbs GVW
- \* Bodily Injury Redefined

## REFER TO THE ACTUAL ENDORSEMENT FOLLOWING ON PAGES 2 THROUGH 13 FOR CHANGES AFFECTING YOUR INSURANCE PROTECTION

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### EXTENDED ULTRA LIABILITY PLUS ENDORSEMENT

This endorsement modifies insurance provided under the following:

**COMMERCIAL GENERAL LIABILITY COVERAGE PART** 

#### **SECTION I - COVERAGES**

#### A. The following changes are made at COVERAGE A - BODILY INJURY AND PROPERTY DAMAGE LIABILITY

#### 1. Extended Property Damage

At 2. Exclusions exclusion a. Expected or Intended Injury is replaced with the following:

"Bodily injury" or "property damage" expected or intended from the standpoint of the insured. This exclusion does not apply to "bodily injury" or "property damage" resulting from the use of reasonable force to protect persons or property.

#### 2. Expanded Fire Legal Liability

At 2. Exclusions the last paragraph is deleted and replaced by the following:

Exclusions c. through n. do not apply to damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage to premises while rented to you or temporarily occupied by you with permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III** - **LIMITS OF INSURANCE**.

#### 3. Non-Owned Watercraft

- At 2. Exclusions exclusion g. Aircraft, Auto Or Watercraft (2) (a) is deleted and replaced by the following:
- (a) Less than 51 feet long;
- 4. Property Damage Borrowed Equipment
  - At 2. Exclusions the following is added to paragraph (4) of exclusion j. Damage To Property:

This exclusion does not apply to "property damage" to borrowed equipment while at a jobsite and while not being used to perform operations. The most we will pay for "property damage" to any one piece of borrowed equipment under this coverage is \$25,000 per occurrence. The insurance afforded under this provision is excess over any valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

#### 5. Property Damage Liability - Elevators

At 2. Exclusions the following is added to paragraphs (3), (4) and (6) of exclusion j. Damage To Property:

This exclusion does not apply to "property damage" resulting from the use of elevators. However, any insurance provided for such "property damage" is excess over any valid and collectible property insurance (including deductible) available to the insured, whether primary, excess, contingent or on any other basis.

- B. The following coverages are added:
  - 1. COVERAGE D VOLUNTARY PROPERTY DAMAGE COVERAGE

"Property damage" to property of others caused by the insured:

- a. While in your possession; or
- b. Arising out of "your work".

Coverage applies at the request of the insured, whether or not the insured is legally obligated to pay.

For the purposes of this Voluntary Property Damage Coverage only:

Exclusion j. Damage to Property is deleted and replaced by the following:

#### j. Damage to Property

"Property damage" to:

(1) Property held by the insured for servicing, repair, storage or sale at premises you own, rent, lease, operate or use;

- (2) Property transported by or damage caused by any "automobile", "watercraft" or "aircraft" you own, hire or lease:
- (3) Property you own, rent, lease, borrow or use.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

#### 2. COVERAGE E - CARE, CUSTODY AND CONTROL PROPERTY DAMAGE COVERAGE

For the purpose of this Care, Custody and Control Property Damage Coverage only:

a. Item (4) of exclusion j. does not apply.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

#### 3. COVERAGE F - ELECTRONIC DATA LIABILITY COVERAGE

For the purposes of this Electronic Data Liability Coverage only:

 Exclusion p. of Coverage A – Bodily Injury And Property Damage Liability in Section I – Coverages is replaced by the following:

#### 2. Exclusions

This insurance does not apply to:

#### p. Electronic Data

Damages arising out of the loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

However, this exclusion does not apply to liability for damages because of "bodily injury".

#### b. "Property damage" means:

- (1) Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or
- (2) Loss of use of tangible property that is not physically injured. All such loss of use shall be deemed to occur at the time of the "occurrence" that caused it; or
- (3) Loss of, loss of use of, damage to, corruption of, inability to access or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purposes of this Electronic Data Liability Coverage, "electronic data" is not tangible property.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

#### 4. COVERAGE G - PRODUCT RECALL EXPENSE

#### a. Insuring Agreement

- (1) We will pay 90% of "product recall expense" you incur as a result of a "product recall" you initiate during the coverage period.
- (2) We will only pay for "product recall expense" arising out of "your products" which have been physically relinquished to others.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

251

#### b. Exclusions

This insurance does not apply to "product recall expense" arising out of:

- (1) Any fact, circumstance or situation which existed at the inception date of the policy and which you were aware of, or could reasonably have foreseen that would have resulted in a "product recall".
- (2) Deterioration, decomposition or transformation of a chemical nature, except if caused by an error in the manufacture, design, processing, storage, or transportation of "your product".
- (3) The withdrawal of similar products or batches that are not defective, when a defect in another product or batch has been found.
- (4) Acts, errors or omissions of any of your employees, done with prior knowledge of any of your officers or directors.
- (5) Inherent vice, meaning a natural condition of property that causes it to deteriorate or become damaged.
- (6) "Bodily injury" or "property damage".
- (7) Failure of "your product" to accomplish its intended purpose, including any breach of warranty of fitness, quality, efficacy or efficiency, whether written or implied.
- (8) Loss of reputation, customer faith or approval, or any costs incurred to regain customer market, or any other consequential damages.
- (9) Legal fees or expenses.
- (10) Damages claimed for any loss, cost or expense incurred by you or others for the loss of use of "your product".
- (11) "Product recall expense" arising from the "product recall" of any of "your products" for which coverage is excluded by endorsement.
- (12) Any "product recall" initiated due to the expiration of the designated shelf life of "your product".

#### 5. COVERAGE H - WATER DAMAGE LEGAL LIABILITY

The Insurance provided under Coverage H (Section I) applies to "property damage" arising out of water damage to premises that are both rented to and occupied by you.

The Limit under this coverage shall not be in addition to the Damage To Premises Rented To You Limit.

The amount we will pay is limited as described below in SECTION III - LIMITS OF INSURANCE

### 6. COVERAGE I - DESIGNATED OPERATIONS COVERED BY A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM

The following exclusion is added to Paragraph 2. Exclusions of SECTION I – COVERAGES COVERAGE A—BODILY INJURY AND PROPERTY DAMAGE LIABILITY:

r. This insurance does not apply to "bodily injury" or "property damage" arising out of either your ongoing operations or operations included within the "products-completed operations hazard" for any "consolidated (Wrap-up) insurance program" which has been provided by the prime contractor/project manager or owner of the construction project in which you are involved.

This exclusion applies whether or not a "consolidated (Wrap-up) insurance program":

- a. Provides coverage identical to that provided by this Coverage Part; or
- b. Has limits adequate to cover all claims.

This exclusion does not apply if a "consolidated (Wrap-up) insurance program" covering your operations has been cancelled, non-renewed or otherwise no longer applies for reasons other than exhaustion of all available limits, whether such limits are available on a primary, excess or on any other basis. You must advise us of such cancellation, nonrenewal or termination as soon as practicable.

For purposes of this exclusion a "consolidated (wrap-up) insurance program" is a program providing insurance coverage to all parties for exposures involved with a particular (typically major) construction project.

#### C. SUPPLEMENTARY PAYMENTS - COVERAGES A AND B is amended:

1. To read SUPPLEMENTARY PAYMENTS

#### 2. Bail Bonds

Item 1.b. is amended as follows:

b. Up to \$1,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

#### 3. Loss of Earnings

Item 1.d. is amended as follows:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$500 a day because of time off from work.
- 4. The following language is added to Item 1.

However, we shall have none of the duties set forth above when this insurance applies only for Voluntary Property Damage Coverage and/or Care, Custody or Control Property Damage Coverage and we have paid the Limit of Liability or the Aggregate Limit for these coverages.

#### **SECTION II - WHO IS AN INSURED**

A. The following change is made:

#### **Extended Reporting Requirements**

Item 3.a. is deleted and replaced by the following:

- **a.** Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.
- B. The following provisions are added:

#### 4. BROAD FORM NAMED INSURED

Item 1.f. is added as follows:

- f. Any legally incorporated entity of which you own more than 50 percent of the voting stock during the policy period only if there is no other similar insurance available to that entity. However:
  - (1) Coverage A does not apply to "bodily injury" or "property damage" that occurred before you acquired more than 50 percent of the voting stock; and
  - (2) Coverage B does not apply to "personal and advertising injury" arising out of an offense committed before you acquired more than 50 percent of the voting stock.

## 5. Additional Insured - Owners, Lessees or Contractors-Automatic Status When Required in Construction or Service Agreement With You - Including Upstream Parties

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy;
- b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph a. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" which may be imputed to that person or organization directly arising out of:

- Your acts or omissions; or
- 2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured.

However, the insurance afforded to such additional insured:

- 1. Only applies to the extent permitted by law; and
- Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

- c. With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

  This insurance does not apply to:
  - 1. "Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:
    - **a.** The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
    - b. Supervisory, inspection, architectural or engineering activities.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional architectural, engineering or surveying services.

- 2. "Bodily injury" or "property damage" occurring after:
  - a. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
  - b. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

#### 6. Additional Insured - Products Completed Operations Coverage - Including Upstream Parties

- a. Any person or organization for whom you are performing operations when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy; and
- b. Any other person or organization you are required to add as an additional insured under the contract or agreement described in Paragraph a. above.

Such person(s) or organization(s) is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" which may be imputed to that person or organization directly arising out of "your work" specified in the "written contract" and included in the "products-completed operations hazard".

#### However:

- (1) The insurance afforded to such additional insureds only applies to the extent permitted by law;
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- (3) Such coverage will not apply subsequent to the first to occur of the following:
  - i. The expiration of the period of time required by the "written contract"; or
  - ii. The expiration of any applicable statute of limitations or statute of repose with respect to claims arising out of "your work".
- c. With respect to the insurance afforded to any additional insured under this endorsement, the following additional exclusionary language shall apply:

This insurance does not apply to "bodily injury" or "property damage" arising out of the rendering of, or the failure to render, any professional architecture, engineering or surveying services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (2) Supervisory, inspection, architectural or engineering activities.

#### 7. Additional Insured - Vendors

a. Any person(s) or organization(s) (referred to throughout this additional coverage as vendor), but only with respect to "bodily injury" or "property damage", which may be imputed to that person(s) or organization(s) arising out of "your products" shown with the Schedule which are distributed or sold in the regular course of the vendor's business is an insured.

#### However:

- (1) The insurance afforded to such vendor only applies to the extent permitted by law; and
- (2) If coverage provided to the vendor is required by a contract or agreement, the insurance afforded to such vendor will not be broader than that which you are required by the contract or agreement to provide for such vendor.
- b. With respect to the insurance afforded to these vendors, the following additional exclusions apply:
  - (1) This insurance afforded the vendor does not apply to:
    - (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
    - (b) Any express warranty unauthorized by you;
    - (c) Any physical or chemical change in the product made intentionally by the vendor;
    - (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container.
    - (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of products.
    - (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product.
    - (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor.
    - (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
      - i. The exceptions contained in Sub-paragraphs d. or f.; or
      - ii. Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
  - (2) This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

## 8. Additional Insured – Lessor of Leased Equipment – Automatic Status When Required in Lease Agreement With You

a. Any person(s) or organization(s) from whom you lease equipment when you and such person(s) or organization(s) have agreed in writing in a contract or agreement that such person(s) or organization(s) be added as an additional insured on your policy. Such person(s) or organization(s) is an insured only with respect to your liability for "bodily injury", "property damage" or "personal and advertising injury" directly arising out of the maintenance, operation or use of equipment leased to you, which may be imputed to such person or organization as the lessor of equipment.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

A person's or organization's status as an additional insured under this endorsement ends when their contract or agreement with you for such leased equipment ends.

**b.** With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

#### 9. Additional Insured - Managers or Lessors of Premises

a. Any person(s) or organization(s), but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you and subject to the following additional exclusions:

This insurance does not apply to:

- (1) Any "occurrence" which takes place after you cease to be a tenant in that premises.
- (2) Structural alterations, new construction or demolition operations performed by or on behalf of the person(s) or organization(s) shown in the Schedule.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

#### 10. Additional Insured - Engineers, Architects or Surveyors Not Engaged by the Named Insured

- a. Any architects, engineers or surveyors who are not engaged by you are insureds, but only with respect to liability for "bodily injury" or "property damage" or "personal and advertising injury" which may be imputed to that architect, engineer or surveyor arising out of:
  - (1) Your acts or omissions; or
  - (2) Your acts or omissions of those acting on your behalf;

in the performance of your ongoing operations performed by you or on your behalf.

But only if such architects, engineers or surveyors, while not engaged by you, are contractually required to be added as an additional insured to your policy.

However, the insurance afforded to such additional insured:

- (1) Only applies to the extent permitted by law; and
- (2) Will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- b. With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or failure to render any professional services, including:

- (1) The preparing, approving, or failing to prepare or approve, maps, drawings, opinions, reports, surveys, change orders, designs or specifications; or
- (2) Supervisory, inspection or engineering services.

This exclusion applies even if the claims against any insured allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by that insured, if the "occurrence" which caused the "bodily injury" or "property damage", or the offense which caused the "personal and advertising injury", involved the rendering of or the failure to render any professional services.

## 11. Additional Insured - State or Governmental Agency or Subdivision or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision is an insured, subject to the following provisions:

a. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- (1) The insurance afforded to such additional insured only applies to the extent permitted by law; and
- (2) If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.
- b. This insurance does not apply to:
  - (1) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
  - (2) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

## 12. Additional Insured Consolidated Insurance Program (Wrap-Up) Off-Premises Operations Only - Owners, Lessees or Contractors

- a. Any persons or organizations for whom you are performing operations, for which you have elected to seek coverage under a Consolidated Insurance Program, when you and such person or organization have agreed in writing in a contract or agreement that such person or organization be added as an additional insured on your policy is an insured. Such person or organization is an additional insured only with respect to your liability which may be imputed to that person or organization directly arising out of your ongoing operations performed for that person or organization at a premises other than any project or location that is designated as covered under a Consolidated Insurance Program. A person's or organization's status as an insured under this endorsement ends when your operations for that insured are completed.
- **b.** With respect to the insurance afforded to these additional insureds, the following additional exclusion applies. This insurance does not apply to:
  - "Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or failure to render, any professional architectural, engineering or surveying services, including:
  - (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
  - (2) Supervisory, inspection

#### 13. Additional Insured - Employee Injury to Another Employee

With respect to your "employees" who occupy positions which are supervisory in nature:

Paragraph 2.a.(1) of SECTION II - WHO IS AN INSURED is amended to read:

- a. "Bodily injury" or "personal and advertising injury"
  - (1) To you, to your partners or members (if you are a partnership or joint venture), or to your members (if you are a limited liability company);
  - (2) For which there is any obligation to share damages with or repay someone else who must pay damages because of the injury described in paragraph (1)(a) above; or
  - (3) Arising out of his or her providing or failing to provide professional healthcare services. Paragraph 3.a. is deleted.

For the purpose of this Item 13 only, a position is deemed to be supervisory in nature if that person performs principle work which is substantially different from that of his or her subordinates and has authority to hire, direct, discipline or discharge.

#### **SECTION III - LIMITS OF INSURANCE**

#### A. The following Items are deleted and replaced by the following:

- 2. The General Aggregate Limit is the most we will pay for the sum of:
  - a. Medical expenses under Coverage C;
  - b. Damages under Coverage A, except damages because of "bodily injury" or "property damage" included in the "products-completed operations hazard"; and

- c. Damages under Coverage B; and
- d. Damages under Coverage H.
- The Products-Completed Operations Aggregate Limit is the most we will pay under Coverage A for damages because of "bodily injury" and "property damage" included in the "products-completed operations hazard" and Coverage G.
- 6. Subject to 5. above, the Damage to Premises Rented to You Limit is the most we will pay under **Coverage A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage by fire, explosion, lightning, smoke resulting from such fire, explosion, or lightning or sprinkler leakage while rented to you or temporarily occupied by you with permission of the owner.
- B. The following are added:
  - 8. Subject to Paragraph 5. of SECTION III LIMITS OF INSURANCE \$25,000 is the most we will pay under Coverage H for Water Damage Legal Liability.
  - 9. Coverage G Product Recall Expense

Aggregate Limit \$50,000

Each Product Recall Limit \$25,000

- a. The Aggregate Limit shown above is the most we will pay for the sum of all "product recall expense" you incur as a result of all "product recalls" you initiate during the endorsement period.
- b. The Each Product Recall Limit shown above is the most we will pay, subject to the Aggregate and \$1,000 deductible, for "product recall expense" you incur for any one "product recall" you initiate during the endorsement period.

We will only pay for the amount of "product recall expenses" which are in excess of the deductible amount. The deductible applies separately to each "product recall". The limits of insurance will not be reduced by the amount of this deductible.

We may, or will if required by law, pay all or any part of any deductible amount. Upon notice of our payment of a deductible amount, you shall promptly reimburse us for the part of the deductible amount we paid.

#### 10. Aggregate Limits of Insurance (Per Location)

The General Aggregate Limit applies separately to each of your "locations" owned by or rented to you or temporarily occupied by you with the permission of the owner.

"Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

#### 11. Aggregate Limits of Insurance (Per Project)

The General Aggregate Limit applies separately to each of your projects away from premises owned by or rented to you.

12. With respects to the insurance afforded to additional insureds afforded coverage by items 5 through 13 of SECTION II – WHO IS AN INSURED above, the following is added:

The most we will pay on behalf of the additional insured is the amount of insurance:

- a. Required by the contract or agreement;
- b. Available under the applicable Limits of Insurance shown in the Declarations;

Whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

13. Subject to 5. of SECTION III – LIMITS OF INSURANCE, a \$5,000 "occurrence" limit and a \$10,000 "aggregate" limit is the most we will pay under Coverage A for damages because of "property damage" covered under Coverage D - Voluntary Property Damage Coverage.

For the purposes of this Voluntary Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

- 14. Subject to 5. of SECTION III LIMITS OF INSURANCE, a \$25,000 "occurrence" limit and a \$100,000 "aggregate" limit is the most we will pay under Coverage E Care, Custody and Control Coverage regardless of the number of:
  - a. Insureds:
  - b. Claims made or "suits" brought; or
  - c. Persons or organizations making claims or bringing "suits".

Deductible - Our obligation to pay damages on your behalf applies only to the amount of damages in excess of \$500.

This deductible applies to all damages because of "property damage" as the result of any one "occurrence" regardless of the number of persons or organizations who sustain damages because of that "occurrence".

We may pay any part or all of the deductible amount to effect settlement of any claim or "suit" and upon notification of the action taken, you shall promptly reimburse us for such part of the deductible amount as has been paid by us.

As respects this coverage "Aggregate" is the maximum amount we will pay for all covered "occurrences" during one policy period.

For the purposes of this Care, Custody and Control Property Damage Coverage, our right and duty to defend ends when we have paid the Limit of Liability or the Aggregate Limit for each coverage, and we are granted discretion in making payments under this coverage.

15. Subject to 5. of SECTION III – LIMITS OF INSURANCE, the most we will pay for "property damage" under Coverage F - Electronic Data Liability Coverage for loss of "electronic data" is \$50,000 without regard to the number of "occurrences".

#### SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS

- A. The following conditions are amended:
  - 1. Knowledge of Occurrence
    - a. Condition 2., Items a. and b. are deleted and replaced by the following:
      - (1) Duties In The Event Of Occurrence, Offense, Claim Or Suit
        - (a) You must see to it that we are notified as soon as practicable of an "occurrence" or an offense which may result in a claim. Knowledge of an "occurrence" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee. To the extent possible, notice should include:
          - i. How, when and where the "occurrence" took place;
          - ii. The names and addresses of any injured persons and witnesses, and
          - iii. The nature and location of any injury or damage arising out of the "occurrence" or offense.
        - (b) If a claim is made or "suit" is brought against any insured, you must:
          - i. Immediately record the specifics of the claim or "suit" and the date received; and
          - ii. Notify us as soon as practicable.

You must see to it that we receive written notice of the claim or "suit" as soon as practicable. Knowledge of a claim or "suit" by your agent, servant or employee shall not in itself constitute knowledge of the named insured unless an officer of the named insured has received such notice from the agent, servant or employee.

- 2. Where **Broad Form Named Insured** is added in **SECTION II WHO IS AN INSURED** of this endorsement, Condition **4. Other Insurance b. Excess Insurance (1).(a)** is replaced by the following:
  - (a) Any of the other insurance, whether primary, excess, contingent or on any other basis, that is available to an insured solely by reason of ownership by you of more than 50 percent of the voting stock, and not withstanding any other language in any other policy. This provision does not apply to a policy written to apply specifically in excess of this policy.

#### B. The following are added:

- 10. Condition (5) of 2. "Duties in the event Occurrence, Offense, Claim or Suit" c. You or any other involved insured must:
  - (5) Upon our request, replace or repair the property covered under Voluntary Property Damage Coverage at your actual cost, excluding profit or overhead.

#### 11. Blanket Waiver Of Subrogation

We waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of: premises owned or occupied by or rented or loaned to you, ongoing operations performed by you or on your behalf, done under a contract with that person or organization, "your work", or "your products". We waive this right where you have agreed to do so as part of a written contract, executed by you before the "bodily injury" or "property damage" occurs or the "personal and advertising injury" offense is committed.

#### 12. Liberalization

If a revision to this Coverage Part, which would provide more coverage with no additional premium becomes effective during the policy period in the state designated for the first Named Insured shown in the Declarations, your policy will automatically provide this additional coverage on the effective date of the revision.

#### 13. Unintentional Failure to Disclose All Hazards

Based on our reliance on your representations as to existing hazards, if you unintentionally should fail to disclose all such hazards at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

14. The following conditions are added in regard to Coverage G - Product Recall Expense

In event of a "product recall", you must

- a. See to it that we are notified as soon as practicable of a "product recall". To the extent possible, notice should include how, when and where the "product recall" took place and estimated "product recall expense".
- b. Take all reasonable steps to minimize "product recall expense". This will not increase the limits of insurance.
- c. If requested, permit us to question you under oath at such times as may be reasonably required about any matter relating to this insurance or your claim, including your books and records. Your answers must be signed.
- d. Permit us to inspect and obtain other information proving the loss. You must send us a signed, sworn statement of loss containing the information we request to investigate the claim. You must do this within 60 days after our request.
- e. Cooperate with us in the investigation or settlement of any claim.
- f. Assist us upon our request, in the enforcement of any rights against any person or organization which may be liable to you because of loss to which this insurance applies.

#### 15. Limited Railroad Contractual Liability

The following conditions are applicable only to coverage afforded by reason of the redefining of an "insured contract" in the **DEFINITIONS** section of this endorsement:

- a. Railroad Protective Liability coverage provided by Railroad Protective Liability Coverage Form (CG 00 35) with minimum limits of \$2,000,000 per occurrence and a \$6,000,000 general aggregate limit must be in place for the entire duration of any project.
- b. Any amendment to the Other Insurance condition of Railroad Protective Liability Coverage Form (CG 00 35) alters the primacy of the coverage or which impairs our right to contribution will rescind any coverage afforded by the redefined "insured contract" language.
- c. For the purposes of the Other Insurance condition of Railroad Protective Liability Coverage Form (CG 00 35) you, the named insured, will be deemed to be the designated contractor.

#### SECTION V – DEFINITIONS

- A. At item 12. "Mobile equipment" the wording at f.(1) is deleted and replaced by the following:
  - f.(1) Equipment designed primarily for:
    - (a) Snow removal;
    - (b) Road maintenance, but not construction or resurfacing; or
    - (c) Street cleaning:

except for such vehicles that have a gross vehicle weight less than 1,000 lbs which are not designed for highway use.

- B. Item 3. "Bodily injury" is deleted and replaced with the following:
  - 3. "Bodily injury" means physical injury, sickness or disease sustained by a person. This includes mental anguish, mental injury, shock, fright or death that results from such physical injury, sickness or disease.
- C. Item 9. "Insured contract" c. is deleted and replaced with the following:
  - c. Any easement or license agreement;
- D. Item 9. "Insured Contract" f.(1) is deleted
- E. The following definitions are added for this endorsement only:
  - 23. "Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tape drives, cells, data processing devices or any other media which are used with electronically controlled equipment.
  - 24. "Product recall" means a withdrawal or removal from the market of "your product" based on the determination by you or any regulatory or governmental agency that:
    - a. The use or consumption of "your product" has caused or will cause actual or alleged "bodily injury" or "property damage"; and
    - b. Such determination requires you to recover possession or control of "your product" from any distributor, purchaser or user, to repair or replace "your product", but only if "your product" is unfit for use or consumption, or is hazardous as a result of:
      - (1) An error or omission by an insured in the design, manufacturing, processing, labeling, storage, or transportation of "your product"; or
      - (2) Actual or alleged intentional, malicious or wrongful alteration or contamination of "your product" by someone other than you.
  - 25. "Product recall expense" means reasonable and necessary expenses for:
    - a. Telephone, radio and television communication and printed advertisements, including stationery, envelopes and postage.
    - b. Transporting recalled products from any purchaser, distributor or user, to locations designated by you.
    - c. Remuneration paid to your employees for overtime, as well as remuneration paid to additional employees or independent contractors you hire.
    - d. Transportation and accommodation expense incurred by your employees.
    - e. Rental expense incurred for temporary locations used to store recalled products.
    - Expense incurred to properly dispose of recalled products, including packaging that cannot be reused.
    - g. Transportation expenses incurred to replace recalled products.
    - h. Repairing, redistributing or replacing covered recalled products with like products or substitutes, not to exceed your original cost of manufacturing, processing, acquisition and/or distribution.

These expenses must be incurred as a result of a "product recall".

- 26. "Written Contract" means a written contract or written agreement that requires you to make a person or organization an additional insured on this Coverage Part, provided the contract or agreement:
  - a. Is currently in effect or becoming effective during the term of this policy; and
  - **b.** Was executed prior to:
    - (1) The "bodily injury" or "property damage"; or
    - (2) The offense that caused the "personal and advertising injury",
    - for which the additional insured seeks coverage under this coverage part.

#### THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

#### IOWA GOVERNMENTAL IMMUNITIES ENDORSEMENT

This endorsement modifies insurance provided under the following:
COMMERCIAL GENERAL LIABILITY COVERAGE FORM
BUSINESSOWNERS COVERAGE FORM
BUSINESS AUTO COVERAGE FORM

#### **SCHEDULE**

#### Name of Organization:

CITY OF CEDAR FALLS IA

- Nonwaiver of Governmental Immunity. The insurance carrier expressly agrees and states that the purchase of this
  policy and the including of the organization shown in the Schedule as an Additional Insured does not waive any of the
  defenses of governmental immunity available to the organization shown in the Schedule under Code of lowa Section
  670.4 as it now exists and as it may be amended from time to time.
- Claims Coverage. The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of lowa Section 670.4 as it now exists and as it may be amended from time to time.
- 3. Assertion of Governmental Immunity. The organization shown in the Schedule shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier. Nothing contained in this endorsement, shall prevent the carrier from asserting the defense of governmental immunity on behalf of the organization shown in the Schedule.
- 4. Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the organization shown in the Schedule under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the organization shown in the Schedule.
- 5. <u>No Other Change in Policy</u>. The insurance carrier and the organization shown in the Schedule agree that the above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

IL 70 84 06 16 Page 1 of 1

262



#### CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY) 03/13/2019

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ed.

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THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed.

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<b>A</b> 3	0 day notice of cancellation	endo	rsen	ment is included on	the po	olicies not	ed above.			
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Consultant Project No. 119.0263.08

#### **Exhibit C**

# Cedar Heights Drive Reconstruction Project Cedar Falls, Iowa City Project Number: RC-000-3171

2/9/12

# STANDARD TERMS AND CONDITIONS FOR CONTRACTS BETWEEN CONTRACTORS WHO PERFORM PROFESSIONAL SERVICES AND THE CITY OF CEDAR FALLS

This document outlines the Standard Terms and Conditions for all Contractors who perform work or services for the City of Cedar Falls under a contract. The term, "Contractor," as used in this document, includes an engineer, an architect, and any other design professional providing professional services to the City of Cedar Falls, Iowa, under a contract (but excludes construction contractors).

- 1. This Contract may not be modified or amended except by a writing signed by an authorized representative of the City of Cedar Falls and of the Contractor.
  - 2. Time is of the essence of this Contract.
- 3. Contractor shall be an independent contractor with respect to the services to be performed under this Contract. Neither Contractor nor its subcontractors, agents, or employees, shall be deemed to be employees or agents of the City.
- 4. Contractor shall perform all duties in accordance with all applicable federal, state and local laws and regulations.
- 5. If Contractor breaches this Contract, the City shall have all remedies available to it at law or in equity.
- 6. Severability. If any provision of this Contract is declared invalid, illegal, or incapable of being enforced by any court of competent jurisdiction, all of the remaining provisions of this Contract shall nevertheless continue in full force and effect, and no provision shall be deemed dependent upon any other provision unless so expressed herein.
- 7. Assignment. Contractor may not assign this Contract or any of its rights or obligations hereunder, without the prior written consent of the City, which consent may be withheld in the sole and absolute discretion of the City.
- 8. Survival of Obligations. All obligations and duties which by their nature extend beyond the term of this Contract shall survive the expiration or termination of this Contract.

Cedar Heights Drive Reconstruction Project Cedar Falls, Iowa City Project No. RC-000-3171

Consultant Project No. 119.0263.08

- 9. Governing Law; Jurisdiction; Venue and Trial. This Contract shall be construed in accordance with, and all disputes hereunder shall be governed by, the laws of the State of Iowa, excluding its conflicts of law rules. The parties hereto agree that the exclusive jurisdiction and venue shall be in the Iowa District Court for Black Hawk County, and in no other jurisdiction or location, and shall not be removed to federal court. The parties hereby agree to waive the right to trial by jury and agree to submit all disputes to a trial by judge alone. The parties agree that no disputes under this Contract shall be submitted to binding arbitration, but may be submitted to mediation by mutual consent of both parties.
- 10. Any failure of Contractor to comply with the Insurance Requirements for Contractors for the City of Cedar Falls set forth on Attachment A, shall constitute a default under this Contract.
- 11. Attorneys' Fees. In the event of litigation, the City shall under no circumstances be obligated for payment of any attorneys' fees of Contractor or any other party, arising out of such litigation.
- 12. Payment. Payment of Contractor's invoices shall be due no sooner than thirty (30) days from the date of invoice. In the event any invoices are not paid within thirty (30) days, the City shall pay interest thereon at the rate provided for by Section 668.13(3), Code of Iowa, computed monthly.
- 13. The City shall not be obligated to maintain confidentiality of Contractor documents or records that are furnished to the City if such documents are public records under the Iowa Open Records Law, Chapter 22, Code of Iowa, and the City shall have no responsibility to Contractor for disclosure of such records.
- 14. Under no circumstances shall the City waive any damages against the Contractor or any other party arising out of any breach of this Contract, whether consequential, indirect, special, or punitive damages.
- 15. Under no circumstances shall the Contractor's liability to the City be limited to any specific amount or sum, whether that amount is the compensation paid by the City to the Contractor under this Contract, or the dollar amount of coverage provided for in the Insurance Requirements for Contractors for the City of Cedar Falls, Attachment A.
- 16. No waiver of the City's subrogation rights against the Contractor or any other party shall conflict with the provisions of the City Insurance Requirements, Attachment A.
- 17. Limitations Period. There shall be no limitation, except as provided for by lowa law, on the period of time within which the City may make any claim against the Contractor or other party under the provisions of this Contract.
- 18. This Contract shall not be binding on the City unless and until approved by the City Council of the City at a duly constituted meeting, and signed by the Mayor and City Clerk of the City.

Consultant Cedar Heights Drive Reconstruction Project
Project No. 119.0263.08 Cedar Falls, Iowa
City Project No. RC-000-3171

19. Warranties. Contractor represents and warrants that all services furnished to the City under this Contract shall be furnished in a skilled and workmanlike manner, in accordance with the degree of skill and care that is required by current, good and sound practices applicable to the Contractor's industry or profession, and as otherwise required by applicable law.

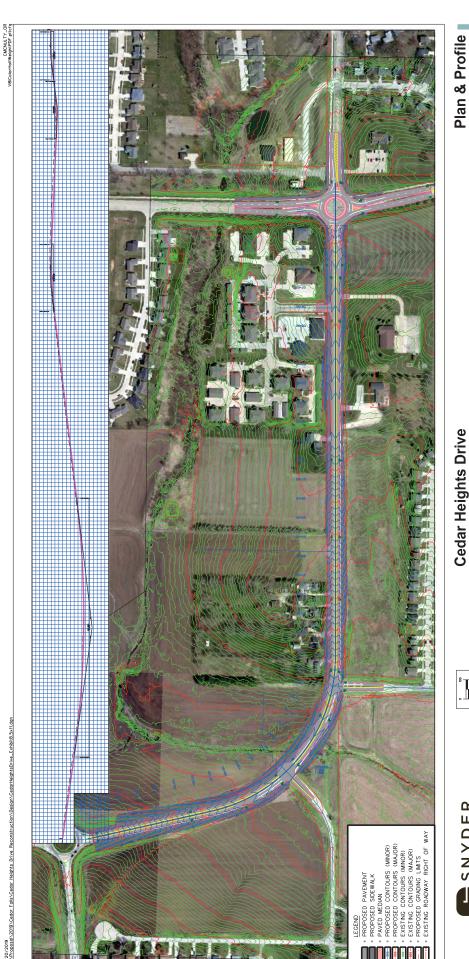
20. Force Majeure. Neither party to this Contract shall be liable to the other party for delays in performing the services, or for the direct or indirect cost resulting from such delays, that may result from acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party. Each party will take reasonable steps to mitigate the impact of any force majeure.

Consultant Project No. 119.0263.08

#### **Exhibit D**

#### Cedar Heights Drive Reconstruction Project Cedar Falls, Iowa City Project Number: RC-000-3171

See the next page for an Exhibit with the approximate project limits.



Cedar Heights Drive

SCALE OFFET

SNYDER

Cedar Falls, IA

03/20/2019



#### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

Fax: 319-273-8610 www.cedarfalls.com

**MEMORANDUM** 

Planning & Community Services Division

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Iris Lehmann, Planner II

**DATE:** April 10, 2019

**SUBJECT:** Rental to Single Family Owner Conversion Incentive Program: 1026 W 8th St.

The Rental to Single Family Owner Conversion Incentive Program was adopted by City Council on December 21, 2015. The program offers a Forgivable Loan of up to \$10,000 for exterior improvements to a residential rental property being purchased and converted to a single family owner occupied residence. The goal is to improve and positively impact neighborhood character and encourage private improvements to rental properties converting to owner occupied. The concept of the Rental to Single Family Owner Conversion Incentive Program was developed initially through the City established Rental Task Force.

Callie Osborn purchased 1026 W 8th Street in December 2018. The new owner has submitted an application, attached, to be considered for the Rental to Single Family Owner Conversion Incentive Program. The property meets the requirements for the program: has been a rental for at least the past three years (since 2005), is located in the R-2 zoning district, falls within the program's geographical boundaries, and is in a block with less than 75% rentals.

Callie Osborn is proposing to reside the property and install new windows. Based on the submitted bids by QUEGG, the actual cost of the improvement listed is \$11,700.

The Community Development Department recommends adopting a resolution approving this property for a forgivable loan of up to \$10,000 with the placement of a lien on the property for which 20% will be forgiven each year for five years with prorated payback if sold prior to the end of five years. Half of the forgivable loan will be paid upon City Council approval with the balance paid upon completion of the improvements, inspections by the City of the improvements, and verification of the actual costs of the improvements. This approval is subject to the property passing a major system evaluation (city inspection).

If you have any questions, please contact the Community Development Department.

Xc: Stephanie Sheetz, Community Development Director Karen Howard, Planning & Community Services Manager <u>This instrument was drafted by: Iris Lehmann, Community Development Department,</u> City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613, Phone: 319-268-5185.

#### LIEN NOTICE AND SPECIAL PROMISSORY NOTE

Account No.	101-2245	-44-89.79	Amount \$10	,000.00	
Date:			_		
RE: Property I	ocated at:	1026 W 8th Street			
and legally de	scribed as	LINCOLN PARK N 7	75 FT LOT 7 BL	.K 2	

(hereinafter the "Rehabilitated Property").

WHEREAS, the City of Cedar Falls, Iowa, has advanced certain sums to the following owner or owners: Callie Osborn (hereinafter referred to as "Owner"), under the a Rental to Owner Conversion Program, which Program requires that an encumbrance be placed upon the above-described Property, upon the terms and conditions set forth below.

IT IS AGREED by the Owner as follows:

FOR VALUE RECEIVED, the undersigned Owner, jointly and severally promises to pay to the order of the City of Cedar Falls, Iowa, or its successors or assigns (hereinafter the "City"), the sum of ten thousand and 00/100 Dollars (\$10,000.00) (hereinafter the "Loan"), as follows:

- A. If the Property is sold or transferred within twelve (12) months of the date of this agreement, one hundred (100) percent of the Loan shall become due and payable to the City;
- B. If the Rehabilitated Property is sold or transferred any time between the 13<sup>th</sup> and 24<sup>th</sup> month from the date of this agreement, eighty (80) percent of the Loan shall become due and payable to the City;
- C. If the Rehabilitated Property is sold or transferred any time between the 25<sup>th</sup> and 36<sup>th</sup> month from the date of this agreement, sixty (60) percent of the Loan shall become due and payable to the City:
- D. If the Rehabilitated Property is sold or transferred any time between the 37<sup>th</sup> and 48th month from the date of this agreement, forty (40) percent of the Loan shall become due and payable to the City:

- E. If the Rehabilitated Property is sold or transferred any time between the 49<sup>th</sup> and 60th month from the date of this agreement, twenty (20) percent of the Loan shall become due and payable to the City:
- F. After the sixtieth (60) month from the date of this instrument, the entire amount of the Loan is forgiven and no money will be due and payable to the City;
- G. Owner shall own and occupy the Property as the Owner's principal residence at all times during the sixty (60) month period described herein. In the event the Owner fails to occupy the Rehabilitated Property as the Owner's principal residence for any period of two (2) consecutive months, for any reason, or sells, transfers, rents, abandons, vacates or otherwise in any manner fails to occupy the Property, whether voluntarily or involuntarily, prior to the termination of the sixty (60) month period described herein, Owner shall immediately notify the City thereof. If during said sixty (60) month period, Owner shall violate the foregoing requirements, Owner shall immediately pay to the City the percentage of the unforgiven principal amount of the Loan, based upon the foregoing schedule, for the period between the date of this agreement and the date Owner fails to meet the foregoing requirements.
- H. Notwithstanding the provisions of paragraph G. above, if the failure of Owner to comply with the requirements of paragraph G. is due to medical circumstances beyond the reasonable control of Owner as defined in this paragraph, the entire amount of the Loan shall be forgiven, and no money will be due and payable to the City. For purposes of this agreement, "medical circumstances beyond the reasonable control of the Owner" shall include, without limitation, the death of the Owner, and the relocation of the Owner if prescribed by a medical doctor for health or disability reasons, with said relocation being to another climate, to a nursing or other care facility, or to an apartment or other facility, if deemed by Owner's medical doctor as more suitable for the health and care of the Owner.

OWNER	
re me on the day of, 2019, by Cal	llie
Notary Public in and for the State of Iowa	



# DEPARTMENT OF COMMUNITY DEVELOPMENT RENTAL TO SINGLE FAMILY OWNER CONVERSION INCENTIVE PROGRAM APPLICATION

#### City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613

Property's Addre	ess: 1026 W.8th St.
	(circle one): R1 , R2 Other
	int: Callie Osborn
Applicant's Emai	il: Calli C - Osarn@ho+mail . com Daytime Phone #: 319-215-8938
Current Deed Ho	older or Contract Buyer: Guild Mortgage Company
	of Owner (if different than above):
Owner's Email: _	Daytime Phone #:
Nature of improv	rements (specify): Replace existing Windows with new
Windows our	id replace existing Siding with new Vincy Siding on house only
	tual Cost of Improvements: \$\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\\
Proposed Start [	Date: 5-20-19 Estimated or Actual Date of Completion: 6-6-19
Lender:	Daytime Phone #:
Lender Address:	
Applicants Signa	ature: <u>Oalli Oslan</u> Date: 3-1-19
Name (Printed):	Callie Osborn
FOR CITY USE ON	LY
	Application Approved / Disapproved
CITY COUNCIL	Reason (if disapproved):  Date: Resolution No
	Attested by the City Clerk
	Present Assessed Value of Structure
ASSESSOR	Assessed Value with Improvements
	Eligible or Non-eligible for Tax Abatement
	Assessor Date

# Rental Conversion Program Application

Callie Osborn 1026 W. 8th St Cedar Falls, IA 50613

### **Project Narrative**

If approved for this grant I will be able to replace the very old, cracked, wood siding with a light grey Certainteed Mainstreet vinyl siding with white vinyl soffit and cap/trim all fascia and openings with white aluminum on the house. In addition to the siding, I would be able to replace 9 original 1950's windows that are in poor condition with white radianer vinyl max triple pane double hung windows on the home. I would remove the already existing bathroom shower window and cover with siding.

The proposed improvements would create a positive impact on the community by improving the overall appearance of the neighborhood and city creating a more inviting place to live. Along with better curb appeal of the home, new windows would create a more energy efficient home.

I plan to work with Queeg Siding, Windows and Roofing to make these improvements. They have given a total cost estimate of \$11,700.

Thank you for your consideration.

QUEGG ding, Windows & Roofing	PURCHASER CHCCES BORN	Date 2.22.19
ling, Windows & Roofing	1 00 1 0	Work phone 23437267
ing, windows a nooming	City CROARFALS IA ZID 50613	
2008 Four Winds Drive		Other Mo.
Cedar Falls, IA 50613		Fax
9) 266-6768 (319) 269-5379 cell		
	Quegg Siding, Windows & Roofing proposes to	perform the following
Mainstreet Vin With P-14 Sty Ace Assessonies White viny st openings with INSTAL BOR	congre with Certain TORD  y/ Siding (color optional)  rofo. Am water board, including, hover all overhang with  fit, cop/reim Att fuscia and white consumized alominum  adiana Wing I may DBLT	
Hung windows, Ac 925, Argon gas, Yz Cover bathroom u	c white, triple pour, low & cure, seconty clip - ui NDOW - TARE LOWN & NEUSE	
		# IL.7
		Total \$
	Approved by	17 11543 70
Special Terms:	Approved by: Approved by:	
CC#	Approved by: Approved by: (Mastercard, Visa or Discover Acce	pted) Less Deposit \$

	<b>BLACK HAWI</b>	K COUNTY REAL EST	ATE ASSESSM	IENT AND	TAX INFORMATION				
Parcel ID		Deed Holder	Тах Ма	Tax Mail to Address					
8914	4-11-477-001	OSBORN,CALLIE J		OSBORN,CALLIE J 1026 W 8TH ST					
PDF No. Map Area Contract Buyer			CEDAF	FALLS, IA 50	613-0000				
9	SCDRFLS-03								
Property	Address		Current Rec	orded Transf	er	7 =			
1026 W 8	1026 W 8TH ST		Date Drawn	Date Filed	Recorded Document	Type			
CEDAR FALLS, IA 50613-58		307	12/3/2018	12/3/2018	2019 008648	D			

	SALES			BUILDING PERMIT				
Date	Amount	NUTC / Type	Date	Number	Amount	Reason		
12/3/2018	80,000	NORMAL - 12 / Deed	9/8/2010	CF 17917	3,600	Roof		
4/4/1985	24,000	FULFILLMENT OF PRIOR YEAR	7/2/2010	CF 16030	100	Misc		
		CONTRACT - PRIOR 09 / Deed	9/5/2003	CF HA 0267	0	A/C		

#### ASSESSED VALUES/CREDITS

Year								C	ass	
2019 Valu	es Pending	Board of Review A	ction					R		
100%	Land	Multi-Residential	Land	Dwelling	Build	ding	Total		Acres	
Value	14,000 0			78,150 0		92,150		0	0	
Credits	Military Homeste Exemption Credit		Disabled Veteran Credit	Property Tax Relief Credit				Fam Cred	mily Farm edit	
		Υ		-						
Taxable	Land	Multi-Residentia	al Land	Dwelli	ing	Build	ing	T	otal	
Value	14,000	0		78,150	)	0		9:	2,150	

Year			Class				
2018			R				
100%	Land	Multi-Residential Land	T.	Owelling	Buildin	g Total	Acres
Value	14,000	0	17	78,150	0	92,150	0
Taxable	Land	Multi-Residential Land		Dwellin	ig	Building	Total
Value	7,969	0		44,481		0	52,450

Year	/ear							
2017			R					
100%	Land	Multi-Residential Land		Dwelling	Bu	ilding	Total	Acres
Value	14,000	0		78,150	0		92,150	0
Taxable	Land	Multi-Residential Land		Dwe	lling	Build	ding	Total
Value	7,787	0		43,46	38	0		51,255

Year				Class						
2016			R							
100%	Land	Multi-Residential Land		Dwelling	Build	ing	Total	Acres		
Value	14,000	io io		78,150	10		92,150	<b>j</b> 0		
Taxable	Land	Multi-Residential Land		Dwellir	ıg	Build	ling	Total		
Value	7,971	lo		44,498		0		52,469		

	T.	AX INFORMATION A	ASSESSMENT YEAR 2017	PAYABLE 2018	/2019	
Tax Distri	ct 910001 - CEDA	R FALLS				275
	Gross Value	Taxable Value	Military Exemption	Levy Rate	Gross Tax	Net Tax

Corp	92,150	51,255	0		33	.2251	\$1,702.95	\$1,702.00
Nocorp	0	0	0		0		\$0.00	
	Homestead Credit	Disabled Veteran Credit		Property Tax Relief Credit		Ag Credit	Business Pro	perty Tax
Corp	\$0.00	\$0.00		\$0.00		\$0.00	\$0.00	
Nocorp				\$0.00			T T	

#### **LEGAL**

#### LINCOLN PARK N 75 FT LOT 7 BLK 2

#### LAND

Basis	Front	Rear	Side 1	Side 2	Lot	Area	Acres
Front Foot	59	59	75	75	0	4425	0.102
Totals:						4425	0.102

#### **DWELLING CHARACTERISTICS**

Туре		Style	е			Total Livin	g Area
Single-Fami	ily / Owner Occupie	ed 1 Sto	ory Frame			830	
Year Built	Area		Heat		AC		Attic
1957	830		Yes		Yes		None
Total Room	s Above	Total Rooms I	Below	Bedro	oms Abov	e	Bedrooms Below
1		0		2			)
Basement		Base	ement Finishe	d Area		No Basem	ent Floor
Full		0				0	
oundation	)	- 1 102 I I I I I I	No-	Floorin	g	363737	THE RESIDENCE OF THE PARTY OF T
C Blk				Carp /	Vinyl / Hdw	d	
Exterior Wa	alls			Interio	Finish		
Nd Lap				Plas			
Roof	0=10/2 = - 1 1 110						
Asph / Gabl	e						
Non-Base	Floor/Wall	Pipel	ess	ŀ	landfired		Space Heaters
Heating	0						
Plumbing	1 Full Bath 1 Water Closet 1 Sink					III— IO — III—	

#### **GARAGES**

#### BASEMENT STALLS

Year Built	Style	Width	Length	Area	Basement	Qtrs Over	Area	AC	None
1951	Det Frame	112	22	264	0	None	0	0	

Entry Status: Inspected				

#### 1026 W. 8th St.



North view. Replacement of 3 windows and siding



West view. Replacement of 2 windows and siding.

#### 1026 W. 8th St.





South view. Replacement of 2 windows and removal of 1 window with replacement of siding and siding cover up of removed window.





East view. Replacement of 2 windows and siding.

1026 W. 8th St.





# C E D A R F A L L S Towa

#### **DEPARTMENT OF COMMUNITY DEVELOPMENT**

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 www.cedarfalls.com

Administration Division • Planning & Community Services Division Phone: 319-273-8600 Fax: 319-273-8610

Engineering Division \* Inspection Services Division Phone: 319-268-5161 Fax: 319-268-5197

> Water Reclamation Division Phone: 319-273-8633 Fax: 319-273-8610

TO: Honorable Mayor James P. Brown and City Council

FROM: Iris Lehmann, Planner II

**DATE:** April 12, 2019

**SUBJECT:** Cedar Falls Wild Historic District Nomination

The City Council approved an application to the State Historic Preservation Office on August 21st, 2017 requesting a Certified Local Government (CLG) grant to hire a professional to prepare a nomination of the Wild Historic District to the National Register of Historic Places. The application was submitted by the Historic Preservation Commission in partnership with community volunteers and City staff. The State approved the grant request. With the approval of City Council, the City entered into a CLG Project Agreement on January 15th, 2018 and a consultant was hired. The City's contribution to the project is through staff time which can be part of the required match. Additional matching funds will be covered by in-kind time from volunteers and Commission members.

The proposed Wild Historic District is comprised of 423, 501, and 509 W 1st Street. These three homes were determined by an IDOT Environmental Report to be eligible to the National Register because of their connection to Daniel and Margaret Wild. If the nomination is successful, this would be the first recognized residential historic district in the City of Cedar Falls. The designation would also provide the opportunity for property owners within the district to apply for tax credits for rehabilitation projects.

The process of nominating a district involves research and compiling a Federally-compliant proposal. Once the proposal is done, public meetings are required in order for it to proceed, including at least one Open House. The nomination is also reviewed and approved by the Historic Preservation Commission. Following the Historic Preservation Commission's approval, the completed proposal must be submitted to City Council for consideration. At that point the nomination moves on for additional State and Federal reviews.

An Open House for the nomination was held on April 11, 2019 at the Cedar Falls

Community Center. The property owners of the three homes voiced their support for the project. At the Historic Preservation Commission meeting on April 10, 2019 the Commission reviewed the nomination for the Wild Historic District Nomination to the National Register of Historic Places. The Iowa Department of Cultural Affairs requires approval from the Historic Preservation Commission as well as the signature of our chief local elected official before they can consider the registration. Attached for your review is the registration form for the potential district.

The main question that was considered was whether the nominated district meets the National Register of Historic Places criteria for the significance of integrity. It was found that the district meets Criterion A (Historic Events). Upon review, the Historic Preservation Commission unanimously recommended approval of the Cedar Falls Wild Historic District nomination subject to the Open House.

Below is a map showing the proposed boundaries of the historic district.



The Community Development Department recommends that City Council adopt the following:

1. Resolution approving the Cedar Falls Wild Historic District National Register Nomination.

Please feel free to contact the Community Development Department if you have any questions.

XC: Stephanie Houk Sheetz, Director Karen Howard, Planning & Community Services Manager Julie Etheredge, Chair, Historic Preservation Commission

#### CERTIFIED LOCAL GOVERNMENT NATIONAL REGISTER NOMINATION EVALUATION REPORT FORM

As a participant in the Certified Local Government Program (CLG), the Historic Preservation Commission is required to review and comment on proposed National Register nominations of properties within its jurisdiction. The State is required to provide the CLG with a 60-day period for the review prior to a State Nominations Review Committee (SNRC) meeting. This form must be received by the State Historic Preservation Office (SHPO) five days in advance of the State Nomination Review Committee (SNRC) meeting.

Historic l Address: Certified	int clearly) Property Name: Wild Historic Durnich 423 501, and 509 W 1st Street Local Government Name: Cedor Falls' Historic ublic meeting for nomination review: April 10,	ric Preservation Commission 2, 2019	
Applica	ble Criteria: (Please Check the Appropriate Box)		
<b>S</b>	Criterion A (Historical Events) Criterion B (Important Person)	☐ Criterion C (Architecture) ☐ Criterion D (Archaeological)	
Please c	heck the following box that is appropriate	to the nomination (Please print clearly).	
	The Commission recommends that the property shou reasons:	uld be listed on the National Register of Historic Places. uld <u>not</u> be listed in the National Register for the following	
	The Commission chooses not to make a recommendate	ation on this nomination for the following reasons:	
	The Commission would like to make the following resheets if necessary):	recommendations regarding the nomination: (use additional	
	Official Signatu	ures Required Below	
<b>Historic</b> Print Nam Signature:			
	lected Official e:	Approved Not Approved	
	onal Evaluation e:	Approved Not Approved	

NPS Form 10-900 OMB No. 1024-0018

United States Department of the Interior National Park Service

# **National Register of Historic Places Registration Form**

This form is for use in nominating or requesting determinations for individual properties and districts. See instructions in National Register Bulletin, *How to Complete the National Register of Historic Places Registration Form.* If any item does not apply to the property being documented, enter "N/A" for "not applicable." For functions, architectural classification, materials, and areas of significance, enter only categories and subcategories from the instructions. Place additional certification comments, entries, and narrative items on continuation sheets if needed (NPS Form 10-900a).

1. Name of Property	
historic name Wild Historic District	
other names/site number	
Name of Multiple Property Listing N/A	
(Enter "N/A" if property is not part of a multiple property listing)	
2. Location	
street & number 423, 501 & 509 W. 1st Street	not for publication
city or town Cedar Falls	vicinity
state Iowa county Black Hawk	zip code _50613
3. State/Federal Agency Certification	
As the designated authority under the National Historic Prese	ervation Act, as amended,
I hereby certify that this <u>X</u> nomination <u></u> request for det for registering properties in the National Register of Historic F requirements set forth in 36 CFR Part 60.	
In my opinion, the property <b>X</b> meets does not meet the be considered significant at the following level(s) of significant	
Applicable National Register Criteria: X A B	_cp
Signature of certifying official/Title: Deputy State Historic Preservation Office  State Historical Society of Iowa  State or Federal agency/bureau or Tribal Government	er Date
In my opinion, the property meets does not meet the National Regis	ster criteria.
Signature of commenting official	Date
Title State or Fo	ederal agency/bureau or Tribal Government
4. National Park Service Certification	
I hereby certify that this property is:	
entered in the National Register	determined eligible for the National Register
determined not eligible for the National Register	removed from the National Register
other (explain:)	
Signature of the Keeper	Date of Action 283

OMB No. 1024-0018

Wild Historic District		Black Hawk County, Iowa  County and State					
Name of Property							
5. Classification							
Ownership of Property (Check as many boxes as apply.)	Category of Property (Check only one box.)	Number of Resources within Propert (Do not include previously listed resources in the					
private public - Local public - State public - Federal  Number of contributing reserved.	building(s)  X district site structure object  ources previously listed in the	Contributing 2 0 2 National Register: 2	Noncontributing  1  0  1	buildings site structure object Total			
6. Function or Use Historic Functions (Enter categories from instructions.) DOMESTIC/single dwelling	1	Current Functions (Enter categories from in	dwelling				
		DOMESTIC/secor	idary structure				
7. Description							
Architectural Classification (Enter categories from instructions.)		<b>Materials</b> (Enter categories from in	structions.)				
LATE VICTORIAN/Queen	Anne	foundation: STOI	NE				
Other: hipped cottage		walls: WOOD/We	eatherboard				
Other: hipped with cross ga	ables	BRICK					
		roof: ASPHALT					
		other: STUCCO					
		WOOD/Sh	ingle				

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

#### **Narrative Description**

Wild Historic District

**Summary Paragraph** (Briefly describe the current, general characteristics of the property, such as its location, type, style, method of construction, setting, size, and significant features. Indicate whether the property has historic integrity.)

Black Hawk County, Iowa

The Wild Historic District includes three houses set on the north side of W. 1st Street, in the City of Cedar Falls, Black Hawk County, Iowa. The houses face W. 1st Street, with their lots rising slightly from street level and stay fairly level around the houses before steeply sloping toward the railroad tracks and the Cedar River to the north. All three houses were built in the 1880s-1890s by Daniel Wild for his own home and those of some of his children, who lived in these homes at different times. The house at 423 W. 1st Street is a twostory, vernacular cross-gabled house with stylistic influence from the Late Victorian Queen Anne. This house was built circa 1891. The house at 501 W. 1st Street is individually listed in the National Register of Historic Places (NRHP) and is an elaborate, high-style example of the Queen Anne style. This house was built in 1895 by Daniel and Margaret Wild to replace their older home on this lot. The third house at 509 W. 1st Street is a one-story hipped cottage, much smaller than the other two houses, that was built circa 1888. It is of frame construction with a brick veneer whereas the other two houses are of frame construction. All three houses have stone foundations, with the brick cottage having been coated in stucco on the exterior after the 1920s. Each of these three houses are contributing buildings to the Wild Historic District, which encompasses four city lots, three where the houses were built and the fourth being a street extension that once existed between 423 and 501 W. 1st Street and is now the shared driveway between the two houses. The house at 501 W. 1st Street retains a very high degree of historic integrity and is the anchor building of this district. The houses at 423 and 509 W. 1st Street retain fair to good historic integrity.

**Narrative Description** (Describe the historic and current physical appearance and condition of the property. Describe contributing and noncontributing resources if applicable.)

(Iowa SHPO Additional Instructions: After the main Narrative Description, discuss any physical alterations since the period of significance under the subheading Alterations, and the seven aspects of integrity as it applies to the resource in a Statement of Integrity with each aspect discussed in its own paragraph.)

The Wild Historic District encompasses three residential properties on the north side of W. 1st Street in the northeast part of the City of Cedar Falls in Black Hawk County, Iowa (Figure 1). Cedar Falls is located along the south bank of the Cedar River, which anchored the city's early industrial development. 1 Cedar Falls is just upriver from the other early industrial center in the county--Waterloo (see Figure 1). The three houses of the Wild Historic District are located just south of the Cedar River, separated from the river by the berm of the Illinois Central Railroad and a small creek (Figure 2). A scenic river and wooded vista can be seen behind the houses, overlooking the river, marina, and several city parks (Figure 3). To the east and south are former industrial properties and modern commercial businesses and offices, with the neighborhood to the west largely residential. The Wild Historic District is at the east end of the residential neighborhood on the north side of W. 1st Street. The district encompasses four nearly equal-sized lots although one lot has a reduced northern boundary because of the curve in the nearby railroad grade (Figure 4). The houses occupy three of the lots, with the fourth now a shared driveway between two of the houses. Historically, the shared driveway was an extension of Tremont Street on the north side of W. 1st Street (see Figure 4). The lots feature grassy lawns, planted shrubbery, flowering plants, and mature shade trees including: original lilac bushes, Sugar Maple, Ash, Sumac, and Sapling as well as several very old Black Walnut trees. The house at 501 W. 1st Street, and an associated object (a stone hitching post in the front yard of this house), are listed in the NRHP. The houses at 509 and 423 W. 1st Street are counted as contributing buildings to the district. The noncontributing building is the detached garage on the west side of the house at 509 W. 1st Street. This garage was built outside of the district's period of significance.

<sup>&</sup>lt;sup>1</sup> In the modern era, Cedar Falls is best known as the home of the University of Northern Iowa.

Wild Historic District

OMB No. 1024-0018

Name of Property County and State

Black Hawk County, Iowa

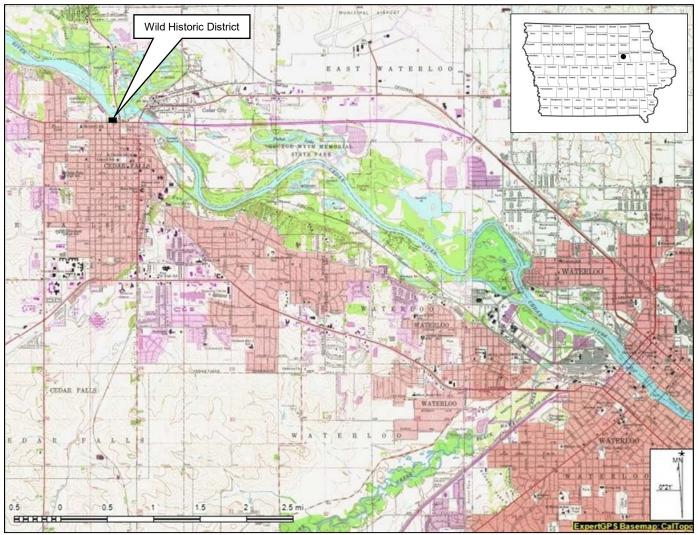


Figure 1. Topographic map showing location of the Wild Historic District in the City of Cedar Falls and in relation to the Cedar River Valley and the City of Waterloo. Inset map shows the general location (black dot) in Black Hawk County and the State of Iowa. Source: UGSG New Hartford, Waterloo North and South, and Hudson Quadrangles obtained from ExpertGPS mapping software, 2018.

Wild Historic District Black Hawk County, Iowa

OMB No. 1024-0018

Name of Property County and State

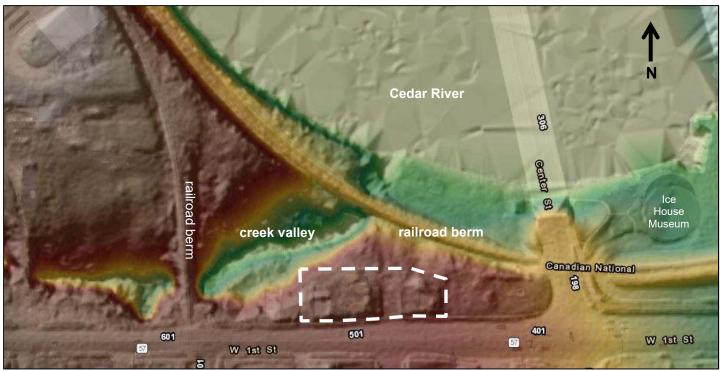


Figure 2. Color LiDAR image of the Wild Historic District (white dashed outline) showing the terrain in the vicinity. Source: ArcGIS - Iowa Geographic Map Server 2018.



Figure 3. Scenic view from the north (back yards) of the Wild Historic District looking North. Photograph taken 08-07-2018 by Tallgrass Archaeology LLC.

Wild Historic District

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

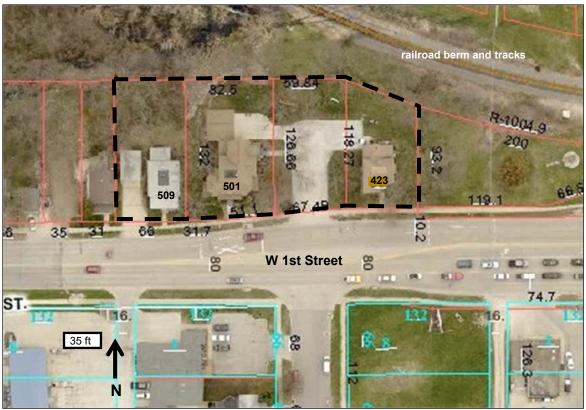


Figure 4. Aerial map showing the boundary of Wild Historic District (black dashed outline) and the location of 423, 501, and 509 W. 1st Street. Source: Black Hawk County Assessor website, accessed October 2018.

Though not as large as the nearby city of Waterloo, Cedar Falls has a significant history of commercial and industrial importance to the region and the state. The Wild family, with whom these homes are associated, are a part of that commercial and industrial history by virtue of the successful brick manufacturing business located at various sites throughout the city. They also operated a wholesale and retail building materials business in downtown Cedar Falls. Because of this, they had access to the best materials and best builders in the area. The homes are largely reflective of that circumstance, in their design, materials, and finely-appointed exterior and interior details. In addition, three of the Wild's sons, Charles J., Jacob D., and Joseph W. had a successful shoe store known as The Leader in Cedar Falls. Charles J. was the proprietor and Jacob and Joseph were salesmen.

Daniel and Margaret Wild's large and stylish Queen Anne house is located in the center of the district at 501 W. 1st Street. This house is the largest and most elaborate of the three houses. The house at 423 W. 1st Street appears to have been built circa 1891 for one of Daniel and Margaret's sons, Daniel N. Wild and his wife, Mae M. Brodie, with another of Daniel and Margaret's sons, Jacob Wild and his wife Eleanor M. Lumpe owning and occupying the property from 1897 to 1946. The house at 509 W. 1st Street appears to have built circa 1888 by Daniel Wild using bricks from his brick manufactory.

The location of the district on the north side of W. 1st Street was the very north edge of Cedar Falls in the late 19th century. The nearby residential neighborhoods are composed of homes built largely between 1900 and 1930, though some infill buildings are more recent. The city has since expanded, and W. 1st Street is now a major thoroughfare (Iowa Highway 57) connecting downtown to the west-side commercial areas and the interstate highway system. Low-density commercial properties have been developed along the south side of the W. 1st Street, including fast food restaurants, an animal clinic, and other offices. These modern

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

developments detract slightly from the district's setting, although the valley vista to the north and other historic homes in the vicinity maintain integrity of setting. Other nearby historic buildings include the Cedar Falls Ice House Museum, the Main Street Commercial Historic District, and the Overman Park neighborhood, among others.

The three homes in the Wild Historic District are all frame construction, although 509 W. 1st Street has a brick exterior veneer that was covered in stucco after the 1920s and 501 W. 1st Street has some brick interior walls. The houses represent different house types. The house at 509 W. 1st Street is a hipped cottage with some Late Victorian stylistic influence in the use of brackets under the eave overhang. The house at 501 W. 1st Street is a high-style Late Victorian Queen Anne house with elaborate exterior and interior decorative details. This house is individually listed in the NRHP (Card 2017). The house at 423 W. 1st Street is a two-story vernacular cross-gabled house that has some Queen Anne stylistic details on the exterior and interior. The roofs of all three houses are covered in asphalt shingles. The foundations of all three are built of stone, with the foundation of 501 W. 1st Street built of granite blocks and the foundations of 423 and 509 built of locally-quarried limestone. There is a large garage attached to the rear of 501 W. 1st Street that is a modern construction but, because it is attached to the house, it was not counted as a separate resource when listed in the NRHP. The only detached outbuilding for all three of the houses is the garage associated with 509 W. 1st Street located on its west side. This building is considered noncontributing to the district because it was built circa 1975, outside of the district's period of significance.

## 423 W. 1<sup>st</sup> Street (Contributing Building)

Historic Name: Wild, Daniel N. & Mae M., House; Wild, Jacob & Eleanor, House

Year Built: circa 1891

This two-story L-shaped house was built circa 1891 for Daniel and Mae Wild (Figure 5). The house has a hipped roof with cross-gabled ells. It is built on a limestone foundation made of coarsely-worked limestone blocks that have beaded mortar joints. The exterior siding is narrow-reveal wooden clapboard siding with narrow vertical corner boards and a wide frieze board under the boxed eaves. There is wooden fish-scale shingle siding in the east gable end (Figure 6). The north gable end has only clapboard siding but would likely have had fish-scale siding originally. The gable end eaves have decorative vergeboards that feature a center

groove the length of each board and circular shaped ends with a center incised circle (Figure 7). The eaves flare slightly in the gable ends. The windows all have plain board surrounds.



Figure 5. Façade of 423 W 1st Street looking North. Photograph obtained from Black Hawk County Assessor, accessed at http://www2.co.black-hawk.ia.us/, 2018.

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State



Black Hawk County, Iowa

Figure 7. East gable of 423 W. 1st Street showing the fish-scale siding and decorative vergeboards and flared eaves. Photograph taken 08-07-2018 by Tallgrass.



Figure 8. Front gable end of 423 W 1st Street looking NNE. Photograph taken 08-07-2018 by Tallgrass.

The majority of the windows are single 1/1 double-hung, wooden-sash windows. One window on the façade of the front-gabled ell is a wide window that has a single fixed, wooden-frame window that features 20 square panes (see Figure 5). This window is of historic age and may be original. Decorative green shutters are a modern addition to some of the windows. Other windows include paired 1/1 double-hung, wooden-sash windows on the north side of the rear ell and on the bay window on the east side of the house. This bay

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

window is rectangular in shape, is built on a limestone foundation, has clapboard siding, and a shed roof overhang (Figure 9).



Figure 9. East side of 423 W. 1st Street looking West. Photograph taken 08-07-2018 by Tallgrass.

The inside of the ell on the façade had an open, wooden porch that was removed in the late 20th century (Figure 10). It was replaced with a small modern wooden landing with a wooden board railing with two wooden steps up to the front door, which is offset to the left side of the facade. There are no windows on the south side of the façade above the former porch. The interior staircase to the second floor and a second-floor closet occupy the area to the north side of the front door explaining why there are no windows on that wall of the façade.

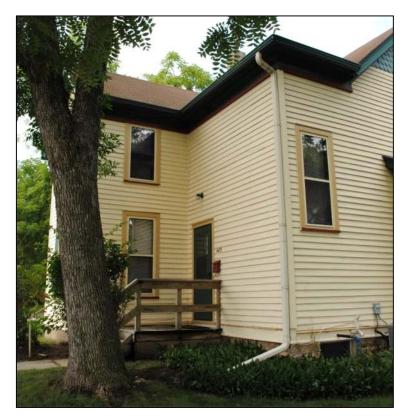


Figure 10. 423 W. 1st Street looking WNW showing area where original front porch was once located.

Photograph taken 08-07-2018 by Tallgrass.

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

There is a one-story gabled ell on the rear (north side) of the house part of which is original to the house construction (Figure 11). The 1900 Sanborn fire insurance map shows that there was then also a small bumpout on north side of the original ell that may have been a rear entry vestibule or small porch. Circa 2005, this ell was enlarged for a larger modern kitchen. This area was clad with the same type of clapboard siding as the main body of the house, with the paired windows added to the north wall and the wooden decks added at the rear entry door and the east-side door on this ell. Historically, there was an open porch at the east-side door location. Both doors lead directly into the kitchen.

Black Hawk County, Iowa



Figure 11. 423 W 1st Street looking SW. Photograph taken 08-07-2018 by Tallgrass.

Some clapboards were replaced as needed with red cedar siding when the house was painted before 2013, with the wood trim boards at the base of the walls replaced in 2017. Otherwise, the siding on the main body of the house is of historic age if not original. However, there may be some areas on the house, such as the front gable end where shingle siding may have been originally and on the façade where the front porch was removed, that were repaired with clapboard siding in the modern era.

The home's interior is finely appointed with original wood trim, narrow hardwood flooring, and original hardware. Of special note are the wooden banister leading to the second-story and decorative corner blocks that grace the upper corners of doorway casings throughout the house (Figures 12-13). The front door leads from the inside of the ell to a small vestibule. From the vestibule, one has access to the parlor (in the south wing of the house), a formal sitting room (in the east wing of the house), the stairway to the second floor, or a closet under the stairway. Double doors lead from both the formal sitting room and the parlor into a formal dining area, and a modern updated bathroom is beyond that. From the formal sitting area, one can follow northward into the rear addition that has been renovated into modern kitchen. At the top of the stairway is an angled hallway from which three doors each enter into a bedroom on the second floor.

Name of Property

Black Hawk County, Iowa

County and State

OMB No. 1024-0018



Figure 12. 423 W. 1st Street, interior showing staircase. Photograph taken 08-07-2017 by Tallgrass.



Figure 13. 423 W. 1st Street, interior showing built-in cabinet and decorative woodwork. *Photograph taken 08-07-2018 by Tallgrass.* 

Black Hawk County, Iowa

Name of Property

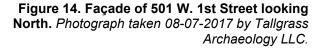
County and State

OMB No. 1024-0018

# 501 W 1st Street (Individually Listed in NRHP)

Historic Name: Wild, Daniel & Margaret House Year Built: 1895

This Queen Anne spindlework-type house was built in 1895 as the home for Daniel and Margaret Wild (Figure 14). The house is appointed with elaborate decorative details. The house is built on a pink granite foundation and has wooden weatherboard siding on the main body of the house but features siding in the gable ends placed on the diagonal and in faux half-timber arrangements. The home was built on the site of the Wild's earlier residence and may have some interior brick walls either from that residence or built from bricks salvaged from the earlier house. The house is listed individually in the NRHP (Card 2017).





The house has a broad, crested hip roof, with a number of lower gabled dormers and cross gabled ells. The center of the façade is dominated by a front gabled dormer that covers inset porches on its second and first stories. The angled front-gabled ells on the southeast and southwest corners of the façade are set at an angle from the main body of the house and have canted corners that form the outer walls of the porches. Both porches have wooden balusters and railings and are supported by four turned spindle posts. Sometime around 1925-1930, the porches had been rebuilt with weatherboard-sided railings and Classical square columns (Figure 15). In the 1980s, the third owner of the house "salvaged the porch columns and spindles and balustrades and these now have been restored to their approximate original appearance" (Card 2017:8).



Figure 15. Circa 1925 photograph of 501 W. 1<sup>st</sup> Street, Cedar Falls, looking North.

Photo Source: Personal Collection of Susan Card, Cedar Falls, IA.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

Decorative exterior details of note include: the wooden sunburst in the front gable peak above the Palladian-like attic window, with the sunburst detail repeated on other gable ends; a variety of windows shapes and sizes (rectangular, segmental arched, and rectangular); the rows of faceted wooden block tiles above the inset front porch on the second story and the other gabled dormers; and the rear and east-side porches, one as a rear entry porch and the other as an east-side, second-story porch with turret, with both porches featuring Queen Anne spindle posts and decorative details, among many other Queen Anne details that are described in detail in the NRHP nomination of this house (Card 2017). The windows are largely original and include 1/1 double-hung windows, fixed pane windows, and leaded glass windows.

The interior is as finely-appointed in decorative details as the exterior, with a variety of imported and native wood used in the doors, flooring, and other woodwork (Figures 16-17). The wood types include: Circassian Walnut, Oak, Red Pine, heart pine, and Douglas fir (Card 2017). Even the basement was finished with details that enabled use for servants' quarters, a summer kitchen, and a root cellar.



Figure 16. Door, wood paneling, hardwood floors and other original details in dining room at 501 W. 1st Street, facing East. Photo taken 08-07-2018 by Tallgrass.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018



Figure 17. Front entry hall of 501 W. 1st Street looking south toward front door with elaborate staircase to right.

Photograph taken 08-07-2018 by Tallgrass.

The design plans for this house were obtained by Daniel Wild while visiting friends in Florida. Wild then hired architect, William A. Robinson, of Cedar Falls to "revise and enhance the plans to meet the needs of his client" (Card 2017:18). Robinson also served as the general contractor for the build of the home. The woodwork would have been obtained from Abraham Wild & Co. in Cedar Falls. Abraham appears to have been a cousin to Daniel, and Daniel was a partner in Abraham's lumber and coal business and later became sole owner of that business. Historically, a large barn once sat to the north of the house and was demolished around the middle of the 20<sup>th</sup> century. The large attached garage and breezeway addition sit partially on the site of this former agricultural building.

Black Hawk County, Iowa

Name of Property County and State

## 509 W. 1st Street (Contributing Building)

Historic Name: Zager, Carrie Wild, House; Wild, Joseph & Rose House

Year Built: circa 1888

This appears to be the oldest of the three Wild houses in this district having been built circa 1888 (Figure 18). This home has a relatively small footprint, roughly 27 feet wide and 30 feet deep. It is constructed on a limestone foundation. The original construction of the house is frame with a brick veneer that was covered in stucco in the late 1920s or 1930s.<sup>2</sup> The roof is pyramidal in form, truncated at the top and steeply-pitched, with wide eave overhands and small gabled dormers on the roof slope on the south (façade) and east sides. The dormers have wooden clapboard siding. cornice-molded eaves, and wooden window surrounds.



OMB No. 1024-0018

Figure 18. 509 W. 1st Street looking North with modern garage (left).

Photograph taken 08-07-2018 by Tallgrass.

There are decorative scroll-cut brackets placed under the eaves along the wide frieze board around the house, with those on the west and east sides still fully in place (Figure 19). It is suspected that there were brackets on the façade before the porch was added.



Figure 19. Detail of brackets under the eaves of 509 W. 1st Street facing West.

Photograph taken 08-07-2018 by Tallgrass.

<sup>&</sup>lt;sup>2</sup> A circa 1925 photograph showing this house in the background, shows the brick still exposed at that time (see page 44).

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

The façade of this home faces W. 1st Street to the south and has a slightly off-center entry door covered by a modern storm door. The interior door is a late 20th century replacement door. There are two 1/1 double-hung windows flanking the door. A Craftsman-style porch extends nearly the full width of the façade and was added in the early 20<sup>th</sup> century, possibly circa 1916 when a front porch was first depicted on this house on the Sanborn fire insurance map of that year (Figure 20). The porch has a very low-pitched hipped roof and wide eave overhang. The porch roof is supported in part by four 3/4-height square, wooden posts that sit on rusticated concrete block piers. The wood on the posts has vertical grooves on each face of the posts (see Figure 18). The floor of the porch is poured concrete, with the foundation made of rusticated concrete blocks. The concrete blocks in the piers and foundation have beaded mortar joints. There is no railing around the porch. Two cast concrete steps have iron handrails.

Black Hawk County, Iowa



Figure 20. Detail of the front porch posts and piers/ foundation looking NE.

Photograph taken 08-07-2018 by Tallgrass.

The windows on the body of the house have segmental-arched lintels (Figure 21). These windows are all 1/1 double-hung wooden-sash windows with modern metal-framed storm windows on the exterior. The northmost window on the east side was shortened to accommodate a later kitchen remodel on the interior. This side also has a door, between the middle and northernmost window. This door is a late 20th century replacement door and has a modern storm door on the exterior. This door enters into the kitchen. There was once a small porch over this entry (Sanborn 1916).

The rear (north side) of the house of the house has a one-story frame ell that may be original to the house but has been remodeled in the mid-to- late 20th century on the interior and exterior (Figure 22). The ell is only three-quarters of the width of the house and has a door on the east side that is no longer in use. The Sanborn fire insurance maps show a porch on this side from circa 1916 into at least the late 1950s. The windows on this ell are all 2/2 double-hung windows. There is also a door on the west side that is still in use and opens into the stairway that accesses the basement below the main body of the house but also accesses a door into the ell. The rear ell is covered with asbestos shingle siding.

Black Hawk County, Iowa

OMB No. 1024-0018

Name of Property County and State



Figure 21. East side of 509 W. 1st Street looking NW. Photograph taken 08-07-2018 by Tallgrass.



Figure 22. Rear and West side of 509 W. 1st Street looking SSE. Photograph taken 08-07-2018 by Tallgras

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

This area of Cedar Falls was not mapped in the Sanborn fire insurance maps until 1900, but by that time the rear frame ell was present, but the map showed no indication of a front porch other than a dashed line indicating a wooden cornice and probably referring to the bracketed eave overhang. This remained the footprint of the house through 1909; however, by 1916, a frame front porch had been added as well as the small frame porch on the east side of the rear ell (Sanborn 1900, 1909, 1916). This remained the footprint of the house through at least 1956 except for the addition of a small frame porch over the east side doorway of the main body of the house (Sanborn 1956).

Notable details on the interior of the house include: French doors that separate the two front rooms; an oak colonnade between the living room and the kitchen; oak woodwork with egg-and-dart molding (door and window surrounds); and a rounded wall that covers the chimney stack in the southwest corner of the kitchen (Figures 23-25).



Figure 23. Interior of front rooms of 509 W. 1st Street showing French doors that have oak woodwork including egg-and-dart molding on the lintel. Photograph is looking WSW; taken 08-07-2018 by Tallgrass.



Figure 24. Example of egg-and-dart molding on lintel boards on interior of 509 W. 1st Street.

Photograph taken 08-07-2018 by Tallgrass.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018



Figure 25. Colonnade between the front room and the kitchen looking North.

Photograph taken 08-07-2018 by Tallgrass.

## Garage (noncontributing building)

The house at 509 W. 1st Street has a detached garage off the west side of the house that was built circa 1975 (see Figures 18 and 26). This garage is considered noncontributing to the district because it was built outside of the period of significance. This frame garage has a low-pitched front-gabled roofline, wide wood siding, and a poured concrete slab foundation. The facade has a slightly off-center, double-wide overhead garage door. There is a door on the east side near the southeast corner that provides access to the rear door on the west side of the house. The windows in the garage are small and square in shape. The gable ends are clad with vertical board siding that have slightly scalloped ends.



Figure 26. Rear of detached garage at 509 W. 1st Street looking SSW. Photograph taken 08-07-2018 by Tallgrass.

United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

## Statement of Integrity of District

Wild Historic District

The Wild Historic District as a whole retains good to excellent historic integrity in the aspects of location, design, materials, workmanship, and association and fair integrity in the aspects of setting and feeling. All three houses in the district are on their original locations along the north side of W. 1st Street and south of the Cedar River. The integrity of setting and feeling is fair for the district as a whole given the progression of development along W. 1st Street in the modern era that has changed somewhat the historic look and feel of the neighborhood immediately to the east and south of the district.

Black Hawk County, Iowa

The district has good to excellent integrity of design, with all three houses retaining their original form, function, and architectural design, with the house at 501 W. 1st Street having been designed by a local architect and all three built for members of the Wild family in Late Victorian architectural styles. With the exception of the Daniel and Margaret Wild House at 501 W. 1st Street, which is a high-style Queen Anne spindlework style, the houses at 509 and 423 are vernacular house types.

The district has good to excellent integrity of materials with all three houses built using materials made or accessed by the Wild family businesses including Daniel Wild's brickyard and the Wild & Co. lumber yard. The house at 509 W. 1st was later covered with stucco diminishing somewhat its integrity of materials. The interiors of all three houses show decorative woodwork and exterior decorative wooden details obtained through the Wild & Co. lumber business. Daniel and Margaret Wild also imported non-local woodwork for the elaborate interior appointments of their own home at 501 W. 1st Street. Their house was also the only one to use granite blocks in the foundation/basement construction, with the other two (423 and 501 W. 1st Street) having foundations/basements built of local limestone.

The district has good to excellent integrity of workmanship, particularly evidenced in the Queen Anne spindlework house of Daniel and Margaret Wild at 501 W. 1st Street but also in the masonry and carpentry work in all three houses inside and out.

The district has excellent integrity of association because all three houses were built by and for members of the Daniel and Margaret Wild family in the 1880s-1890s and continued to be associated with this family into the early 20th century.

Modifications have been minimal for the house at 501 W. 1st Street, with the circa 1930 modification to the two front porches restored to their historic look in the 1980s. The owner at the time was able to salvage and restore the porch to its original design.

The modifications to the house at 423 W. 1st Street have included the removal of the front porch, some siding repair but with appropriate clapboard siding, and enlargement of the rear ell including the addition of two wooden decks. These modifications date from the from the mid to late 20th century.

The modifications to the house at 509 W. 1st Street have included: the addition of a front porch circa 1916; the application of stucco over the brick exterior in the late 1920s-1930s; remodeling of the rear ell in the mid-to-late 20th century; removal of two porches on the east side of the house; and the replacement of the front and side doors in the mid-20th century. However, both of the houses at 423 and 509 W. 1st Street would certainly be recognizable to the Wild family if they were to see these houses today and retain sufficient original exterior and interior details to contribute substantially to the historic district.

National Park Service / National Register of Historic Places Registration Form NPS Form 10-900 OMB No. 1024-0018

## Wild Historic District Black Hawk County, Iowa Name of Property County and State 8. Statement of Significance **Applicable National Register Criteria** within the past 50 years. (Mark "x" in one or more boxes for the criteria qualifying the property for **Areas of Significance** National Register listing.) (Enter categories from instructions.) Property is associated with events that have made a **INDUSTRY** significant contribution to the broad patterns of our COMMERCE Property is associated with the lives of persons significant in our past. Property embodies the distinctive characteristics of a type, period, or method of construction or represents Period of Significance the work of a master, or possesses high artistic values, or represents a significant and distinguishable entity circa 1888-1901 whose components lack individual distinction. Significant Dates Property has yielded, or is likely to yield, information important in prehistory or history. circa 1888 1895 circa 1891 **Criteria Considerations** (Mark "x" in all the boxes that apply.) **Significant Person** (Complete only if Criterion B is marked above.) Property is: Owned by a religious institution or used for religious purposes. Cultural Affiliation (if applicable) removed from its original location. С a birthplace or grave. a cemetery. Architect/Builder a reconstructed building, object, or structure. Robinson, William A. F a commemorative property. Wild, Abraham Wild, Daniel less than 50 years old or achieving significance

United States Department of the Interior
National Park Service / National Register of Historic Places Registration Form
NPS Form 10-900

NPS Form 10-900 OMB No. 1024-0018

Wild Historic District

Name of Property

County and State

### Statement of Significance

**Statement of Significance Summary Paragraph** (Provide a summary paragraph that includes level of significance, applicable criteria, justification for the period of significance, and any applicable criteria considerations).

The Wild Historic District is locally significant under Criterion A for its representation of the important contributions that Daniel Wild and his family made to the development of the industry and commerce of Cedar Falls in the late 19th century. Daniel Wild's house at 501 W. 1st Street is individually listed in the NRHP under Criteria B and C, for its association with Daniel Wild as a significant person in the community and for the architectural significance of his high-style, architect-designed house at 501 W. 1st Street. This house is the center piece of the Wild Historic District, and its individual significance under B and C certainly contributes to the historical significance of the district. Daniel Wild was a farmer, brickmaker, and retail/wholesale dealer of construction materials used in building construction throughout Cedar Falls and surrounding communities. The businesses of Daniel Wild played an important role in the development of the city, not only as an important commercial enterprise and employer, but also as a source for the materials of which many buildings in the city and the region were physically built. All of his sons were successful businessmen in Cedar Falls, with sons Charles, Joseph, and Jacob associated with the houses at 423 and 509 W. 1st Street in their adult lives. The homes in the district reflect the Wild family's industrial and commercial success in the Cedar Falls community. Significant dates are circa 1888 when the house at 509 W. 1st Street was built, circa 1891 when the house at 423 W. 1st Street was built, and 1895 when the house at 501 W. 1st Street was built. The period of significance begins with the circa 1888 construction of 509 W. 1st Street by Daniel Wild using bricks from his manufactory and ends in 1901 when the Wild's Cedar Falls Brick and Tile Company was sold out of the family.

## Narrative Statement of Significance (Provide at least one paragraph for each area of significance.)

(Iowa SHPO Additional Instructions: For properties not nominated under Criterion D, include a statement about whether any archaeological remains within or beyond the footprint of the property were assessed as part of this nomination under the subheading **Archaeological Assessment**.)

## Criterion A: Historical Significance of the Wild Historic District in Cedar Fall's Industry and Commerce

#### Early Settlement of Cedar Falls

The first permanent Euro-American settlers in the vicinity of Cedar Falls were the families of William Sturgis and his brother-in-law Erasmus Adams. They arrived in 1845. Sturgis' claim became what is now the northern part of Cedar Falls, and Adams' claim became what is now southern Cedar Falls. In 1845 it was reported that the families of William Sturgis, George W. Hanna, John Hamilton, and William Virden were the only families in this area. William Sturgis worked on constructing a dam at Cedar Falls. His efforts to do so were never completed (Hartman 1915:315-316). The first store in Black Hawk county was opened at Cedar Falls circa 1850 on the north side of 1st Street (Hartman 1915:315-316; Van Metre 1904). The settlement platted by Sturgis and Adams took on the name Sturgis Falls, a name it kept until about 1850, after Sturgis was bought out by John Overman, Dempsey Overman, and John Barrick. In 1847, these men purchased his 280 acres, mill site, and all improvements associated with them. They changed the name to Cedar Falls, and the county's first post office was established soon after. They completed Sturgis' unfinished mill in 1848 and the county's first grist mill in 1850. The city was platted in 1851, and the first railroad reached Cedar Falls in 1861 (Hartman 1915:310-313; City of Cedar Falls official website, accessed October 2018).

In 1853, the same year Daniel Wild arrived here, the first county government was convened in Cedar Falls, even though the city's population of was still a meager 40 people. The county seat remained in the city for some time, even though the people of Waterloo lobbied for it to be relocated to their town, with consideration that it is more centrally located within the county. In April of 1855, the State of lowa ordered a referendum be held in consideration of where to set the county seat; the citizens of the county voted to move it to Waterloo where it has remained ever since. Cedar Falls was compensated in a way by the state's establishment of

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

Wild Historic District

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

Civil War Soldier's Orphan Home in the city in 1863. That institution changed its mission and was rebranded as the Iowa State Normal School in 1876, the Iowa State Teacher's College in 1909, the State College of Iowa in 1961, and the University of Northern Iowa in 1967, which is remains to the present day.

Black Hawk County, Iowa

As the community began to develop, it became a hub for both agricultural activities in western Black Hawk County and as a prominent milling center. Local entrepreneurs found their niches producing brooms, pottery, and the like. From a need for bricks and other construction materials, sprang the Cedar Falls Brick & Tile Co., which Daniel Wild would take over shortly thereafter. In the early settlement era, the Cedar River provided the motive power for the mills that defined the city's early industrial growth, and as a means of transportation, although the river did not prove to be a reliable source for steamboat navigation and the railroads and road travel soon dominated transportation and the import and export of material and goods in the community (Hartman 1915:374-377; Van Metre 1904).

An 1868 birds-eye illustration of Cedar Falls shows the rail line extending into the city from the west-southwest and to the northeast-east crossing the river not far from the location of the Wild Historic District (Figure 27). In this illustration, one can see several buildings on that site and the extension of Tremont Street to the north of W. 1st Street into the historic district. At the time, most of the land between N. 1st Street and the Cedar River from around Franklin Street west into the wooded area several blocks past the district on the north side of W. 1st Street was owned by Daniel Wild. While not represented on this illustration, local tradition holds that a brickyard of Wild's was on the edge of the wooded area to the west of his house. Wild did own a great deal of land to the west and northwest of his home property, and the current owner of the parcel in question reports finding bricks every time he digs a hole in the open grassy area to the east of his house (Figure 28) (Dan Jordan, Sr. personal communication, 08-07-2018). This parcel is approximately 500 feet to the west-northwest of Wild's house (Figure 29). However, the main commercial brick manufactory of Daniel Wild was located in the southeast portion of the city. Thus, it remains unknown whether bricks were actually manufactured at the location now owned by Jordan or if this parcel was used for brick storage given the proximity to the railroad. This question remains for future archaeological investigation to determine.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

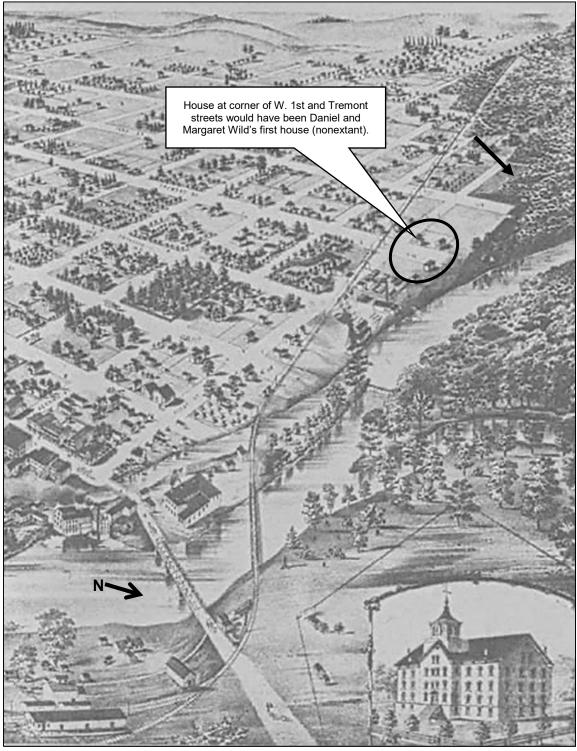


Figure 27. 1868 Birds-eye view of Cedar Falls, with the approximate location of the Wild Historic District (circled) and the possible location of a brickyard of Daniel Wild, although none was depicted at that time (arrow). Source: Cedar Falls History Booklet, Cedar Falls Historical Society.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018



Figure 28. Location of possible early brickyard of Daniel Wild looking East to the railroad tracks.

Photograph taken 08-07-2018 by Tallgrass.



Figure 29. Modern aerial of Wild Historic District (dashed outline) in relation to the possible location of Daniel Wild's brick yard reported to the west (circle). Aerial obtained from lowa Geographic Map Server, 2018.

OMB No. 1024-0018

Wild Historic District Black Hawk County, Iowa

Name of Property County and State

Daniel Wild and the Cedar Falls Brick & Tile Co.

Daniel Wild (1828-1903) was among the early settlers of Cedar Falls arriving in 1853 having emigrated from Bavaria. He and his wife Margaret (Glasser) were married in that same year. Margaret had emigrated from Baden. Soon after arrival, Daniel purchased land between W. 1st Street and the Cedar River inside and outside of the city limits. The family farmed and began several businesses in the fledgling town of Cedar Falls (Iowa State Reporter, September 1, 1903). The 1896 plat map shows the extent of Daniel Wild's holdings in the north part of Cedar Falls by that time (Figure 30). This included the land where the three houses of the Wild Historic District were built in the 1880s-1890s and where he and Margaret had their first home. That first home is nonextant and was on the site of 501 W. 1st Street, which is the extant Queen Anne house they built in 1895.

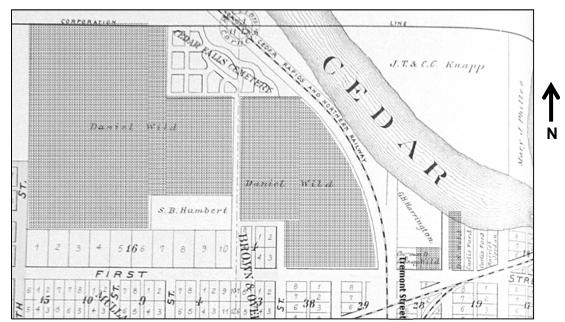


Figure 30. 1896 plat of Cedar Falls; properties owned by Daniel Wild—two city lots where 423 and 501 W. 1st Street stand and two large agricultural parcels—highlighted in gray. Source: Kace 1896.

Wild's first significant business purchase was what would become the Cedar Falls Brick & Tile Company. A.M. Dixter had started the brick manufactory in 1852, and it is believed that he sold his operation to Daniel Wild circa 1853. It is not yet known exactly where Dixter's brick operation was located in Cedar Falls. By 1866, it was noted that Daniel Wild's brick yard employed about ten men and would manufacture at least \$75,000 worth of brick in the coming season (Cedar Falls Gazette 18 March 1866). In 1868, he employed seven men and supplied "brick for building purposes at Waterloo, and other adjoining towns" (Cedar Falls Gazette 18 September 1868). An interesting item in the local newspaper in 1873 showed that Daniel Wild was also still in the business of farming, when he was asking for help in locating four calves that had strayed, but signed his name as Daniel Wild, "the Brick Maker" signifying what he was best known for in the community (Cedar Falls Gazette, 21 November 1873). By 1883, the *lowa State Reporter* noted that the company produced 300,000 bricks over the course of a year, and for the year prior, the company had been the fourth highest tax-payer in Cedar Falls Township (Iowa State Reporter, January 3, 1883 and 29 November 1883).

In 1893, a historical record of Cedar Falls reported that Wild's brick business was the longest continually running in the county (Melendy 1893:99). According to the same record, Daniel Wild's brick-making plant was:

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

located in the city limits, southeast part. Their machinery is run by steam, have a 35 horse-power boiler 30 horse-power engine in a building 32 x 28 feet in size, machine house 28 x 38 in size. They have six dry sheds 8 x 100 feet in size each. They manufacture 6 months in the year 18,000 brick per day or 2,808,000 for the season. They supply the home demand and ship large lots by rail car to the adjoining towns. Their pressed brick is of excellent quality. They employ 20 hands. City headquarters for Wild & Co's Brick & Tile Works have been located on the east side of Main, between 3rd and 4th streets – in a one-story building 25x120 feet in size – where they have plenty of room to show their line of goods.

The Cedar Falls Brick & Tile Company—sometimes referred to as Wild & Co. after it absorbed the coal and lumber business of Abraham Wild—also produced cement and quarried stone.

By 1898, the company was making 250,000 bricks every two weeks (*Cedar Falls Semi Weekly Gazette*). In 1899, it was reported that the company was expanding their capacity by adding a brick dryer, which would increase their capacity to 15,000 to 20,000 bricks per day.

The bricks manufactured by Wild's plant were vital in the construction of buildings in the community and the region. Among the local examples of Wild's brick making is a block building located on Cedar Fall's Main Street. In February 1898, a "new brick block" was constructed on the 300 block of Main Street. The bricks used in its construction came from Wild's brick plant. This building is extant and now a part of Cedar Falls' Commercial Historic District. At the time of its construction, the building was listed as the home of W.A. McIntosh's furniture and undertaking business. Although renovated facades have masked the front side of this row, the historic bricks produced by Cedar Falls Brick & Tile/Wild & Co. are still visible on the alley side (Figure 31) (Sweet research notes; Susan Card personal interview)



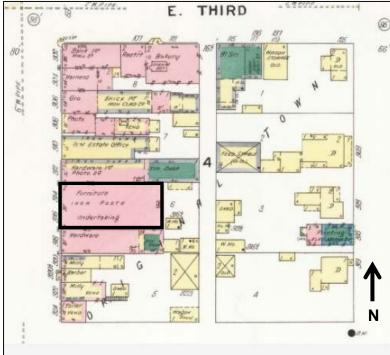


Figure 31. Left: Photo of the "New Brick Block," a known example of Wild & Co. bricks looking west, in alley behind 314 and 316 Main Street in Cedar Falls. Photograph taken 08-07-2018 by Tallgrass.

Right: 1909 Sanborn map showing location of the "New Brick Block" on Main Street (outlined).

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

Another example of Wild's bricks was in the large Grace Methodist Episcopal Church built in 1877-78 in downtown Waterloo, Iowa (Figure 32). Over 200,000 bricks were used in its construction. This church appears to be nonextant.

Black Hawk County, Iowa

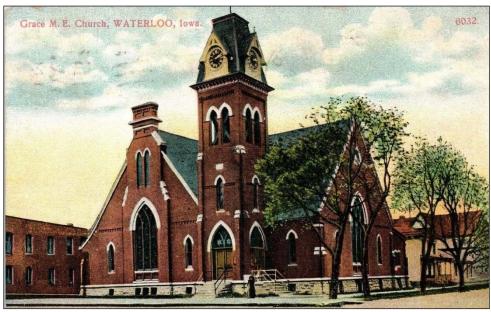


Figure 32. Grace Methodist Episcopal Church in Waterloo, Iowa, erected 1877-78 of Wild & Co. bricks.

Photo Source: hippostcard.com user Pixielovespostcards

Other significant brick orders included, but were not limited to the following (*Cedar Falls Semi Weekly Gazette*):

October 1898	400,000 bricks	Waterloo, Iowa Masonic Temple
August 1898	67,0000 bricks	brick block in Fairbanks, Iowa
" "	200,000 bricks	Waterloo, Iowa YMCA
August 1897	500,000 bricks	delivered to New Hartford, Iowa
July 1897	3 carloads of brick	delivered to Nashua, Iowa

## Cedar Falls Brick & Tile Co. locations:

Brick Works. Wild's extensive operations had several locations throughout Cedar Falls over his nearly fifty-year career. One of these locations was the "Works" as it was called in the index to the 1900 and 1909 Sanborn fire insurance maps. It was located in the southeast part of Cedar Falls "1 mile SE of P.O." Though the brickyard is no longer extant, an approximate location can be found by measuring the distance from the post office of that time (at the corner of Main and 2<sup>nd</sup> Streets) and triangulating that with the north-to-south Chicago, Great Western Railroad spur visible in the 1900 Sanborn map. This exercise places the probable location of the Cedar Falls Brick & Tile Company works near the current Cedar Falls Utilities power plant, in the vicinity of 16<sup>th</sup> street. This location is corroborated by a building visible in the 1930s aerial imagery that bares resemblance to the Brick & Tile Co. building as depicted on the 1900 and 1909 Sanborn maps. The aerial imagery also shows several circular structures that may conform to the location of the kilns depicted on the 1909 Sanborn map (Figures 33-34). The 1909 map identifies the factory as "not in operation" and the buildings as "old & dilapidated."

OMB No. 1024-0018 NPS Form 10-900

Wild Historic District Black Hawk County, Iowa Name of Property County and State

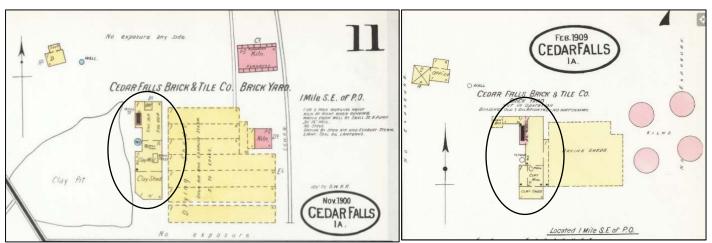


Figure 33. 1900 Sanborn map (left) and 1909 Sanborn map (right) showing the layout of the Cedar Falls Brick & Tile Company. Source: Sanborn 1900, 1909.



Figure 34. 1930s aerial image that may show remnants of the Cedar Falls Brick & Tile Co. Compare circled building to circled buildings on above Sanborn maps. Source: Iowa Geographic Map Server 2018.

The 1897 Sanborn map also shows an earlier configuration of the brick yard suggesting that the building highlighted in Figures 33 and 34 was added onto by the early 1900s (Figure 35). It is likely that this site was originally selected for a brick yard because there was suitable clay for brick making at this location. This is evidenced on the 1897 and 1900 Sanborns by the large "clay pit" on the southwest side of the brickyard.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

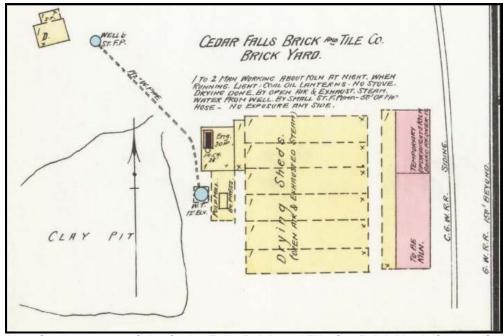


Figure 35. 1897 Sanborn map of the Cedar Falls Brick and Tile Co. Brick Yard. Source: Sanborn 1897.

Brick Yard. Another location was the brick "yard" in downtown Cedar Falls. In 1895, Daniel Wild purchased a lot that the newspapers said was near the Burlington Depot. He bought it for \$1,000. The local newspaper reported that: "it is known as the G.N. Miner lot and lies directly east of the Bryant Neely office. It will be used for the present as a storage lot for the brickyard, and the barn for teams" (*Cedar Falls Semi Weekly Gazette*, July 2,1895). The 1897 Sanborn map lists it as a "tile and wood yard," meaning it was mostly used for storage purposes and was an easily accessible in-town location for customers (Figure 36). The "brick & tile yard" was also depicted on the 1900 Sanborn map.

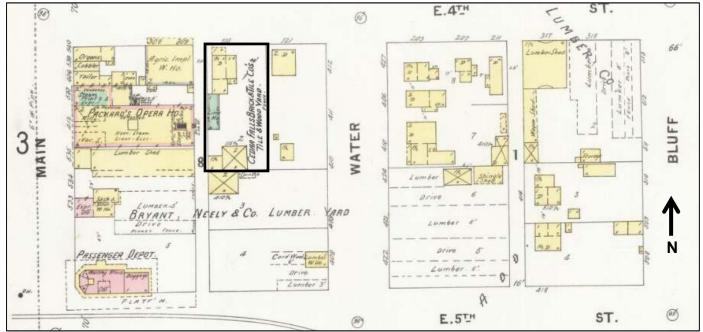


Figure 36. 1897 Sanborn Map showing Daniel Wild's new location for the Cedar Falls Brick & Tile Company (outlined). The small lumber yard across Water Street was once operated by Abraham Wild. Source: Sanborn 1

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

Other Business Ventures of Daniel Wild and Sons

Wild Historic District

Daniel Wild also became a partner in the business of his distant relative Abraham Wild, who supplied lumber and coal from a store at 1524 Main Street. Daniel was listed as a partner in this business in the 1896 Black Hawk County Atlas (Figure 37). It was noted in the March 27, 1896 *Cedar Falls Gazette*, that "Daniel Wild, Jr." (i.e., Daniel N.) and W.T.M. Aitkin will have charge of the yard and office work.

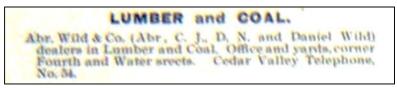
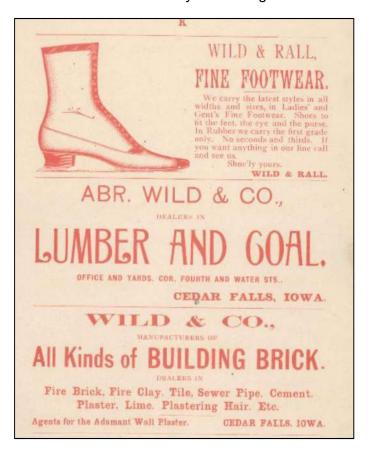


Figure 37. 1896 listing for "Abr. Wild & Co.," dealer of lumber and coal on the corner of Fourth and Water Streets. Owners were listed as Abraham, Charles J., Daniel N., and Daniel Wild. Source: Kace 1896.

However, this partnership did not last long, as the January 13, 1897 *Waterloo Courier* reported that the firm was dissolving. The article mentioned that Abraham, Charles J., Daniel, and Daniel N., (father and sons), were not working "harmoniously" and thus agreed to the dissolution of the lumber business. But after Abraham incurred financial difficulties around 1900, Daniel Wild took over the business and absorbed it into his brick and tile company, thus consolidating his share and dominance in the local building materials market.

Daniel's son, Charles, was partner in another business by 1894, the "fine footwear" store of "Wild & Rall." This firm along with "Abr. Wild & Co. Lumber & Coal" and his father's "Wild & Co." brick yard offering "all kinds of

building brick," were advertised on the same page in the 1894 Cedar Falls city directory (Figure 38). The firm of Wild & Rall dissolved in 1895, with Charles the receiver and in charge of selling the stock (Cedar Falls Semi-Weekly Gazette, 14 May 1895). However, by the early 1900s, Charles J. Wild was advertising as the proprietor of his own shoe store known as "The Leader," with his brothers Joseph and Jacob both working as salesmen (Figure 39). While the June 1947 obituary for Charles Wild stated that "from 1886 to 1916, along with his two brothers Joseph and Jacob, he operated a shoe store on Main street called 'The Leader.'" this chronology is incorrect since he was a partner in Wild & Rall up to 1895 (Waterloo Daily Courier, June 5, 1947). The end date may be correct because it was further stated that "in June of 1916 the store was sold to three nephews, who are brothers Reuben, Carl, and Joseph Miller, who still operate the store" (Waterloo Daily Courier, June 5, 1947). Charles' brothers Joseph and Jacob had preceded him in death, with Joseph passing in 1945 and Jacob in 1946. During their ownership and occupation of their respective homes at 423 (Jacob) and 509 (Joseph), these two brothers were working with Charles in his shoe store business. Charles also lived at 509 circa 1888.



Black Hawk County, Iowa

Figure 38. 1894 Cedar Falls City Directory ads for the Wild family enterprises in the

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018



Figure 39. 1906 ad for "The Leader" shoe store of Charles J. Wild listing at the bottom the salesmen as Charles and his brothers Jacob and Joseph Wild. Source: Cedar Falls Gazette, December 1906.

Daniel N. Wild, also sometimes referenced as "Daniel Wild, Jr." was the third son of Daniel and Margaret Wild. Among his other business interests, was the Cedar Falls Creamery. The family also participated in a number of other lesser businesses in town. The Wild family as a whole was also very active in the United Brethren Church in Cedar Falls (now the Cedar Falls Mennonite Church) and social and business organizations in the city.

In 1901, it was noted that the stockholding board of directors was taking the brick and tile company in a different direction. By this time, only George Wild held an officer position and Daniel Wild as elderly and likely no longer involved in the day-to-day operations. In 1901, the business was sold to a trio of out-of-town businessmen, who vowed to make more and better bricks on site than ever before. The Cedar Falls and Waterloo newspapers enthusiastically heralded the new direction (*Waterloo Semi Weekly Reporter* May 21 1901; *Waterloo Daily Courier* May 24, 1901 and February 8, 1901). However, by the time of the 1909 Sanborn map, the Cedar Falls Brick & Tile Co. was shown as "not in operation" and the buildings deteriorating (see Figure 33). Therefore, the sale of the brick and tile company out of the Wild family in 1901 marks the end

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

the family's dominance of Cedar Falls' building industry. Daniel N. Wild's creamery business continued until 1903, the same year that his father passed away. However, the shoe store of Charles J. Wild continued to operate until 1916 when it was sold to the next generation of family members, who continued its operation into the mid-20th century.

Black Hawk County, Iowa

## The History of the Wild Historic District as a Family Enclave

The first house that Daniel and Margaret Wild built within the district boundaries was a two-story brick house that was located at the northwest corner of W. 1st and Tremont streets. This house was shown on both the 1868 and 1880 birds-eye illustrations of Cedar Falls sited very near the street corner (see Figures 27 and 40). The 1880 illustration shows a two-story side gable with rear one-story ell and the two story section fronting W. 1st Street. An outbuilding is shown to the northeast corner of the lot. The placement of this house so close to W. 1st Street suggests that at the time of the construction of their large Queen Anne house in 1895, which is set back from the street, meant that they could have continued living in the brick house until the new house was completed and then the brick house was torn down. However, it is also possible that the brick interior walls of the house at 501 W. 1st Street are remnants of the older house around which the larger frame house was built, or that those interior walls were built using bricks salvaged from the older house. It should be noted that W. 1st Street was not as wide as it is today; therefore, there would have been more room on this lot for the older house in the late 19th century. Notably, this illustration does <u>not</u> depict the small house yet at 509 W. 1st Street.

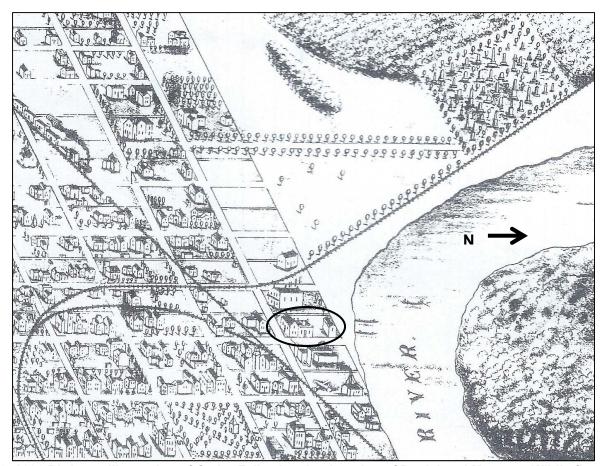


Figure 40. 1880 Birdseye illustration of Cedar Falls showing location of Daniel and Margaret Wild's first house at the northwest corner of W. 1st and Tremont streets (circled). At this time, there were no other houses shown to the west or east of this house, just commercial-type buildings. Source: Hageboeck 1880.

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

Wild Historic District

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

As the Wild family grew, they left the family home (for the most part) and established their own households in their married lives.<sup>3</sup> However, some returned to the family home at 501 W. 1st Street following the death of their spouses or after divorce. This was the case with Carrie Wild Zager, Rose Wild Higby, and Daniel N. Wild.

When Carrie Zager's husband Louis F. Zager died in 1895, his obituary stated that the couple had been "living on First Street near Franklin," which would be east of this house and that of Daniel and Margaret Wild (Semi-Weekly Cedar Falls Gazette, 5 November 1895). If they had been living at 509, it would be more likely that the location would have been referenced as near "Tremont" since this house is just west of that intersection. However, according to Louis and Carrie's daughter, Clara Zager Houghton, in a letter dated 1975, her uncle Charles Wild and his wife Rose lived in this house "when first married," which took place in October 25, 1888. While they lived at 509 circa 1888, the property abstract indicates that Daniel Wild remained in possession of the property. Therefore, it appears that Daniel Wild had built this house by at least 1888, perhaps for Charles and Rose. It may also be that between Charles and Rose's occupation and Carrie Wild Zager's ownership in 1896 that the house might have been rented out for a time. It was certainly rented out after Carrie purchased it from her father. The 1900 Federal Population Census listed Carrie and her daughter Clara then living at 501 W. 1st Street in her parents' household, with Carrie's house at 509 rented out to Francis and Ida M. Vance. Carrie Zager retained ownership of the 509 property until 1909 when it was transferred to her brother Joseph Wild. The 1910 Federal Census listed the household of owner Joseph Wild at 509, with his sisters Carrie Zager and Rose Higby both living with him in the house. In 1911, Joseph married Rosa (aka, Rose) Esther Sparr in St. Paul, Minnesota, with the couple then making their home in Cedar Falls at 509 W. 1st Street where they would live until their deaths in the 1940s. The house address was listed in the probate records for both as their place of residence (Census and marriage data accessed at www.ancestry.com, December 2018; Property Abstract).

The house at 423 W. 1st Street was built circa 1891 by Daniel N. Wild. It was built while his parents' old brick house was still standing on the northwest corner of the Tremont Street intersection with W. 1st Street, with the 423 house built on the northeast corner. The construction of Daniel N.'s house was prompted by his marriage in 1890 to Mae M. Brodie. However, the marriage was a tumultuous one, with the couple divorcing in 1897 but then later remarried. After their divorce, Daniel N. Wild went to live in his parents' house next door where he was living at the time of the 1900 Federal Census. Mae (Brodie) Wild also went to live with her parents by 1900 at a house located elsewhere in the city. Mae retained ownership in 1897 but transferred it that same year to her former brother-in-law, Jacob Wild and his wife Eleanor M. Lumpe, who would reside in this house until their deaths in the 1940s (Census data accessed at www.ancestry.com, December 2018; Property Abstract).

Following the deaths of Daniel and Margaret Wild in 1903 and 1905, respectively, their house at 501 W. 1st Street was sold out of the family. Specifically, the children, as the heirs of Margaret Wild, conveyed the property to L.G. Ronquest on May 16, 1907. Other owners would follow, with the Strothman, Pillsbury, and Wood families of note. Joseph Wild owned the house at 509 W. 1st Street from 1909 until his death in 1945, along with his wife, Rose Esther (Sparr) from their marriage in 1911 until her death in 1946. Jacob Wild and his wife, Eleanor M. (Lumpe) lived at 423 W. 1st Street until their respective deaths, in 1946 and 1943. The deaths of Jacob Wild and Rose (Sparr) Wild both in 1946 marked the end of the Wild family occupation of these properties.

Therefore, the three houses that comprise the Wild Historic District were all built by and for the family of Daniel and Margaret Wild. The three houses together were a distinct unit along W. 1st Street, with the large Queen Anne house serving as the center focal point and homestead for this family grouping. While this may

<sup>&</sup>lt;sup>3</sup> Daniel and Margaret Wild had ten children: Emma, Caroline (aka, Carrie), Charles, George, Jacob, Daniel N., Joseph, Flora, land Helen.

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

not be unique in Cedar Falls, it would certainly have been uncommon and notable to have so many family members living in houses next to one another. Thus, the three houses came to function as something of a family enclave from circa 1888 until 1946 when the last of the Wild family members died and others were now owning and occupying all three houses. This was definitely a family that lived together, worked together, and most were even buried together in the family plot in the nearby Greenwood Cemetery (Figure 41).



Figure 41. Wild family plot and individual gravesites in the Greenwood Cemetery.

Source: https://www.findagrave.com/, December 2018.

In 2017, the house at 501 W. 1st Street was listed in the NRHP under Criterion B for its association with Daniel Wild as a significant person in Cedar Falls' history. Susan Card, property owner of 423 and 501 W. 1st Street and the preparer of the NRHP nomination for 501 W. 1st Street, noted the following:

The narrative establishes that Daniel Wild clearly meets a test of significance in multiple forms: early settler in the undeveloped Cedar Valley, journeyman tradesman growing prosperous by building sustainable thriving businesses, land acquisitions which created viable economic streams of revenue through farming, leasing of land, and the eventual selling of cemetery plots, and by involving offspring in businesses both retail and wholesale (Leader Shoe Store and Cedar Falls Dairy). His significance is exemplified by the structures which still exist; his 3 homes, and at least two brick buildings within Cedar Falls. While he was not a statesman, or college president, or mayor, these are not the only measures of significance. Daniel was a man who spent his life achieving success in his business ventures in order to provide for and sustain his growing family. His impact is undeniable, and the City would not be the same without him. The Daniel Wild home showcases his brick (interior walls), cement (basement floor), the fancy woodwork certainly obtained by connection with Abraham Wild & Co., Lumber and Coal, but it is also a lasting tribute to him and his family (Card 2017).

The design of Daniel and Margaret's 1895 house had been inspired after a house they had seen and admired on a trip to Florida. A Cedar Falls architect adapted the plans for the Wild's large new home. Soon after completion, Daniel and Margaret, their newly-widowed daughter Carrie and her daughter Clara Zager moved into the new house. They would be joined by son Daniel N. when he became divorced in 1897. Son Joseph W. also lived in the 1895 house for a time before he purchased the brick cottage from Carrie and moved there in 1909. Clara Zager Houghton, granddaughter of Daniel and Margaret Wild and daughter of Carrie (Wild) Zager, wrote of these two homes:

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

Wild Historic District

Black Hawk County, Iowa

Name of Property

County and State

OMB No. 1024-0018

The home [501] was built in 1895, and as I recall, (I was only 6 years old) the family moved in about Thanksgiving time. Daniel Wild and wife had spent the previous winter in Eustis, Florida. Friends down there had just finished building a new house. Mr. Wild liked the set of plans so well, he brought them home with him, and started things moving immediately, to have a replica of this house for his new home. The two story brick house, which had formerly been the home, was made from brick from the Wild Brick Yard, which was my Grandfather's business. The brick bungalow [509] directly west of the Wild residence is also made from brick fired in the Wild Brick Yard. This house is still standing. The type of the Wild House [i.e., 501] is southern; the front door opening in the middle, with the sitting room on the right and parlor on the left. From the outside, both sides look the same. The woodwork in the dining room is Georgia curly pine. These curls are not painted on the wood, but are in the wood. I think the wood is varnished. I used to think the sliding doors that opened into the library were so beautiful. While in the south, Grandfather had this wood shipped to Cedar Falls.

Hertha Strothman's family owned and occupied the house at 501 in the 1920s. In her memoirs, she wrote about the house and her early memories of this house and the property:

[A "tremendous barn"] stood behind the house, with a couple of black walnut trees. The yard had several huge maples and a garden with a big asparagus bed and a trellis of perennial sweet peas. The house had five porches, 3 downstairs and two on the upper floor. It had two stairways to the basement, plus another through a slanted cyclone door from the back yard, as well as two stairways to the second floor and a narrow flight to the unfinished attic. The first floor had a wide center hall, four large rooms plus a powder room and a huge kitchen with a wood burning range. Mama kept her electric wringer washing machine in a corner. The second floor had a bathroom and four spacious bed rooms and a sunny study that became the nursery when Franklin Allen was born. The big, pale yellow house occupied the northwest corner of West First Street and Tremont Avenue, but Tremont ended there, giving us the width of the street in lawn for carefree play. The lawn extended down to the Illinois Central Railroad tracks. Beyond the tracks flowed the Cedar River, and across the river we could see the Bathing Beach House and the Bath house. We could watch the huge blocks of ice being cut and pushed through a channel to the Ice House where they were layered with straw for next summer's use (Hertha Strothman Memoir).

The house at 501 W. 1st Street is an elaborate spindlework example of the Queen Anne style, which was popular in the United States and Iowa in the 1880s-1910s (McAlester 2017). Daniel retained the services of architect and builder, W.A. Robinson of Cedar Falls to execute the plans for his new home. The materials used to build the house came from Abraham Wild & Co.'s lumber yard. Its architectural significance qualified the house for individual listing in the NRHP under Criterion C as well (Card 2017).

The two houses at 423 and 509 W. 1st Street are vernacular expressions of Late Victorian styles. These are modest-sized homes but are still appointed on the interior with decorative woodwork and other details such as built-ins, staircases, and colonnades, that reflect the family's financial standing in the 1890s and their association with the lumber and brick industries in Cedar Falls. The house at 509 is the smallest of the three and functioned at times as a rental property but was always owned by the Wilds during the period of significance. However, following Daniel and Margaret's deaths in the early 1900s, the family's occupation of these properties focused on the two smaller houses since the large Queen Anne home was sold out of the family in 1907. The two smaller houses continued to be occupied by sons of Daniel and Margaret into the 1940s.

#### Statement on Archaeological Potential of the Wild Historic District

A Phase I archaeological investigation was conducted along W. 1st Street in 2014, with subsurface testing conducted in the rear and side yards of 423 and 501 W. 1st Street. At the time, the Daniel and Margaret Wild House had been identified as a historic property but was not yet listed in the NRHP. It was found that the yard areas within that project area had been disturbed by underground utilities lines, the rip-rapping of the adj

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State

ravine slope, and the construction of the modern garage on the rear of the house at 501. As a result, any archaeological potential at these locations had been greatly impacted. No archaeological sites were encountered and no further archaeological investigation was recommended (Rogers 2014). Therefore, for the current district nomination significance under Criterion D is not claimed.

Black Hawk County, Iowa

There remains some archaeological potential that should be examined on the reported location of either a brick yard of Daniel Wild's or a storage yard for his company's bricks to the west of the historic district. The current owner has reported finding bricks in the grassy parcel near his home every time he digs a hole. It is recommended that this parcel be examined by historical research and archaeological investigation to either confirm or refute such an association. Furthermore, the location of the Cedar Falls Brick & Tile Co. is a potential archaeological site that should be identified and evaluated.

### Recommendations for Future Studies

There are a number of properties in Cedar Falls, including commercial, religious, and residential properties built with Cedar Falls Brick & Tile Co. bricks and/or associated with members of the Wild family. These properties, if they retain sufficient integrity and significance, may be eligible for inclusion in the NRHP under a Multiple Property Cover Document related to the Wild Family's significance in Cedar Fall's industrial, commercial, social, and religious history.

## Acknowledgments

Wild Historic District

A number of individuals contributed to the completion of this nomination including property owners, Susan E. Card and Marianne Hartz, who graciously allowed access to the interior of their homes and provided their property abstracts for review. Susan Card also provided historical photographs, historical accounts from Wild family members, and oral history about the various properties from previous owners and occupants. The City of Cedar Falls and the Cedar Falls Historic Preservation Commission, including Project Director Iris Lehmann, provided support throughout the project and assistance with coordination and reviewing the drafts of the nominations.

## Disclaimer

The activity that is the subject of a National Register nomination has been financed in part with Federal funds from the National Park Service, U.S. Department of the Interior. However, the contents and opinions do not necessarily reflect the view or policies of the Department of the Interior, nor does the mention of trade names or commercial products constitute endorsement or recommendation by the Department of the Interior.

National Park Service / National Register of Historic Places Registration Form OMB No. 1024-0018

Wild Historic District

Black Hawk County, Iowa

Name of Property

County and State

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United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

Historic Resources Survey Number (if assigned): 07-13237

Wild Historic District Black Hawk County, Iowa Name of Property County and State Strothman, Hertha. Memoir. Sweet, Cynthia R. Sweet. Research notes, Cedar Falls Historic Preservation Commission, 2013-2016 and Research on West First Street Addresses, October 2013. On file Tallgrass Archaeology LLC, Iowa City. Van Metre, Isaiah. History of Black Hawk County, Iowa and Representative Citizens. Chicago: Biographical Publishing Company, 1904. Previous documentation on file (NPS): preliminary determination of individual listing (36 CFR 67) has been requested previously listed in the National Register previously determined eligible by the National Register designated a National Historic Landmark recorded by Historic American Buildings Survey recorded by Historic American Engineering Record recorded by Historic American Landscape Survey Primary location of additional data: State Historic Preservation Office Other State Agency Federal Agency **Local Government** University Other Name of repository:

OMB No. 1024-0018

National Park Service / National Register of Historic Places Registration Form NPS Form 10-900 OMB No. 1024-0018 Wild Historic District Black Hawk County, Iowa

			<b>,</b>		
Name of Property				County and State	
10. Geographical Da	ta				
Acreage of Property (Do not include previously li		han one" if the acreage is .99 or less)			
Latitude/Longitude C	coordinates				
Datum if other than W	GS84:				
enter coordinates to 6 decir	mal places)				
1 42.538160	-92.451490	3 42.538200	-92.450450		
Latitude	Longitude	Latitude	Longitude		
2 42.538260	-92.450680	4 42.537970	-92450450		
Latitude	Longitude	Latitude	Longitude		
5 42.537920	-92451490				
Latitude	Longitude	<del></del>			

## Verbal Boundary Description (Describe the boundaries of the property.)

The boundary of the Wild Historic District is shown as the dashed line on the accompanying map entitled "Aerial Map showing the NRHP Boundary of the Wild Historic District."

### **Boundary Justification** (Explain why the boundaries were selected.)

The district boundary encompasses the four lots historically associated with the Wild Family properties at 423, 501, and 509 W. 1st Street in the City of Cedar Falls, Black Hawk County, Iowa.

## 11. Form Prepared By Leah Rogers, Principal Investigator, and Ray Werner, Project Historian date April 1, 2019 name/title organization Tallgrass Archaeology LLC telephone 319-354-6722 street & number 2460 S. Riverside Drive email lrogerstallgrass@gmail.com city or town Iowa City state IA zip code 52246

#### **Additional Documentation**

Submit the following items with the completed form:

- GIS Location Map (Google Earth or BING)
- **Local Location Map**
- Site Plan
- Floor Plans (As Applicable)
- Photo Location Map (Key all photographs to this map and insert immediately after the photo log and before the list of figures).

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State



Black Hawk County, Iowa

Aerial Map showing the NRHP Boundary of the Wild Historic District as a black dashed line.

Source for base map: 2015 aerial image



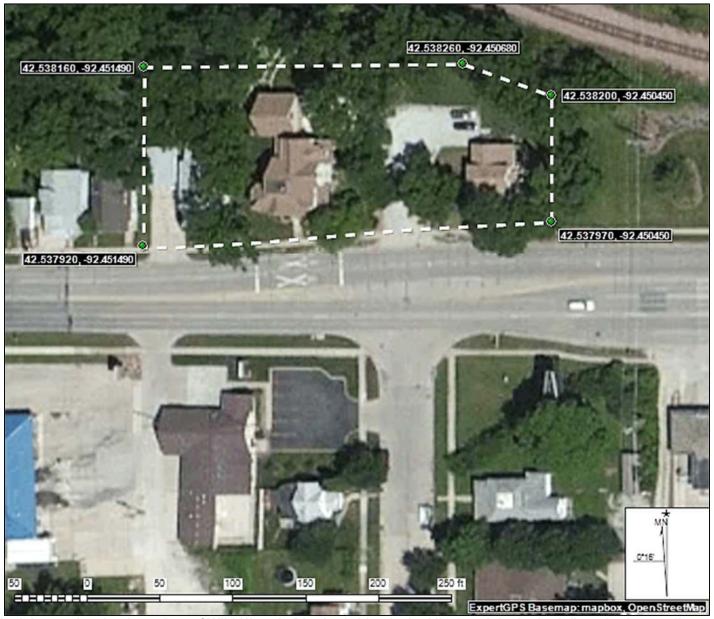
Closer aerial showing the NRHP boundary (black dashed line) and contributing (C), individually listed (IL) and noncontributing (NC) resources. White dot is the stone hitching post, which is a contributing object to the Daniel and Margaret Wild House NRHP nomination (Card 2017).

Source for base map: Black Hawk County Assessor website, accessed October 2018

NPS Form 10-900 OMB No. 1024-0018

Wild Historic District Black Hawk County, Iowa

Name of Property County and State



Aerial map showing boundary of Wild Historic District (white dashed line) and the Latitude/Longitude coordinates of the boundary. Source of base aerial: ExpertGPS mapping software, 2018.

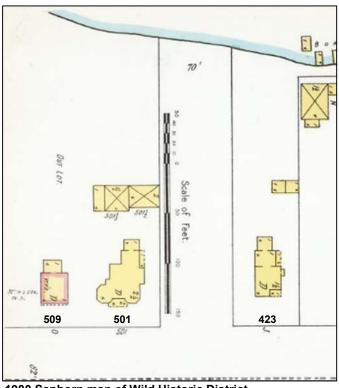
Wild Historic District

Black Hawk County, Iowa

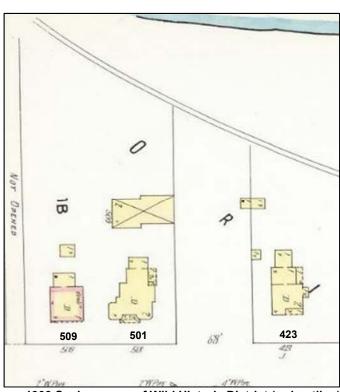
County and State

OMB No. 1024-0018

Name of Property

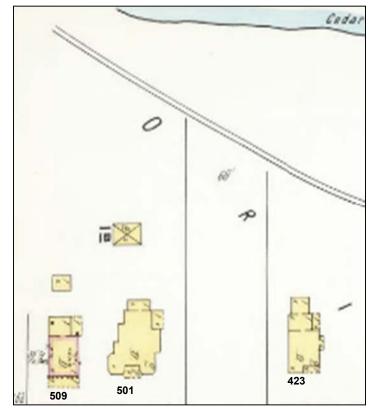


1900 Sanborn map of Wild Historic District



1909 Sanborn map of Wild Historic District (red outline)





1916 Sanborn map of Wild Historic District.

Wild Historic District

NPS Form 10-900 OMB No. 1024-0018

Name of Property County and State



Black Hawk County, Iowa

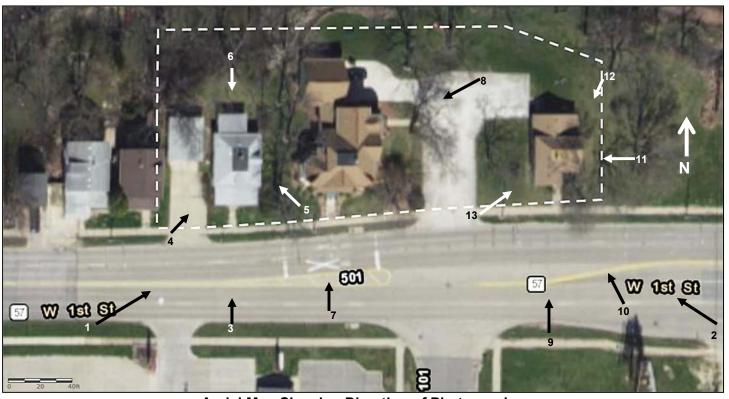
Circa 1925 photograph of 501 W. 1st Street looking NW and showing 509 W. 1st Street at the far left. This is the only known historic photograph of 509 W. 1st Street and shows the brick exterior then exposed and the porch on the façade. Also visible in the far right is the large barn that once stood behind 501 W. Street.

Source: Personal collection of Susan Card, Cedar Falls, Iowa.

NPS Form 10-900 OMB No. 1024-0018

Wild Historic District Name of Property

Black Hawk County, Iowa County and State



**Aerial Map Showing Direction of Photographs** Source for base map: 2016 orthophoto obtained from ArcGIS - Iowa Geographic Map Server, 2019

United States Department of the Interior National Park Service / National Register of Historic Places Registration Form NPS Form 10-900

OMB No. 1024-0018

Wild Historic District	Black Hawk, Iowa
Name of Property	County and State

#### Photographs:

Submit clear and descriptive photographs under separate cover. The size of each image must be 3000x2000 pixels, at 300 ppi (pixels per inch) or larger. Key all photographs to the sketch map. Each photograph must be numbered and that number must correspond to the photograph number on the photo log. For simplicity, the name of the photographer, photo date, etc. may be listed once on the photograph log and does not need to be labeled on every photograph.

#### **Photo Log**

Name of Property: Wild Historic District

City or Vicinity: Cedar Falls, Iowa

County: Black Hawk State: Iowa

Photographer: Ray Werner, Tallgrass Archaeology LLC

Date Photographed: March 22, 2019

Description of Photograph(s) and number, include description of view indicating direction of camera:

Photo 1 of 13: General view of Wild Historic District looking ENE from W. 1st Street

Photo 2 of 13: General view of Wild Historic District looking WNW from W. 1st Street

Photo 3 of 13: Façade of 509 W. 1st Street and Garage looking N from W. 1st Street

Photo 4 of 13: SW Corner of 509 W. 1st Street looking NE from W. 1st Street

Photo 5 of 13: N side of 509 W. 1st Street looking S from back yard

Photo 6 of 13: E Side of 509 W. 1st Street looking WNW from side yard

Photo 7 of 13: Façade of 501 W. 1st Street looking N from W. 1st Street

Photo 8 of 13: East Side and Rear of 501 W. 1st Street looking WSW

Photo 9 of 13: Façade of 423 W. 1st Street looking N from W. 1st Street

Photo 10 of 13: Façade and E Side of 423 W. 1st Street looking NNW from W. 1st Street

Photo 11 of 13: East Side of 423 W. 1st Street looking W

Photo 12 of 13: E side and Rear of 423 W. 1st Street looking SSW

Photo 13 of 13: West Side of 423 W. 1st Street looking ENE

**Paperwork Reduction Act Statement:** This information is being collected for applications to the National Register of Historic Places to nominate properties for listing or determine eligibility for listing, to list properties, and to amend existing listings. Response to this request is required to obtain a benefit in accordance with the National Historic Preservation Act, as amended (16 U.S.C.460 et seq.).

**Estimated Burden Statement**: Public reporting burden for this form is estimated to average 100 hours per response including time for reviewing instructions, gathering and maintaining data, and completing and reviewing the form. Direct comments regarding this burden estimate or any aspect of this form to the Office of Planning and Performance Management. U.S. Dept. of the Interior, 1849 C. Street, NW, Washington, DC.



Photo 1



Photo 2



Photo 3



Photo 4



Photo 5



Photo 6

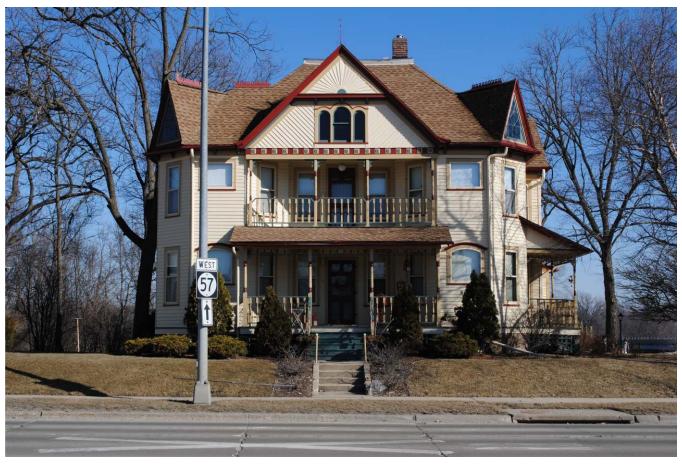


Photo 7



Photo 8



Photo 9



Photo 10



Photo 11



Photo 12



Photo 13

# F A L L S

#### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

MEMORANDUM

Planning & Community Services Division

TO: Honorable Mayor James P. Brown and City Council

FROM: Iris Lehmann, Planner II

**DATE:** April 11, 2019

**SUBJECT:** Sign review of property in the College Hill Neighborhood Overlay

REQUEST: New projecting sign on storefront

PETITIONER: Oh My Grill, Omer Noorwala; Contractor: Signs & Designs

LOCATION: 2020 College Street

PROJECT #: DR19-001

#### **PROPOSAL**

The applicant is requesting a façade review for a new projecting sign at 2020 College Street to advertise the building's new tenant, Oh My Grill. 2020 College Street is located in the College Hill Neighborhood Overlay.

#### **BACKGROUND**

The College Hill Neighborhood district requires a site plan review (i.e. design review) by the Planning & Zoning Commission and the City Council for any substantial improvement to an exterior façade. A substantial improvement to properties in the College Hill Neighborhood is defined in Section 26-181 (3) and includes: "any new, modified or replacement awnings, signs or similar projections over public sidewalk areas." Typically signage is not part of the review process unless the review is mandated by Ordinance Section 26-181. In this case, when a new projecting sign is installed that overhangs the public right-of-way the Planning & Zoning Commission and City Council must review and approve the request (26-181(7)(e)).



#### **ANALYSIS**

The projecting sign will be placed on the west elevation of the building above the store's entrance on College Street. The proposed sign will be constructed out of aluminum, will be lighted, is 25 square feet (5' x 5') in size, and will be elevated more than 20 feet above the

sidewalk. City code Section 3-58 requires projecting signs over the right-of-way to have a minimum clearance of 10 feet. The size and placement of the proposed sign meets city code and height clearances. The proposal includes recovering the existing awning over the building's entrance.

#### **TECHNICAL COMMENTS**

No comments.

#### **PLANNING & ZONING COMMISSION**

Discussion/Vote Planner Lehmann presented the request to the Planning and Zoning 4/10/2019 Commission. There were no questions or comments. The proposal was

unanimously approved by the Commission.

#### STAFF RECOMMENDATION

The Planning and Zoning Commission and the Community Development Department recommend approval of the submitted facade plan for 2020 College Street.

#### Attachments:

Details of proposed signage Letter of Intent



5600 NORDIC DRIVE CEDAR FALLS, IOWA 50613 PHONE: 319-277-8829 FAX: 319-268-2298

3/22/2019 2020 College Street Cedar Falls, Iowa

P&Z Letter of intent:

Location:

2020 College Street, Cedar Falls, Iowa

#### Overview:

Installation of a 5'x 5' aluminum cabinet, lighted projecting sign. This sign is 2-sided and will extend over the sidewalk 60" on the West side of the Building over the entrance. There is also be1) existing awnings over the entrance that will be recovered 9' to the bottom and project 40" from the building

The purpose of this is to identify the Oh My Grill business along College St. coming from the North and South.

Applicant Contact: Oh My Grill- Omer Noorwala

David Schachterle, 5600 Nordic Drive, Cedar Falls, Iowa 50613 T: 319-277-8829

# SIGNS & DESIGNS



# C E D A R

#### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610 www.cedarfalls.com

#### **MEMORANDUM**

## Planning & Community Services Division

TO: Honorable Mayor James P. Brown and City Council

FROM: Iris Lehmann, Planner II

**DATE:** April 11, 2019

**SUBJECT:** Sign review of property in the College Hill Neighborhood Overlay

REQUEST: New signage on storefront

PETITIONER: Buzz, Usman Chatha; Contractor: Signs & Designs

LOCATION: 2125 College Street, Suite A

PROJECT #: DR19-002

#### **PROPOSAL**

The applicant is requesting a façade review for a new wall sign and projecting sign at 2125 College Street to advertise the building's new tenant, Buzz. 2125 College Street is located in the College Hill Neighborhood Overlay.

#### **BACKGROUND**

The College Hill Neighborhood Overlay district requires a site plan review (i.e. design review) by the Planning & Zoning Commission and the City Council for any substantial improvement to an exterior façade. A substantial improvement to properties in the College Hill Neighborhood is defined in Section 26-181(3) and includes: "any new, modified or replacement awnings, signs or similar projections over public sidewalk areas." Typically signage is not part of the review process unless the review is mandated by Ordinance Section 26-181. In this case, when a new projecting sign is installed that overhangs the public right-of-way the Planning & Zoning Commission and City Council must review and approve the request (26-181(7)(e)).

#### **ANALYSIS**

The proposed signage will be placed on the east



elevation of the building above the store's entrance on College Street. The proposed wall sign is comprised of LED lighted channel letters and is approximately 40 square feet in size. City Code Section 26-259 requires wall signs in the C-3 zoning district to not exceed one-third of the surface area of the wall to which the signs are affixed. The proposed projecting sign is a lighted two sided digital message center. This sign is approximately 12.5 square feet in size and would be elevated 12 feet above the sidewalk. City code Section 3-58 requires projecting signs over the right-of-way to have a minimum clearance of 10 feet. The sizes and placement of the proposed signs meet city code size requirements and height clearances.

#### **TECHNICAL COMMENTS**

No comments.

#### PLANNING & ZONING COMMISSION

Discussion/Vote Planner Lehmann presented the request to the Planning and Zoning Commission. There were no questions or comments. The proposal was unanimously approved by the Commission.

#### STAFF RECOMMENDATION

The Planning and Zoning Commission and Community Development Department recommend approval of the submitted facade plan for 2125 College Street.

#### Attachments:

Details of proposed signage Letter of Intent



5600 NORDIC DRIVE CEDAR FALLS, IOWA 50613 PHONE: 319-277-8829 FAX: 319-268-2298

3/26/2019 2125 College Street, Suite A Cedar Falls, Iowa

P&Z Letter of intent:

Location:

2125 College Street Suite A

Overview:

Installation of a 30" x 60" 2 sided digital message center, lighted projecting sign. This sign is 2-sided and will extend over the sidewalk 32" on the East side of the Building over the entrance. There will also be a lighted channel letter set on the face of the building that will not project.

The purpose of this is to identify the business Buzz Smoke & Vapor along College St. coming from the North and South.

Applicant Contact: Buzz Smoke & Vapor--- Usman Chatha

Contractor: David Schachterle, 5600 Nordic Drive, Cedar Falls, Iowa 50613 T: 319-277-8829

Landlord:	hi	zhens	3-28-19	
	0 >			
Approval sig	nature			Date



LED Lighted Channel letters with Polycarbonate faces









#### DEPARTMENT OF COMMUNITY DEVELOPMENT

City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

MEMORANDUM Planning & Community Services Division

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Iris Lehmann, Planner II

Karen Howard, Planning & Community Services Manager

**DATE:** April 11, 2019

**SUBJECT:** Site Plan Review: 302 Main Street and 123 E 3rd Street/305 State Street

PROJECT: SP19-003

REQUEST: Request to approve the Site Plan for 302 Main Street and 123 E 3rd

Street/305 State Street

PETITIONER: River Place Properties II, LC – owner; AXIOM Consultants; Shive-Hattery

LOCATION: 302 Main Street and 123 E 3rd Street/305 State Street – Former Wells Fargo

Site

#### **PROPOSAL**

The applicant proposes to redevelop the former Wells Fargo site at the corner of Main Street and 3rd Street into two new mixed-use buildings. The property is just over 0.5 acres in area and is located in the C-3, commercial zoning district and is also located within the Central Business District Overlay Zoning District (CBD).

The proposal includes a three-story building and a six-story building. The three-story building, 302 Main Street, has approximately 6,600 square feet of commercial space with a drive-through on the first floor and approximately 15,200 square feet of office space proposed on the second and third floors. The six story building, 123 E 3rd Street/305 State Street, will include below-grade structured parking, approximately 9,200 square feet of first floor commercial space, second floor structured parking with the potential for some additional office space, and a total of 25 residential units on the third through sixth floors. A one-way city alley separates the two proposed buildings. See images below for existing and proposed site layouts.







Proposed

#### **BACKGROUND**

The Wells Fargo building was significantly modified in 1963 when the second floor was removed. Through this remodel the building lost its historic identity and was thereafter out of character with the rest of the district reading visually as modern infill. The former bank had a private surface parking lot and drive-through on the lot across the alley to the east. The building, which is currently being demolished, was not eligible for the National Register of Historic Places either individually or as a contributing building in the Cedar Falls Downtown Historic District (State Inventory Form 01-13391). The demolition of this building and redevelopment of this site will not detract from the Downtown's National Historic District status. The site was purchased by River Place Properties II, LC in June of 2018.

A courtesy mailing was sent to neighboring property owners on Tuesday, March 5th, 2019.

#### **ANALYSIS**

All new building construction on properties located in the Central Business District must be reviewed by the Planning & Zoning Commission and approved by the City Council. This proposal qualifies as a substantial improvement under Section 26-189 CBD, Central Business District Overlay. This review entails a site plan review and an architectural design review for architectural compatibility with surrounding structures. Following is a review of proposed buildings according to the zoning ordinance standards:

- a) <u>Proposed Use:</u> The proposed commercial, office, and residential uses are permitted in the C-3 Commercial district. **Uses permitted.** 
  - b) <u>Setbacks:</u> There are no building setbacks in the C-3 Commercial district. Both proposed buildings will be built to their property lines with the exception of the west side of 123 E 3rd Street/305 State Street, the first floor of which will be setback 4 feet from the alley. The second story is proposed to cantilever over this setback area, but must maintain a minimum 14-foot clearance from grade. This 4-foot setback effectively increases the alley width from 16 to 20 feet, which would create a space wide enough to allow for two-way traffic along this section, provided that the property owner grants a no-build easement for the four-foot setback area. **Setbacks satisfied.**

# c) <u>Parking/Access</u>:

302 Main Street is comprised of commercial and office spaces. This building is not required to provide on-site parking and no private off-street parking is being proposed on the property at 302 Main Street. Parking requirements are met for the 302 Main Street building.

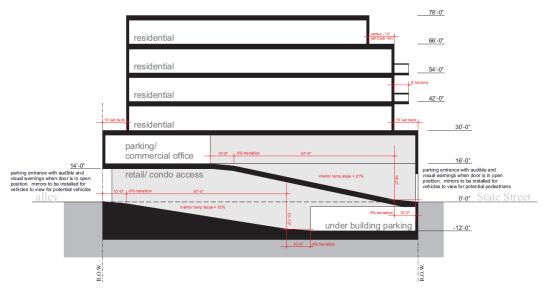
<u>Proposed Drive-through</u>: The applicant is proposing a drivethrough off of the alley to serve the financial institution use anticipated in one of the ground floor commercial spaces (see image of the proposal to the right). The Central Business District Overlay and C-3 zoning district allows drive-through facilities. Per city code a bank drive-through must "provide three stacking spaces per teller" (Sec. 26-220, 4). The proposal

xican Gril

meets that requirement. However, the drive-through can only function in this location by utilizing the public alley for access. The alley in question is a one-way, 16-foot-wide alley that circulates traffic from north to south, similar to the other alleys located in the first block east of Main Street. To access the proposed drive-through, customers will have to drive south off of 3rd Street and loop back north through the drive-through to access the service window. Drivers would then need to loop back south along the alley to exit.

Staff had concerns about potential congestion and traffic circulation issues on this narrow one-way alley with the added traffic from a drive-through and from the underground parking level for the 123 E 3<sup>rd</sup> Street/305 State Street building. To provide for better traffic circulation for both buildings the applicant is proposing to set back the first floor of the 123 E 3rd Street building four feet from the alley and grant a no-build easement/public access easement for this area. This would effectively create a 20-foot wide section of the alley between the new buildings that could accommodate two-way traffic. Staff is open to permitting two-way traffic along the north half of the alley with appropriate directional signage and the no-build/public access easement to accommodate the drive-through and to allow better traffic circulation for the resident parking in the lower level of the 123 E 3<sup>rd</sup> Street building. However, staff recommends that language be added to the development agreement with the property owner that would allow the City to impose additional conditions or modifications to the drive-through, such as time restrictions, additional signage, or design modifications, if traffic congestion from the drive-through poses a safety issue for pedestrians or undue traffic congestion in the future. In addition, if the use of the ground floor space ever changes, staff recommends that the drive-through use be discontinued, unless subsequently reviewed and approved by the City Council for the new use. With these terms in the agreement staff would support the drive-through as proposed.

123 E 3rd Street/305 State Street is comprised of commercial, office, and residential uses. No parking is required for the commercial and office portions of the building but parking for the residential units is required. The off-street parking requirement for the residential use is two parking spaces per dwelling unit, plus one additional parking space for each bedroom in each dwelling unit in excess of two bedrooms. One additional stall must be provided for every five units in excess of five units for visitor parking (Sec. 26-220, 12B). The applicant is proposing 25 two-bedroom condominiums. Per city code 50 parking spaces are required for the residents and 4 spaces for visitors. The applicant is proposing to provide 50 on-site parking stalls. All parking spaces will be located within the building with 31 in an underground garage and 19 on the second floor. These numbers include two ADA compliant stalls in each parking area. The parking spaces will each be 8' x18' with access from a 24-foot wide two-way aisle within the structure. The minimum size requirements for residential parking areas are met. In addition, the applicant is proposing to add 11 on-street parking spaces along the south side of E 3rd Street, directly north of the building, and two on-street parking spaces along the west side of State Street next to the building. This would create 11 new public parking spaces for the downtown district, which more than accommodates the visitor parking requirements for the site. Access to the underground parking garage will be from the alley while access to the second floor parking garage will be from State Street. See cross-section illustration below. For safety both parking entrances will be equipped with audible and visual warnings when doors are in the open position. Mirrors will also be installed to help vehicles see passing pedestrians. Parking requirements are met for the 123 E. 3<sup>rd</sup> Street/305 State Street Building.



east/ west building section looking north through ramped parking access

As noted in the earlier parking analysis of 302 Main Street, there is concern from staff regarding the potential congestion in the alley. In addition to the drive-through, the entrance to the underground garage will be accessed from the alley. Previously, the alley was open to the parking area and drive-through for Wells Fargo, so traffic circulation was not as constrained as it will be with the proposed buildings. A common use for alleys in commercial areas is to provide a place for trucks to deliver goods to businesses so not to interrupt traffic flow on main streets. With commercial businesses like Pablo's Mexican Grill directly to the south of this site, this phenomenon occurs quite frequently at this location. The increase in the alley width with the no-build easement proposed by the applicant will allow two-way traffic along the north half of the alley, which will help to mitigate potential conflicts if the alley is blocked by delivery trucks on the southern portion of the alley. However, all future users of the alley will need to make an effort to be "good neighbors" to ensure that adequate traffic circulation is maintained.

Parking Impact Analysis: A parking study was recently completed for the downtown district by WGI. Since this project was under review by City staff, the City requested that the parking consultant provide a parking impact analysis for the project. This report is attached to this staff report. In the analysis, the consultant reports that at the seasonal peak demand hour during the holiday shopping season in mid-December, the proposed uses within the building may generate parking demand for approximately 82 parking spaces (93 parking spaces, if a restaurant locates in the larger space in the 123 E. 3<sup>rd</sup> Street/305 State Street building). While on these peak dates, the parking demand may exceed the 61 parking spaces provided for the proposed project, the report notes that the parking demand model projects maximum demand on the busiest days of the year, which may only happen a few times per year. The report also notes that the downtown parking study documented that "the existing River Place surface parking lot shows consistent parking availability during all times of the day and on weekends. The average parking availability in the River Place lot was 89 open parking spaces during the typical lunch period and an average of 60 spaces open during typical evening periods." The consultant concludes that there is sufficient developer-controlled private parking to support the proposed project on the former Wells Fargo site. In addition, the report notes that the net gain of 11 public parking spaces along 3<sup>rd</sup> and State Streets will benefit the entire area.

Staff notes that in addition to the private off-street parking in the area controlled by the developer, there are public parking lots and on-street parking in the downtown area that are intended to provide for the parking needs of the district. As shown in the larger parking study completed by the consultant, which has been posted on the City's website, there are currently a significant number of additional long-term parking spaces available even during peak times within 2 blocks of Main Street. As the City implements the recommendations of the parking study to more carefully manage the public parking, it will become more difficult for long term parkers, such as employees, to utilize the prime on-street parking spaces intended for customers. They will be more likely to take advantage of the free 24-hour parking located within 2 blocks of their workplace. Staff finds that the significant captive market benefits of additional employees and residents that will result from the development of these new buildings will be a significant benefit to the downtown area with little impact to parking availability.

- d) Open Space/Landscaping: There are no open green space requirements in the C-3 Commercial district. Although both buildings utilize the entirety of their site, both provide open roof spaces for tenant usage through both balconies and green roofs. In addition, the applicant will replace the three street trees along Main Street, add one tree along E 3rd Street, and replace one street tree along State Street. Open Space/Landscaping requirement satisfied.
- e) <u>Sidewalks/Recreational Accommodations:</u> With construction of the new buildings, it is anticipated that the alley and the public sidewalks will need to be reconstructed. The applicant will be responsible for replacing sections of the sidewalks and portions of the alley that are damaged due to construction of the site. Engineering plans for this work have been submitted with this proposal. The replacement of the sidewalk along Main Street and the addition of the public parking spaces along 3rd street will be coordinated with the City and will be consistent with the planned streetscape design for the area, including decorative paving and lighting. Reconstruction of 3<sup>rd</sup> Street is in the City's Capital Improvements Program and planned in 2020, so ideally street reconstruction will coincide with construction of the 123 E. 3<sup>rd</sup> Street/305 State Street building. Bike racks will be provided near the State Street entrance to the residential units of 123 E 3rd Street/305 State Street. **Sidewalk/Recreational Accommodations satisfied.**
- f) <u>Building Design</u>: Section 26-189(i), Central Business Overlay District requires a design review of various elements to ensure that the proposed improvements are architecturally compatibility with surrounding structures.
  - a) **Proportion:** "The relationship of width and height of the front elevations of adjacent buildings shall be considered in the construction or alteration of a building. An effort should be made to generally align horizontal elements along a street frontage, such as cornice lines, windows, awnings and canopies. The relationship of width and height of windows and doors of adjacent buildings shall be considered in the construction or alteration of a building. Particular attention must be given to the scale of street level doors, walls and windows. Blank walls at the street level are to be discouraged. Elements such as windows, doors, columns, pilasters, and changes in materials, artwork, or other architectural details that provide visual interest must be distributed across the façade in a manner consistent with the overall design of the building."

The C-3 Commercial District has a building height limitation of 165 feet or three times the width of the road the building faces, whichever is greater. 302 Main Street is proposed to be approximately 42 feet in height (at the tallest point) and 123 E 3rd Street/305 State Street is proposed to be 78 feet tall. **These buildings meet the height requirement of the C-3 Zoning District.** This property is also located within the Central Business Overlay Zoning District. The overlay district does not have a specific height limitation for buildings, but it does call for reviewing the scale of a proposed building in relation to nearby properties. Most of the buildings along the "parkade" are two or three stories in height. Recent buildings along State Street are 3 to 4-stories in height. The Hampton Inn under construction along 1<sup>st</sup> Street will be 6 stories in height.



West Elevation

302 Main Street is located along the historic spine of the downtown district. As shown in the illustration above, the building will be three stories tall with a portion of the building's third story, along Main Street, stepped back approximately 10 feet from the lower story façade. In keeping with traditional Main Street character, the corner of the block is anchored by a taller façade. The step back visually reduces the scale of the remainder of the façade along Main Street to two stories as the 3<sup>rd</sup> story will recede from view at the pedestrian level. The proposed design does an admirable job of aligning the horizontal elements along the Main Street frontage, with cornice lines and windows creating a consistent rhythm along the street frontage. The 3rd Street façade of this building will be three stories tall. This additional height will create a good transition to the taller building proposed at 123 E 3rd Street/305 State Street.

The proposed 123 E 3rd St/305 State Street building is a six-story building approximately 78 feet tall. To visually reduce the scale of the building, the applicant is proposing two stepbacks: a 10-foot stepback above the 2<sup>nd</sup> floor and another 10-foot stepback above the 5<sup>th</sup> floor. This technique is a common practice used to help taller buildings blend into street frontages with lower scale buildings. From a pedestrian perspective walking along 3<sup>rd</sup> or State Street (see perspective drawing one the next page), the floors



above the second story will recede from view, giving the general feel of a two-story building. The 6th floor of the building will be setback another 10 feet so that at street level (see image below), the 6<sup>th</sup> story will not be visible at all and even from a distance will recede from view. It should be noted that the step backs create the possibility for upper floor terraces that can become attractive outdoor amenities for building residents. This will be the tallest building in this area of the downtown. The next largest buildings being 401 Main Street and several of the other River Place buildings located further to the north along State Street. Although the proposed building will be taller than neighboring buildings, particularly the one-story veterinary clinic, which is a unique standalone building located to the south and setback from the street, the applicant has made efforts to align horizontal elements and visually reduce the height of the building with the upper floor step backs. Staff notes that with this new building, State Street will begin to fill in with a more consistent and attractive street wall with active storefronts, similar to Main Street, which will create a more pleasant and interesting place to walk and do business. Staff finds that overall the proposed building designs will create well proportioned and visually interesting street frontages. The proposed design meets the intent of the design standard for building proportion.



street view rendering along 3rd stree

- b) **Roof shape, pitch, and direction**: The similarity or compatibility of the shape, pitch, and direction of roofs in the immediate area shall be considered in the construction or alteration of a building.
  - Both proposed buildings are designed with flat roofs which are consistent with the existing downtown roof shapes, pitches, and directions. **The roof shape, pitch, and direction criterion is met.**
- c) Pattern: Alternating solid surfaces and openings (wall surface versus doors and windows) in the front facade, sides and rear of a building create a rhythm observable to viewers. This pattern of solid surfaces and openings shall be considered in the construction or alteration of a building.
  - The façades of both 302 Main Street and 123 E 3rd Street/305 State Street are designed with a pattern of alternating solid surfaces and window and door openings. The pattern of openings varies between the buildings storefronts from bay to bay to

create separate storefront identities. The street facing facades include raised and recessed portions of the facade wall to interrupt the massing of the wall. **The pattern criterion is met.** 

### d) Building Composition:

a. To create visual interest and visually break up long building walls, facades on buildings greater than 50 feet in length shall be divided vertically into bays. Façade bays shall be a minimum of 20 feet wide and a maximum 40 feet wide. The bays shall be distinctive but tied visually together by a rhythm of repeating vertical elements, such as window groupings, pilasters, window bays, balconies, changes in building materials and textures, and/or by varying the wall plane of the façade.

Both 302 Main Street and 123 E 3rd Street/305 State Street have divided their facades into discernible bays according to the code standards. The repeating rhythm of the storefront bays is particularly attractive and is consistent with the predominant mainstreet character of downtown. The upper floor windows align but create a distinctive pattern within each module across the façade. The change in materials and colors helps to further define the bays.







North Elevation (along E 3rd St) – 302 Main St



North Elevation (along E 3rd St) - 123 E 3rd St



East Elevation (along State St)  $-123 \text{ E } 3^{\text{rd}} \text{ St.}$ 

The building proposed at 123 E 3<sup>rd</sup> Street/305 State Street also has distinguishable bays. The storefront bays are generally wider than the Main Street building, but seem appropriately scaled for this larger building. Staff finds that the modulation of the base of the building coincides well with the modulation in the upper floor facades, giving the building a very symmetrical feel with the cream-colored center bay a bit narrower with equal width bays on either side. The upper floor balconies align vertically with the changes in wall plane along the base of the building. Staff notes that the westernmost

bay located along the alley is narrower than the required 20 feet, but creates a bay of similar width to match the attractive chamfered (angled) corner on the northeast corner of the building. If changed, the symmetry would be lost, so staff finds that this minor variation from the standard is appropriate to the design of the building.

For both buildings the storefront level is distinguished from the upper floors by various horizontal elements, including canopies, horizontal banding, and other architectural elements. In addition, the floor-to-structural ceiling heights of the ground-level floors of both buildings meet the minimum 14-foot requirement.

Based on all these factors, staff finds the building composition criteria are met for both buildings.

e) Windows and Transparency: The size, proportion, and type of windows need to be compatible with existing neighboring buildings. A minimum of 70% of the storefront area between 2 and 10 feet in height above the adjacent ground level shall consist of clear and transparent storefront windows and doors that allow views into the interior of the store. The bottom of storefront windows shall be no more than 2 feet above the adjacent ground level, except along sloping sites, where this standard shall be met to the extent possible so that views into the interior of the store are maximized and blank walls are avoided. Exceptions may be allowed for buildings on corner lots where window coverage should be concentrated at the corner, but may be reduced along the secondary street façade, and for repurposing of buildings not originally designed as storefront buildings (e.g. re-purposing of an industrial or institutional building). Transom windows are encouraged above storefront display windows. Glazing should be clear and transparent.

73% of the storefront level of the Main Street façade of the proposed buildings at 302 Main Street will be comprised of clear and transparent glass, in a traditional storefront configuration with a short knee wall and large display windows and transom windows above. On the 3<sup>rd</sup> Street side of the building, the storefront window coverage is 60%, which is short of the 70% requirement. However, other than the stair and elevator towers, the glazed storefront area is maximized along this secondary façade.

Therefore, staff finds that the criterion is met.

On the proposed building at 123 E. 3<sup>rd</sup> Street/305 State Street, 72% of the storefront level of the building is comprised of clear and transparent glass. The windows are in a modern storefront window configuration that extends all the way to the base of the building with large display windows and transom windows above. **The criterion is met.** 

f) Materials and texture: The similarity or compatibility of existing materials and texture on the exterior walls and roofs of the buildings in the immediate area shall be considered in the construction or alteration of a building. A building or alteration will be considered compatible if the materials and texture used are appropriate in the context of other buildings in the immediate area. Street-facing facades shall be comprised of at least 50% brick, stone, or terra cotta. Side and rear walls shall be comprised of at least 25% brick, stone, or terra cotta. These high quality materials should be concentrated on the base of the building.

The solid portion (not including window area) of the street-facing facades of the proposed building at 302 Main Street is comprised almost entirely of brick and limestone, with the storefront insets comprised of metal and clear and transparent glass. On the alley side of the building, the majority of the solid area of the façade is comprised of brick and the remainder with metal panels. **Criterion is met.** 

54.4% of the solid portion of the 3<sup>rd</sup> Street side and 53% of the State Street façade of the proposed building at 123 E. 3<sup>rd</sup> Street/305 State Street will be comprised of terracotta (two colors) and limestone panels. These materials are concentrated on the base of the building, although a significant portion of the upper floor façade (not including the windows) will be black terracotta. The remainder of the upper stories will be clad in dark gray metal panels and lighter colored wood panels. The alley side of this building will be 25% terracotta. This higher quality material will be concentrated at the corner of 3<sup>rd</sup> Street and the alley, which is the most visible portion of that façade. The upper floors will be largely glass surrounded by wood and metal panels. The visible portion of the south side of the building will be comprised of terracotta panels that wrap the corner. The remainder will be concrete, which will provide the "canvas" for a future painted mural (see below). **Criterion is met, provided the proposal for a mural on the south side of the building is approved.** 

g) **Color**: The similarity or compatibility of existing colors of exterior walls and roofs of buildings in the area shall be considered in the construction or alteration of a building. Buildings in the CBD utilize earth and neutral tones; however, other colors can highlight the architectural features of a building and are acceptable as accents. Accents generally include trim areas and comprise up to 15% of the façade.

Both buildings utilize a variety of earth and neutral colors to create a visually interesting façade that is consistent with the colors found in downtown Cedar Falls. **Criterion is met**.

h) Architectural features: Architectural features, including but not limited to, cornices, entablatures, doors, windows, shutters, and fanlights, prevailing in the immediate area, shall be considered in the construction or alteration of a building. It is not intended that the details of existing buildings be duplicated precisely, but those features should be regarded as suggestive of the extent, nature, and scale of details that would be appropriate on new buildings or alterations.

The proposed buildings are more modern in design with fewer architectural embellishments than some of the more distinctive historic facades in the district. However, there are architectural elements that provide visual relief and interest to the building facades, including raised cornices, variation in brick pattern, variation in material textures, decorative metal elements, and distinctive horizontal banding. **Staff finds that the criterion is met.** 

### i) Building Entries:

(i) Primary entries to ground floor building space and to common lobbies accessing upper floor building space shall be located along street-facing facades. For buildings with more than one street-facing façade, entries along facades facing primary streets are preferred. Building entries along rear and side facades or from parking garages

may not serve as principal building entries. Buildings with more than three street-facing facades shall have building entries on at least two street-facing sides. There are numerous building entries to the storefront commercial spaces located along the street-facing facades of both buildings. The primary entrances for the 302 Main Street building are located along and oriented toward Main Street. Additional entrances are located along 3<sup>rd</sup> Street that provide access to stair and elevator towers for the building. There are also multiple storefront entrances proposed for the building at 123 E. 3<sup>rd</sup> Street/305 State Street along both 3<sup>rd</sup> Street and State Street. **Criterion is met.** 

- (ii) For buildings that contain residential dwelling units, there must be at least one main entrance on the street-facing façade that provides pedestrian access to dwelling units within the building. Access to dwelling units must not be solely through a parking garage or from a rear or side entrance. The building at 123 E. 3<sup>rd</sup> Street/305 State Street contains upper floor residential dwellings. The main entrance to the lobby that accesses the upper floor dwelling units is located on State Street.
- (ii) For storefronts with frontage of 100 feet or more, a visible entryway shall be provided a minimum of every 50 feet. Both buildings have frontages greater than 100 feet. There are visible entrances for both buildings at least every 50 feet along Main Street, 3<sup>rd</sup> Street, and along State Street. **Criterion is me**t.
- (iii) Entryways into a storefront will be at grade with the fronting sidewalks. All building entries are at grade. **Criterion is met.**
- (iv) Entryways shall be designed to be a prominent feature of the building. The use of architectural features such as awnings, canopies, and recessed entries are encouraged. Most of the building entries for both buildings are distinguished by and sheltered by flat canopies. A number of the entries are recessed. Staff finds that building entries along street-facing facades are designed to be prominent features of the façade. **Criterion is met.**
- j) Exterior mural wall drawings, painted artwork, exterior painting: These elements shall be reviewed to consider the scale, context, coloration and appropriateness of the proposal in relation to nearby facades and also in relation to the prevailing character of the downtown area.

An area of the south façade of the building at 123 E. 3<sup>rd</sup> Street/305 State Street will be visible, since the veterinary clinic is setback from the sidewalk with the street-fronting surface parking lot. As this wall is located on the lot line, window openings are not allowed due to Building Code requirements. To create a more visually



interesting façade, the applicant is proposing to commission an artist to paint a mural in this location. This will be a unique feature of the building. The Development Agreement will establish a reasonable timetable for completion of the mural after the building is constructed. Once the developer has chosen a mural design it will need to be reviewed and approved by the Planning & Zoning Commission and City Council prior to installation.

- g) **Trash Dumpsters**: Due to the changed drive-through layout, 302 Main Street and 123 E 3rd Street/305 State Street will share a dumpster and recycling area which is recessed within the 123 E 3rd Street/305 State Street building walls along the alley. For the residential tenants of the 123 E. 3<sup>rd</sup> Street/305 State Street building, access to the dumpster will be provided from the main elevator lobby. It appears that other tenants of both the 302 Main Street building and the 123 E. 3<sup>rd</sup> Street/305 State Street building will have to transport waste around the building to the alley. This may be problematic and staff encourages the developer to consider internal circulation options for all the commercial tenant spaces to the alley. The Development Agreement will have a clause noting the shared dumpster and recycling area.
- h) **Storm Water Management**: A preliminary storm water report for both buildings has been submitted and reviewed by the City's Engineering Division. While detention is not required, water quality requirements apply. The proposal is to install one or more hydrodynamic separators to filter the stormwater prior to release into the City storm sewer. The final stormwater management plan and design may integrate green roof water quality practices in addition to mechanical water quality treatment units to satisfy water quality volume according to code requirements. If it is determined that the green roof features are not included or are designed primarily for aesthetics, the final mechanical units will be sized to address all water quality requirements per code. The final stormwater quality plans will be required prior to issuance of building permits.
- i) **Signage**: Wall signs shall not exceed 10% of the total wall area, and in no case shall exceed 10% of the area of the storefront. Wall signs on storefronts shall not extend beyond or above an existing sign band or extend over or detract from the architectural features of the building facade, such as cornices, pilasters, transoms, window trim, and similar.
  - Placeholders for wall signs for future tenants in both proposed buildings are included on the attached building elevation drawings. The percentages and locations meet the requirements listed above. Permits will be required prior to installation. **Criterion met.**
  - j) Utility Easement Vacation: The proposed site plan shows the transformer for this site being relocated on the east side of the 302 Main Street building tucked into the drivethrough area. The utility easement where the transformer was located, on the west side of the alley, will be vacated. After review by CFU, to meet code requirements, the applicant has recessed the second and third floors above the drive-through area by seven feet. This ensures that the area above the transformer is left open, with no building above. This change does not affect the appearance of the building's façade along E 3rd Street.

#### TECHNICAL COMMENTS

City technical staff, including Cedar Falls Utilities (CFU) personnel, has reviewed the proposed site plans. All technical comments have been addressed.

#### STAFF RECOMMENDATION

The Planning and Zoning Commission and City Staff recommend approval of the proposed site plan and building designs for 302 Main Street and 123 E 3rd Street/305 State Street. Subject to the following conditions:

- 1. To meet the requirements of Section 26-189(i)(6), materials and texture, a mural will be installed on the south wall of the 123 E 3rd Street/305 State Street. A timeline for installation to be determined prior to issuance of the building permit.
- 2. Since different uses have different drive-through stacking requirements, if the use utilizing the drive-through in the 302 Main Street building changes from a financial institution, the drive-through shall be discontinued unless subsequently approved for the new use by City Council.
- 3. The City reserves the right to impose additional conditions or modifications to the drivethrough, such as time restrictions, additional signage, or design modifications, if it is determined by the City that the traffic congestion from the drive-through is causing a safety hazard within the public right-of-way.
- 4. A shared use agreement for the trash/recycling facilities, to be located as indicated on the site plan, shall be established prior to the issuance of an occupancy permit for the first building constructed on the site.
- 5. Installation of streetscape improvements according to the City's adopted streetscape plan.

#### PLANNING & ZONING COMMISSION

and Discussion 3/13/2019

Introduction Acting Chair Leeper introduced the item and Ms. Howard provided background information. She noted that the applicant has worked with staff to meet the recently adopted downtown design standards in the code and has met twice with the Community Main Street Design Committee review and also participated in a conference call with the Iowa Main Street office regarding the design. She noted that the applicant had refined the design based on the input received from staff and from Community Main Street. Ms. Howard described the uses and parking proposed for the new buildings at 302 Main Street and 123 E. 3rd Street. She noted that the building proposed for 302 Main Street will be three stories tall, have 1st floor retail space and two floors of office. The proposed building at 123 E. 3rd Street will be a 6-story building with underground parking accessed from the alley, 1st floor retail space, 2nd floor parking and office, and 4 floors of residential condominiums. The building will have 50 structured parking spaces, which satisfies the parking requirement for 2 parking spaces per dwelling unit. Eleven additional on-street public parking spaces will be created for visitor parking. Howard also summarized the parking impact analysis completed by WGI, the parking consultant. WGI concluded in their report that there will be sufficient developer-controlled private parking to serve all the proposed uses in the two buildings and that the 11 additional on-street parking spaces will benefit the entire area.

> Ms. Howard discussed other requirements including open space/landscaping. sidewalks and streetscape, as well as the proposed drive-through. She covered staff concerns regarding additional traffic in the alley and potential mitigation options and additional conditions to be added to the Development Agreement. She also showed images of the proposed building and spoke to the design standards, including building height and how the upper floor stepbacks would

help to visually reduce the perceived height from a pedestrian perspective. She described how the proposed building designs meet the design standard in the code for building proportion.

Ms. Howard provided building composition details and provided drawings of the proposed layout for each building. She discussed design standards, the proposed colors, architectural features, and building entries. Requirements for trash dumpsters, stormwater management, signage and utility easement vacations have been considered and will be met. Staff recommends review and discussion of the site plan and continuation to the March 27 meeting for final review.

Taylor Morris, Eagle View Partners, 200 State Street is the project manager. He read a statement describing the project and the demand for the mixed use buildings. He noted that previously the area has catered to millennials, but he noted there is a significant demand for for-sale units by the 50+ age population, which they are trying to meet with the proposed building.

Tim Schilling, 3434 Tucson Drive, stated that he has no issues with the mix of the buildings, but he feels the building is too tall. He feels it will not be within the character of downtown and the residential use will take up too many parking spaces.

Jenny Bagenstos, 220 Main Street, the owner of Here's What's Poppin, stated her concern with the office uses creating parking issues. She believes that employees will use the parking spaces for long periods of time preventing customers from parking.

Ivan Wieland, 2216 W. 3rd Street, noted his parking concerns in the area, as well as his belief that this kind of building doesn't fit downtown. He feels that it doesn't have the small town feel that has always been in that area.

Chad Smith, Taylor Veterinary Hospital, thanked the Commission for hearing his concerns. He noted his concerns with the parking issues that will be created. He explained that there are already problems with people parking in their parking lot, which makes it difficult for clients to get their pets into the office. He also noted issues with pet elimination as there will not be adequate space. He doesn't feel the building blends in with the surrounding buildings and it will be forcing out non-traditional buildings. He stated his desire to have input on the mural that is proposed for the south side of the building since it will be highly visible from their property.

Ms. Oberle asked Ms. Howard to speak to the parking study and address questions regarding business use and how it plays into the calculations for retail versus residential space. Ms. Howard stated that there is no parking requirement downtown for commercial uses, however the parking consultant used a compilation of other parking studies to estimate parking demand from both the commercial and residential uses proposed in the building. They used shared factors for downtown locations to estimate the maximum amount at peak times. They also studied the existing River Place private parking lots during different

times and different days to determine how much parking is available that could help serve the needs for commercial tenants of the new buildings. Ms. Giarusso asked if the study provided for the current buildings on State Street as well as this proposed building. Ms. Howard stated that it was considered. Mr. Leeper asked about the timing for the proposed changes with the parking study. Ms. Howard summarized a number of the recommendations from the parking study in the short term. She noted that all the parking consultant's recommendations and the final study report is available on the City's website. She noted that one of the recommendations was to add on-street parking spaces wherever possible downtown in the near future. A primary recommendation is also to make arrangements with private lot owners for sharing their lots in the evening. There are currently discussions are in the works, but will depend on the private owners. There will also be increased enforcement in public lots, which will be metered and also provide opportunities for long term parkers to purchase permits.

Acting Chair Leeper expressed concerns with the potential drive through and the stacking space requirements. Mr. Wingert stated that he has the same concerns. He feels it is a beautiful building but thinks that there will be traffic issues with the drive through. Ms. Howard discussed the compromise made for the current plan and that staff is also concerned and will include provisions in the Development Agreement that would allow the City to impose additional conditions or modifications to the drive through in the future if it causes traffic circulation or safety issues.

Mr. Wingert asked if there is a system in place for parking for the office spaces. Mr. Morris stated that they have extra parking in their existing River Place lot and would offer permits for business owners and employees. There are also requirements in the commercial and residential leases that specify that tenants should park in their provided parking lot. There was further, brief discussion regarding drive through and the parking issues. The item was continued to the March 27, 2019 meeting.

Discussion and Vote 3/27/2019

Chair Holst introduced the item and Ms. Lehmann provided background information. She explained that the proposal is to build two new mixed-use buildings at the former Wells Fargo site located at the intersection of East 3rd Street and Main Street, as well as the East 3rd Street and State Street intersection. As the project is located in the Central Business District Overlay, the project requires Commission and Council review and approval. The item was introduced at the last Planning and Zoning meeting.

Ms. Lehmann recapped that two new buildings are being proposed, one on each side of the alley. The building at 302 Main Street is a proposed three-story building with commercial and office on the main floor and office space on the second floor. The building at 123 E. 3rd Street is a proposed six-story building with underground parking, commercial on the first floor, office space and parking on the second floor, and residential on the third through sixth floors. The buildings meet the C-3 Zoning requirements, including setbacks, open space/landscaping, and sidewalks/streetscape. Ms. Lehmann also discussed the parking requirements and the parking proposed by the developer, noting that the proposal

meets and exceeds those requirements. A parking Impact Analysis was done by WGI and it was found that there is sufficient developer controlled private parking to support the project.

Ms. Lehmann reviewed the proposed drive-through in the alley for a financial institution at 302 Main Street. The applicant has provided a four foot setback with a no build easement to allow for two-way traffic circulation. Staff is still concerned with the potential traffic issues from the buildings. To address staff concerns, the applicant agreed to include conditions regarding the drive-through in the Development Agreement to allow the City to impose additional modifications to the drive-through if issues arise. There is also an understanding that the drive-through will be discontinued if there is a change of use, unless reviewed and approved by the Planning and Zoning Commission and City Council.

Ms. Lehmann discussed the proportion of the buildings as well as the proposed stepbacks that were included in the designs to visually reduce the heights of the buildings. She displayed renderings of the proposed buildings to show how they relate to the existing fabric of the downtown. Staff feels that the proposed design creates well-proportioned and visually interesting buildings that meet the intent of the design standards for building proportion. Ms. Lehmann summarized the other design standards and noted that they have all been met. Staff recommends approval of both buildings.

Mark Kittrell, Eagle View Partners, spoke on behalf of the project and thanked Community Main Street for their input and the Commission and the community for all their work. Mr. Leeper stated that he believes this is a good community project. Mr. Wingert asked how Community Main Street feels about this project. Ty Kimble stated that he believes that the Community Main Street Board is behind economic development and are conscious of comments made by the Commission, developers and the citizens. Mr. Wingert asked if he personally feels there is enough parking and Mr. Kimble stated he does.

Mr. Holst commented on the parking concerns and noted that it seems that everything is in compliance with the Ordinances. Ms. Giarusso also voiced her thoughts on the parking issues noting that she feels that existing customers and clients need to be protected and ensured parking. Ms. Howard stated that the parking impact study took into account the existing private parking area at River Place and noted that the parking study indicated that the residential parking requirement in the zoning code over-prescribes parking for the residents, so there is considerable available parking that can then be utilized by the commercial tenants (owners and employees) within the proposed buildings.

Ms. Saul asked about future parking concerns. She stated that she loves the project but is concerned about other potential projects down the road that may not be required to provide parking and won't have other private spots to offer. She asked what would happen at that time. Ms. Howard stated that the parking study was done to look at short-term and long term-parking concerns and solutions. This will include a partnership between the City and the stakeholders in the downtown area. Ms. Saul asked about the proposed agreements with

business owners to share private parking spaces. Ms. Howard stated that working with private property owners would provide additional parking during evening peak times, but is not considered a long term permanent solution for more public parking in the downtown area. Ms. Saul asked about the long-term solutions to ensure that there is enough parking to support current retail and commercial businesses. Ms. Howard stated that these are important questions, but are a separate topic for discussion than the item on the agenda, which is site plan review for the River Place II development. She asked the Commission if they would like an informational session to be added to a future agenda regarding the parking study results and recommendations. She also noted that the parking study and recommendations are posted on the City's website for review. The Commission in general agreed that that would be helpful to have a presentation and informal discussion at a future meeting.

Chair Holst asked about storm water quality management requirements. Ms. Howard stated that the plan is to install hydrodynamic separators to filter the water before it gets to the storm sewer.

Mr. Wingert asked about the total office space that is being proposed. Ms. Lehmann stated that there is approximately 20,000 square feet proposed. Wingert noted that his parking concerns are with the office spaces as the employees will be parked for the majority of the day. Kayla Toale, Products and Services Director at Eagle View Partners, shared the tenant parking policies that would be in place and showed examples of the parking passes that would be used.

Mr. Larson noted that he shared the concern with the office spaces and parking requirements, but that he felt those concerns were addressed. He also shared concerns with the alley and the drive through. Ms. Howard said that if this project were approved, part of the agreement will be to add signage to the alley to help navigate traffic. She also noted that many of the traffic congestion concerns will be addressed by making the north portion of the alley two way which creates alternative traffic flow options. Mr. Leeper added that he is also concerned with the drive through and what happens if the setup doesn't work. He stated that he would like to see language in the Development Agreement that will allow for the City to make adjustments if it doesn't work. Jesse Lizer with Emergent Architecture, spoke to the information used in creating the drive-through.

Mr. Wingert asked who patrols and enforces the stickers that will be used in the lots. Ms. Toale explained that their maintenance staff patrols all of River Place's parking lots and they have tickets that they issue for improper parking.

Ms. Saul made a motion to approve. Mr. Wingert seconded the motion. The motion was approved unanimously with 8 ayes (Adkins, Giarusso, Hartley, Holst, Larson, Leeper, Saul and Wingert), and 0 nays.









site plan existing public parking



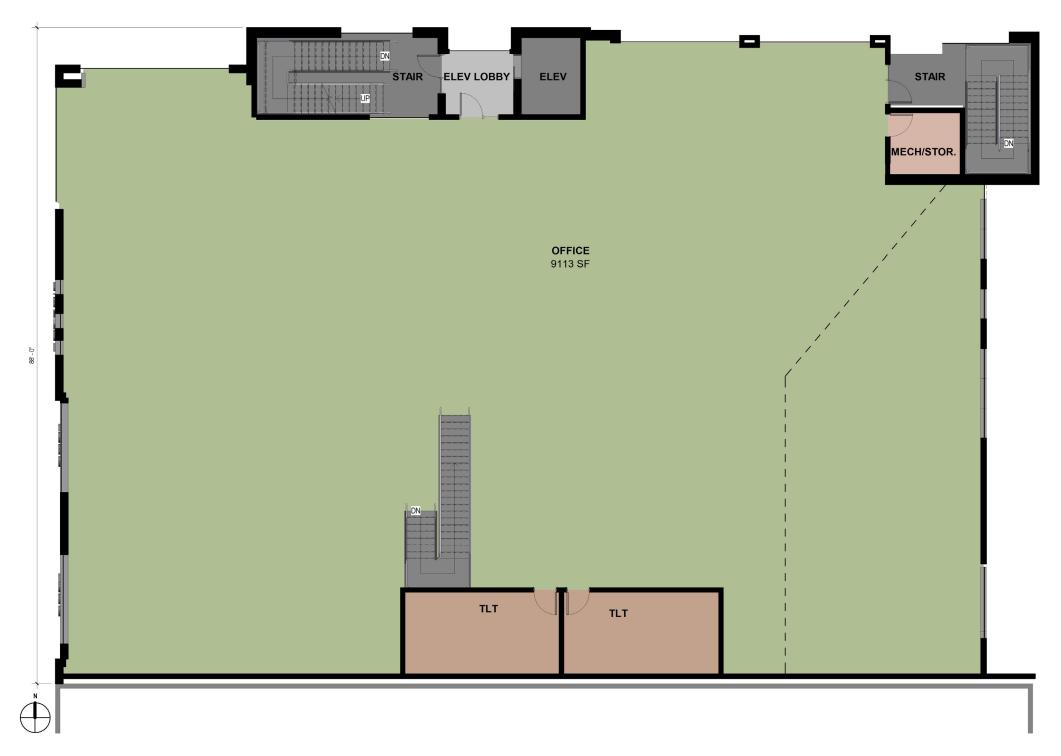


site plan proposed public parking





ground floor retail and commercial - 9,039 SF



second floor commercial - 10,870 SF





third floor commercial - 7,800 SF

## 3rd Street Facade

-Glazed Area: 2,837 SF (50%)

1st Floor glazing: Not less than 75% VTE

2nd & 3rd Floor glazing: Not less than 45% VTE

-Signage - 5.4% of total wall surface

-Clear and Transparent Store front on first floor: 62%

-Solid Area: 2,824 SF (50%)

Lime Stone: 24%

Brick: 22%

Metal Panel: 4%



Facebrick, final selection TBD



north elevation with heights



## Main Street Facade

-Glazed Area: 1,712 SF (49%)

1st Floor glazing: Not less than 75% VTE

2nd & 3rd Floor glazing: Not less than 45% VTE

-Solid Area: 1,638 SF (51%)

Lime Stone: 19%

Brick: 31%

Metal Panel: 1%

-Signage - 4.7% of total wall surface

-Clear and Transparent Store

front on first floor: 73%



Limestone, final selection TBD



west elevation with heights



## Alley Facade

-Glazed Area: 505 SF (14%)

1st Floor glazing: Not less than 75% VTE

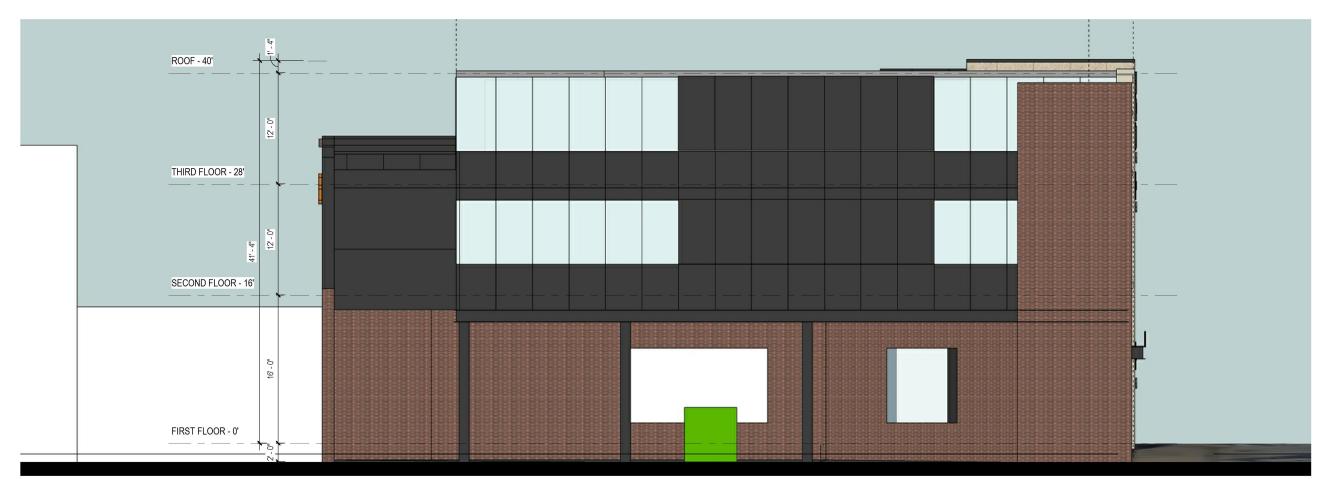
2nd & 3rd Floor glazing: Not less than 45% VTE

-Solid Area: 2,898 SF (86%)

Lime Stone: 2%

Brick: 51% Metal Panel: 34%

Metal Panels, final selection TBD



## east elevation with heights

dumpster enclosure: buff CMU wall 8'-O" high. Black bi-parting sliding doors on the front.





north elevation with material designations





concept rendering from corner of Main and 3rd Street







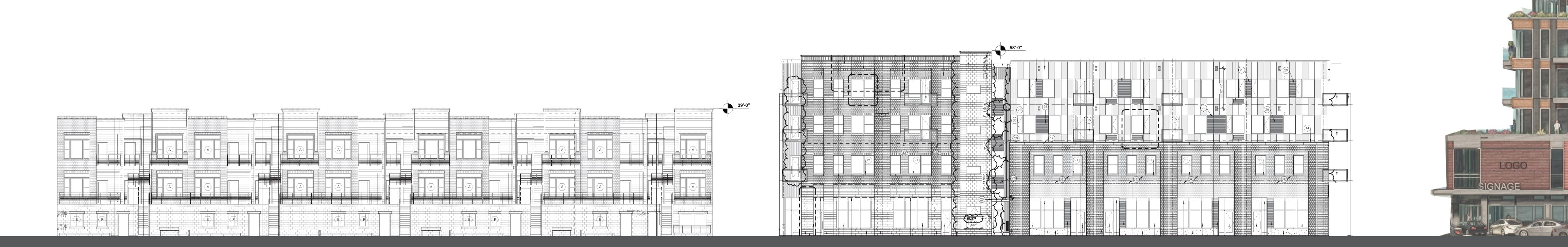
Main Street context







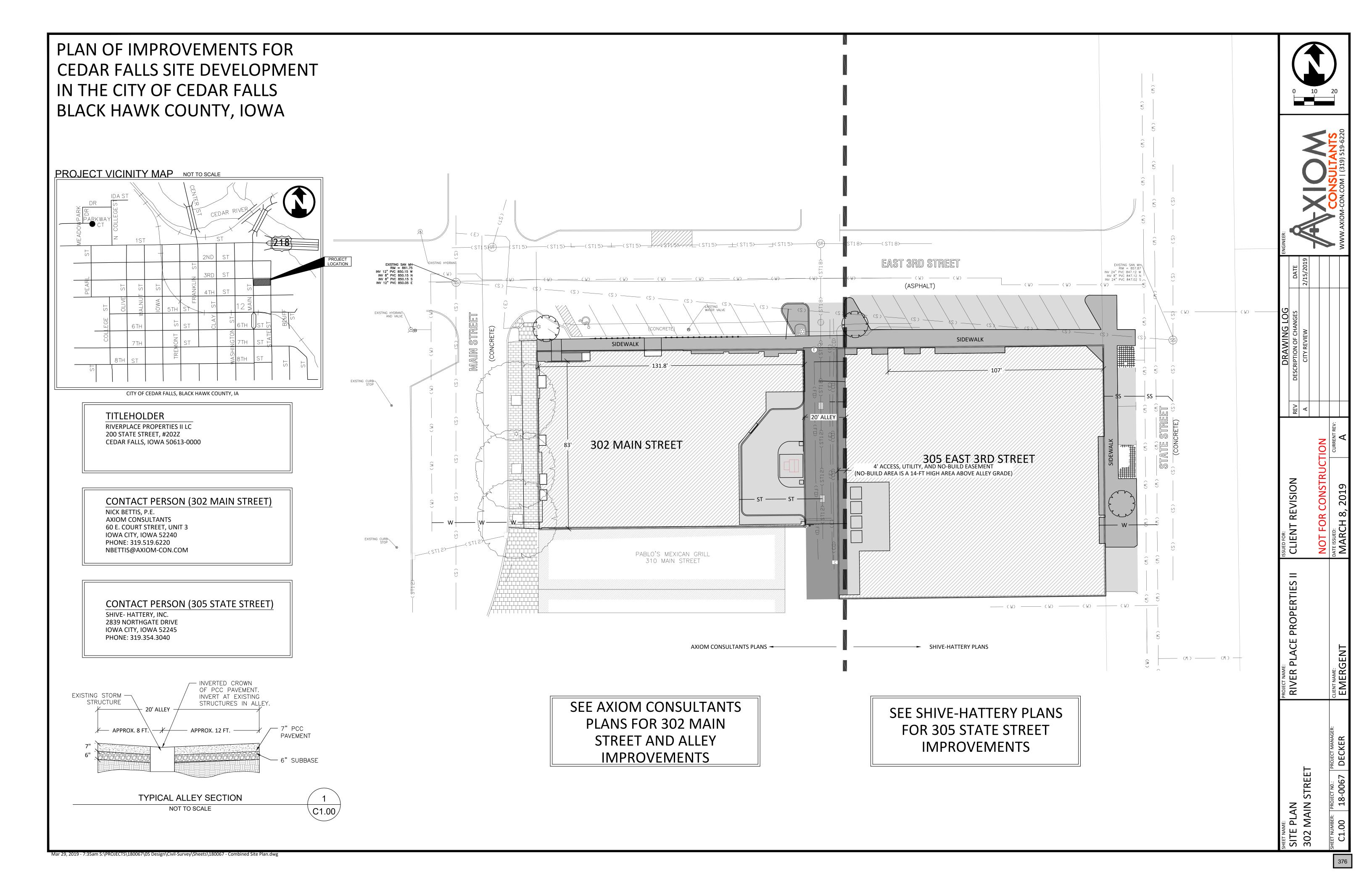
Main Street context

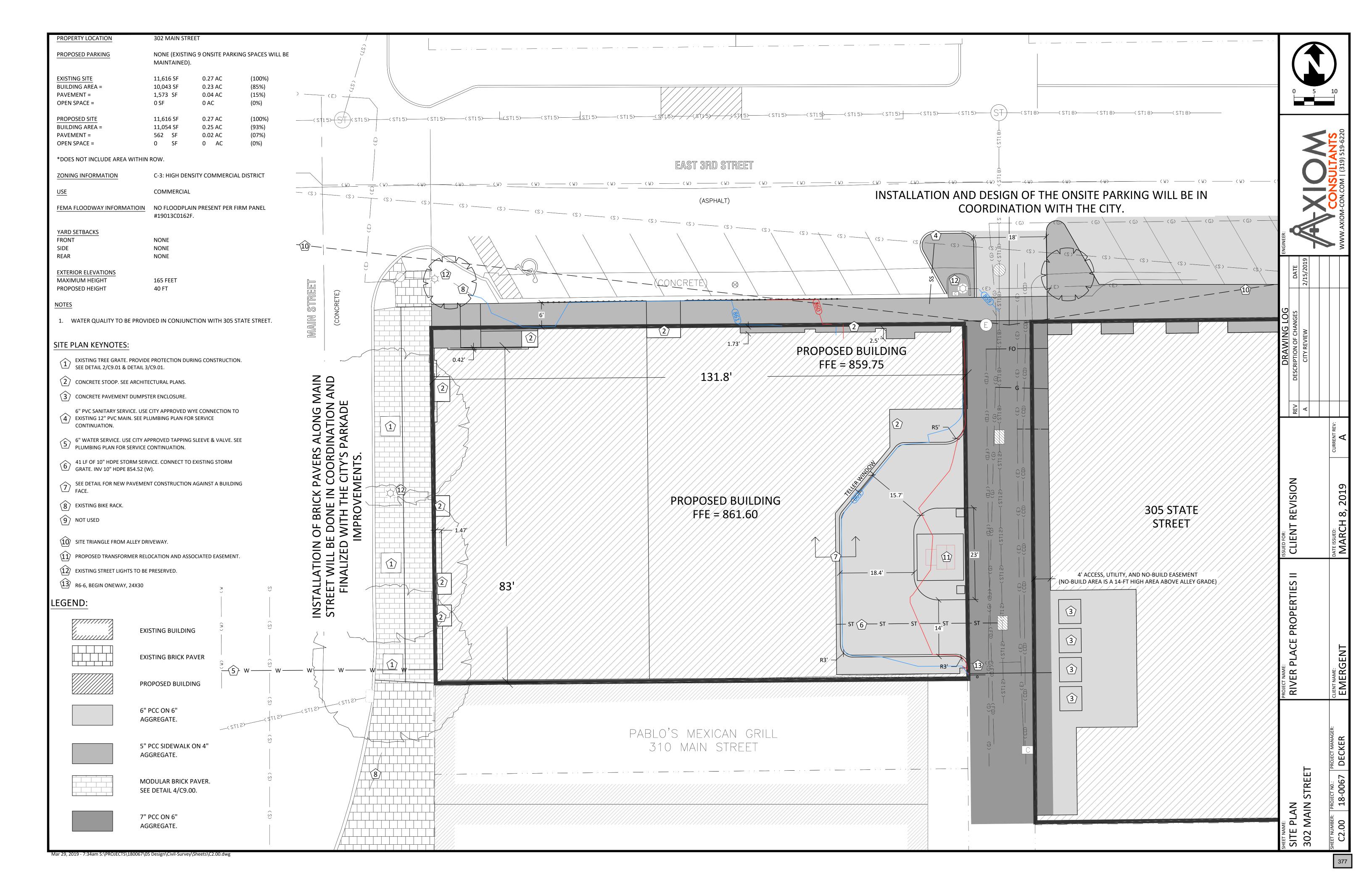


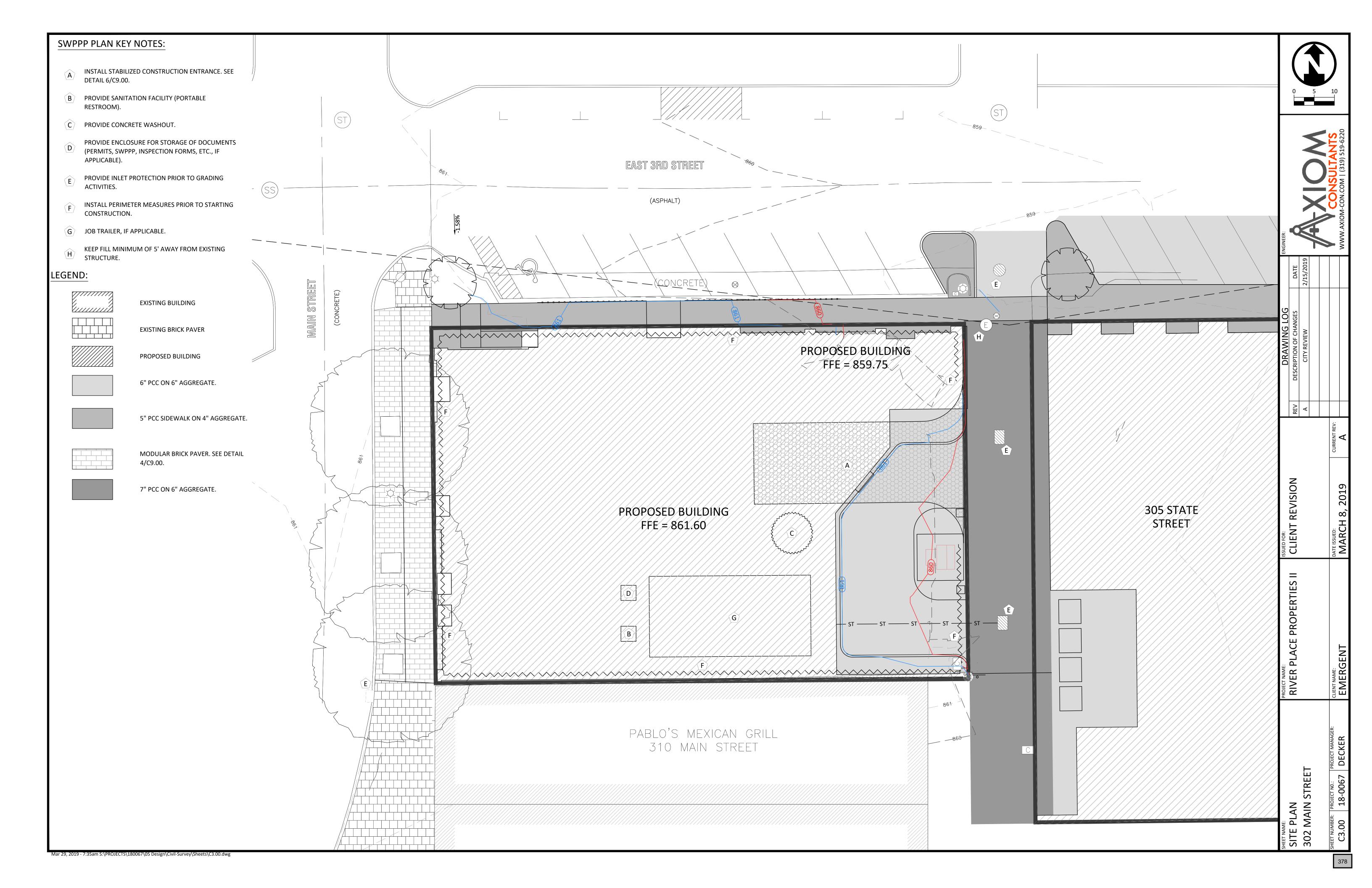


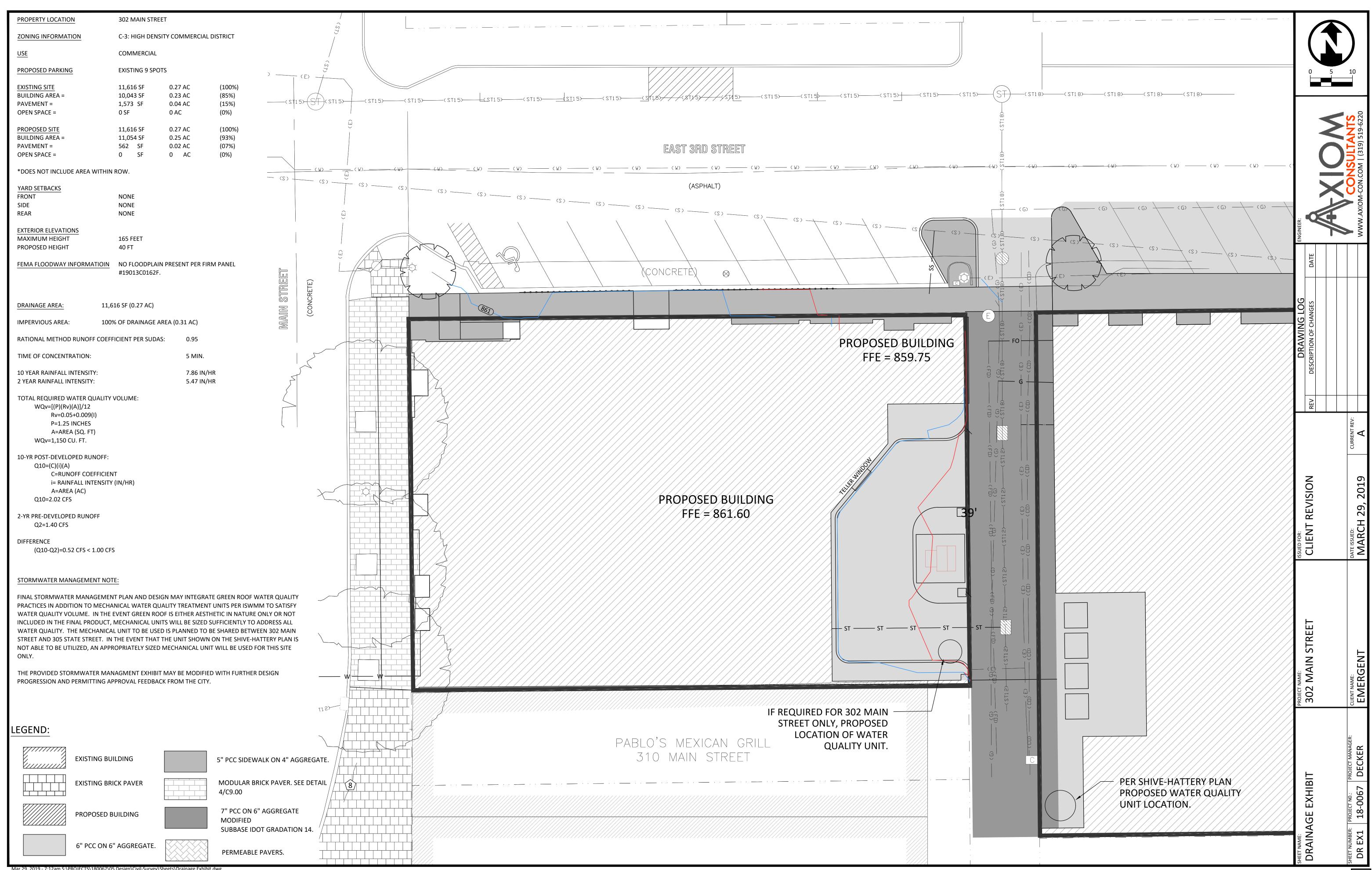


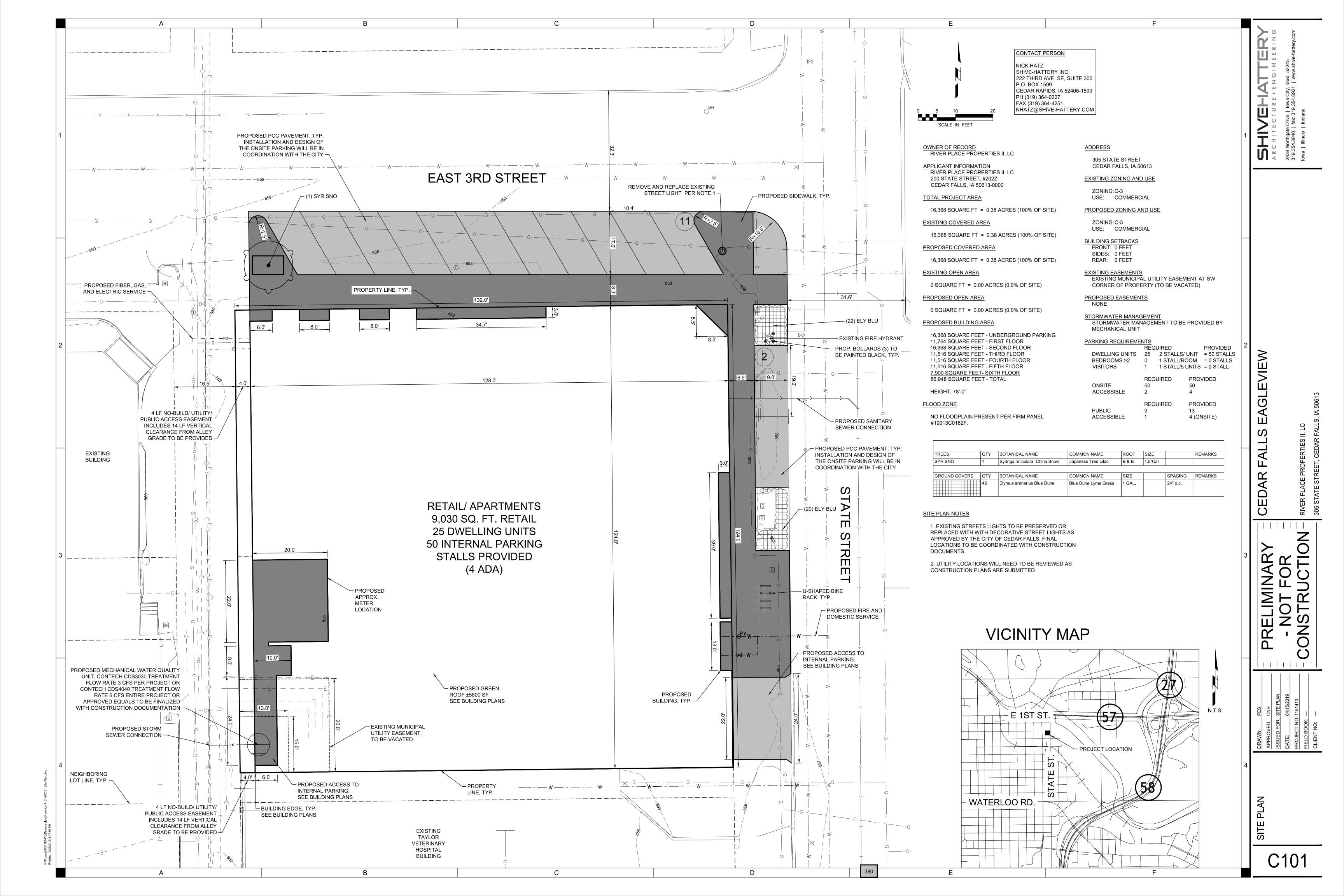








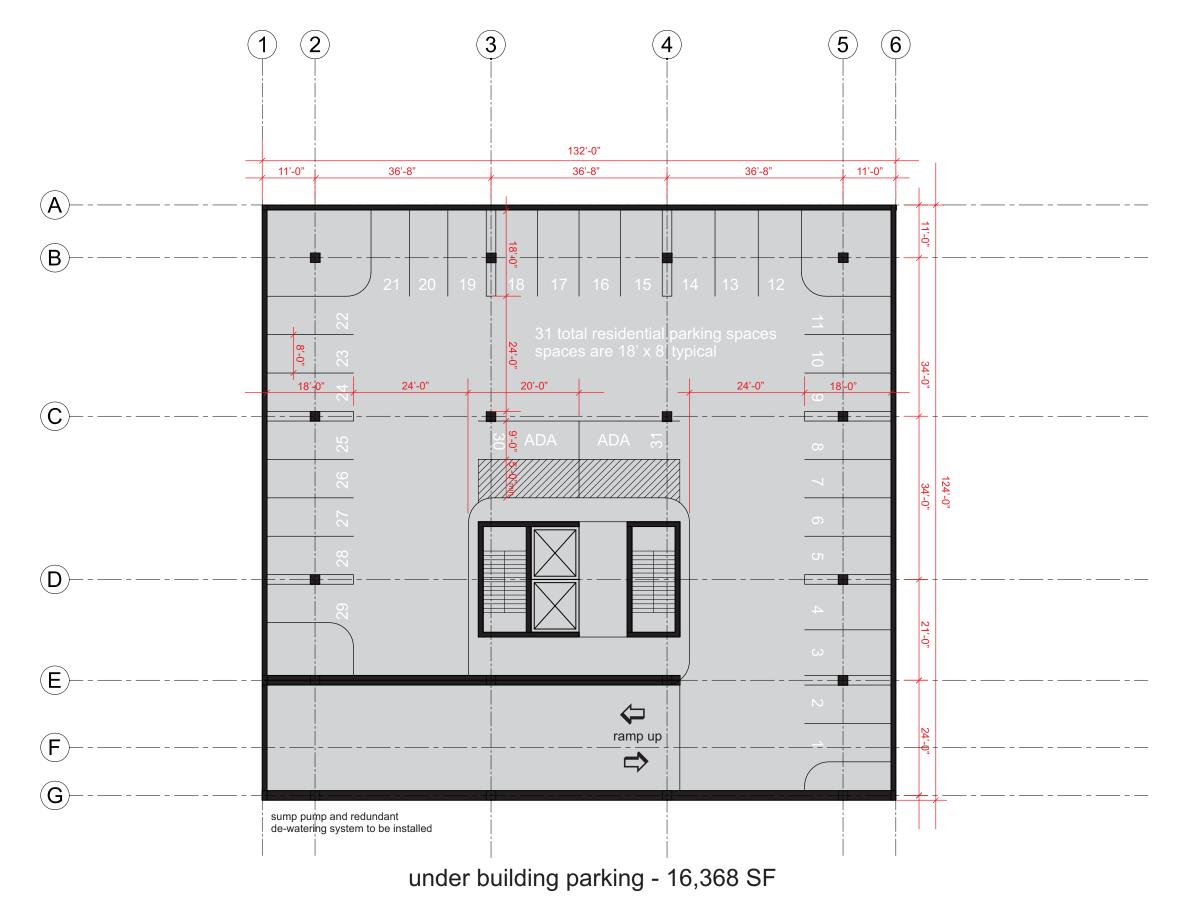


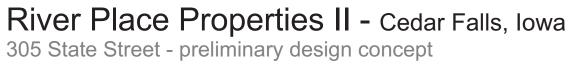




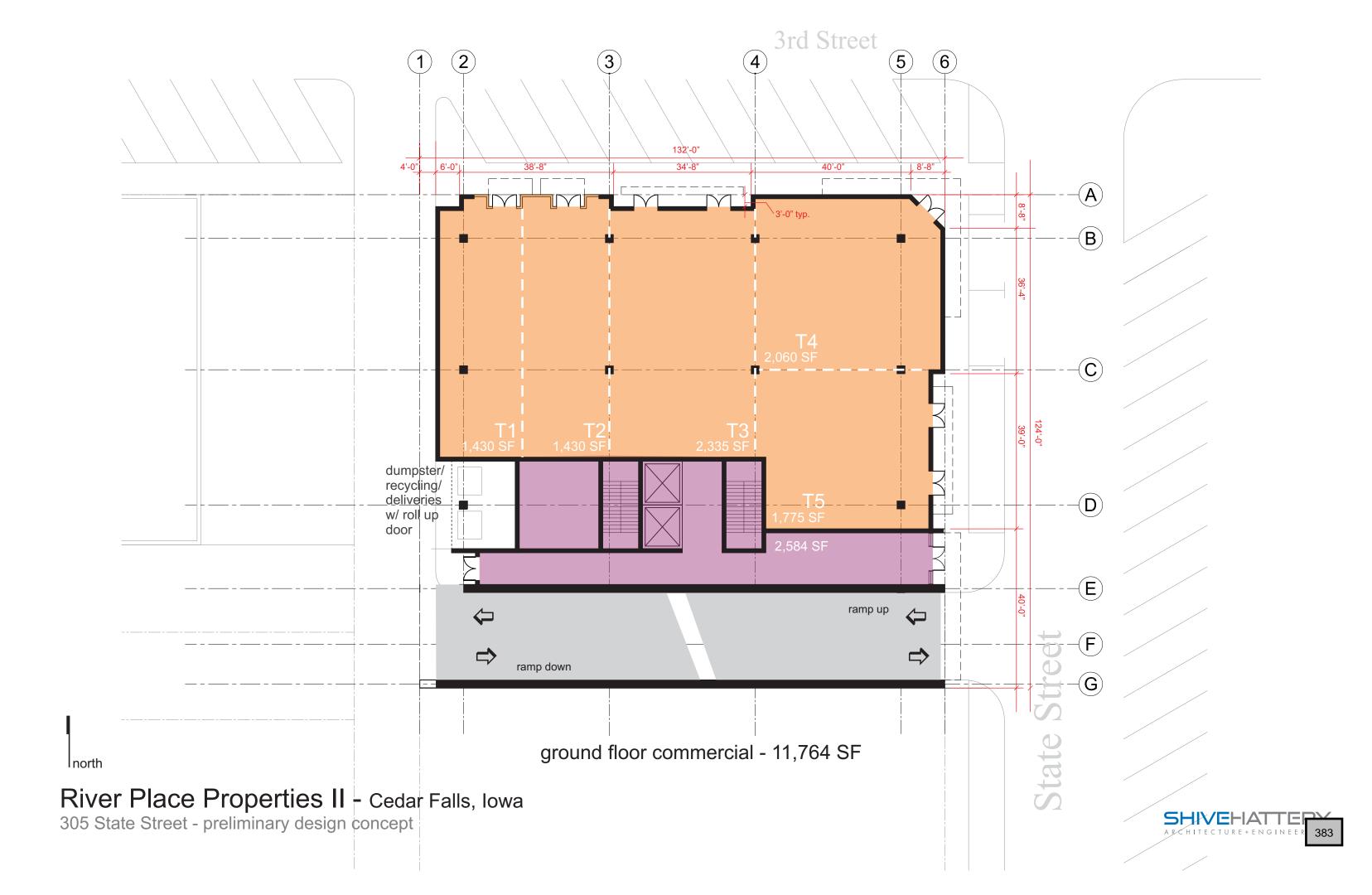
River Place Properties II - Cedar Falls, Iowa 305 State Street - preliminary design concept

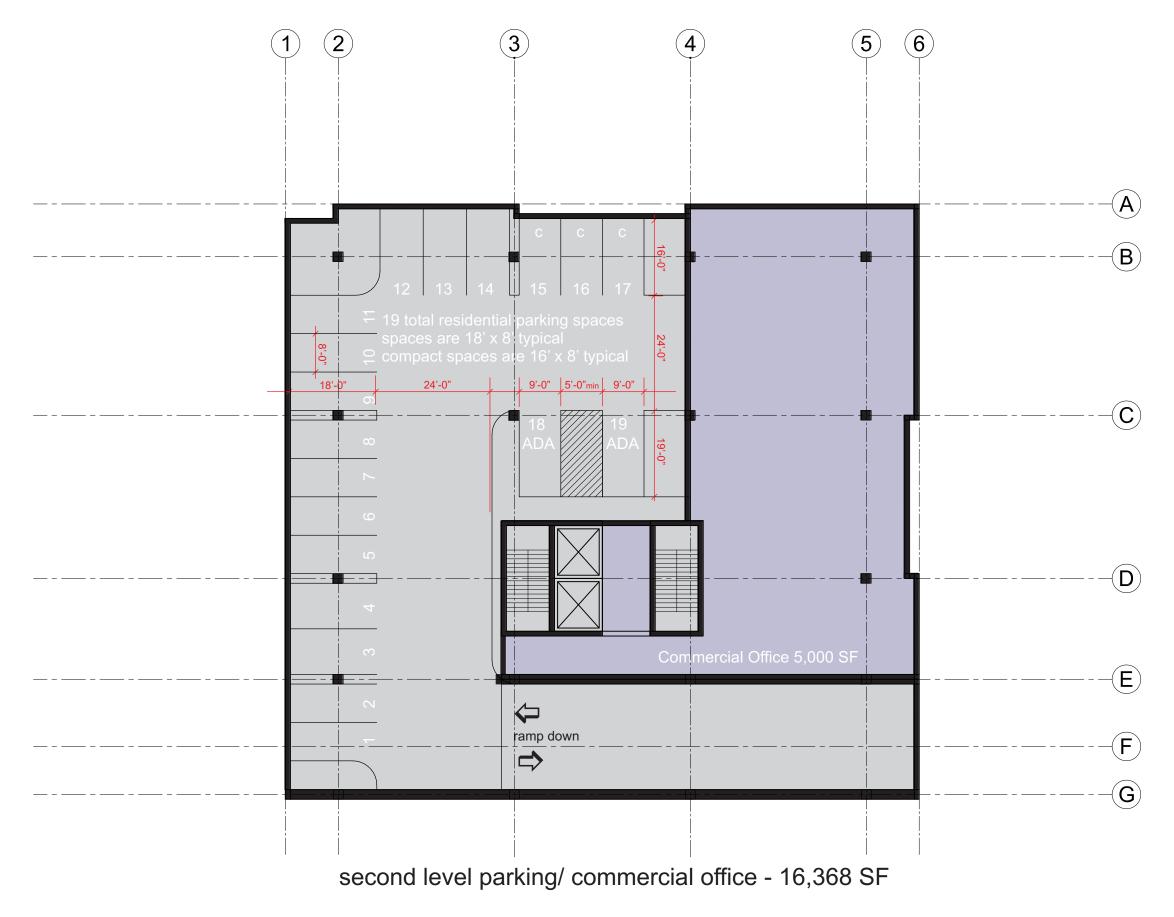


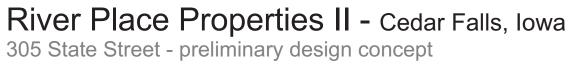






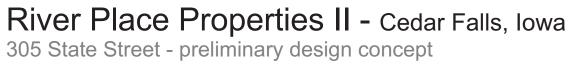






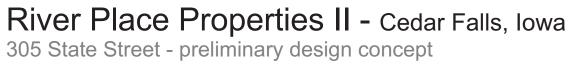






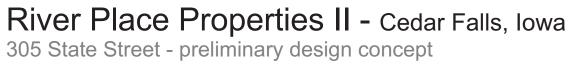






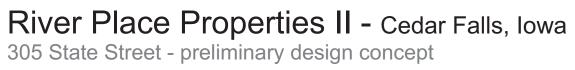




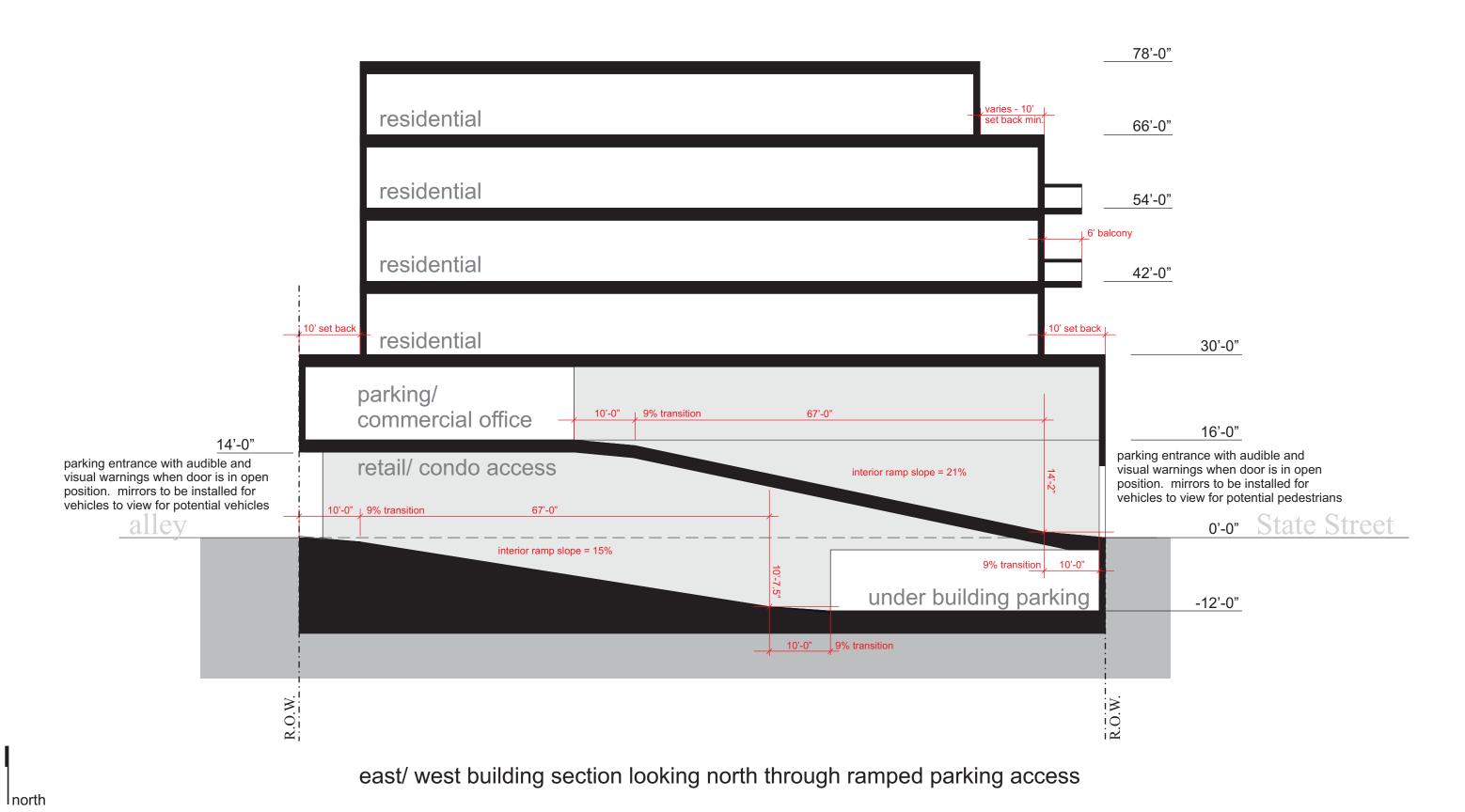


SHVEHATER 387









River Place Properties II - Cedar Falls, Iowa

305 State Street - preliminary design concept





north elevation with material designations



east elevation with material designations

River Place Properties II - Cedar Falls, Iowa

305 State Street - preliminary design concept





west elevation with material designations



south elevation showing context with existing building

River Place Properties II - Cedar Falls, Iowa 305 State Street - preliminary design concept





concept rendering from corner of 3rd and State Street

River Place Properties II - Cedar Falls, Iowa 305 State Street - preliminary design concept



concept rendering from State Street

River Place Properties II - Cedar Falls, Iowa 305 State Street - preliminary design concept





concept rendering across 3rd Street



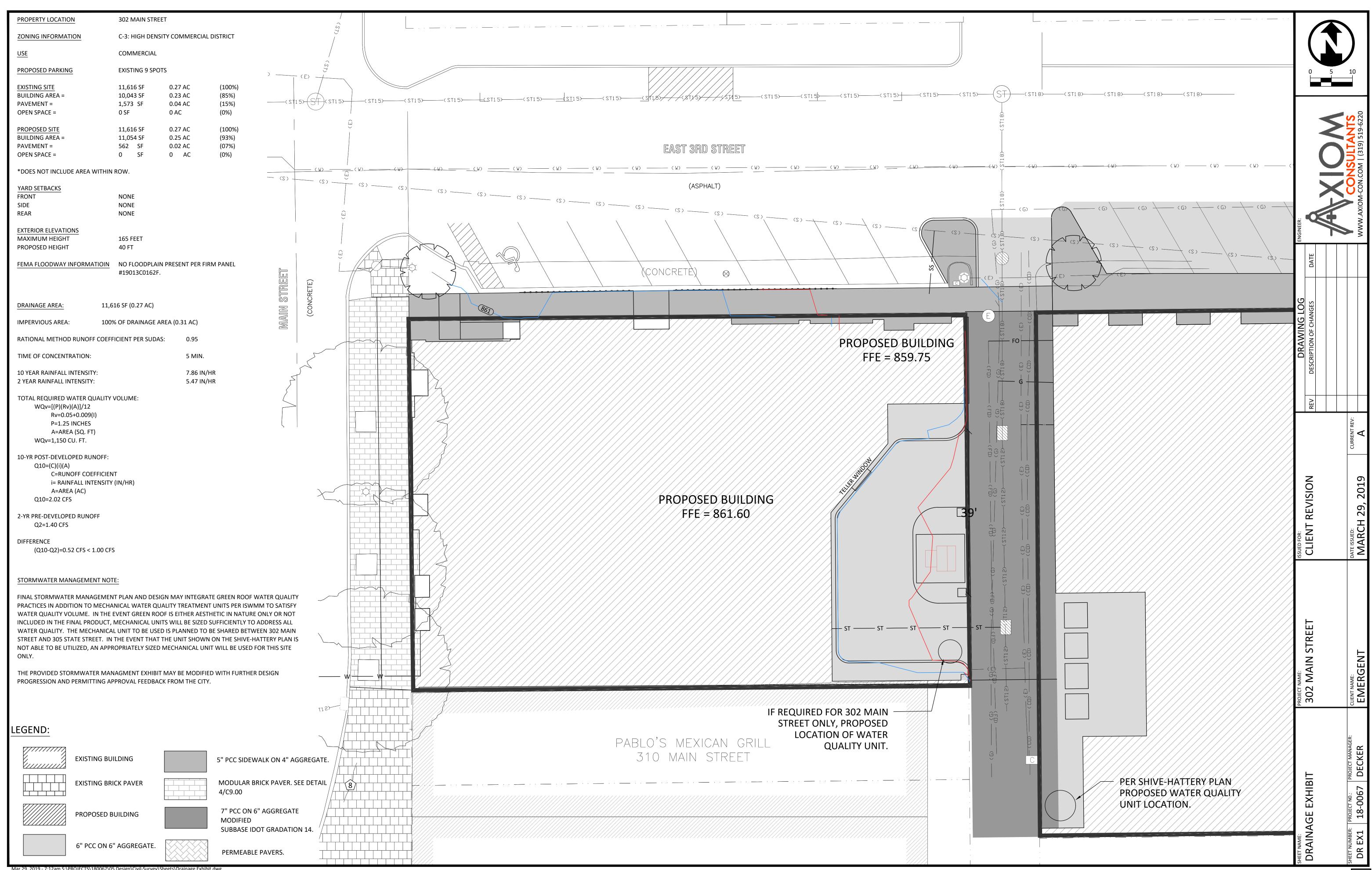
street view rendering along 3rd street

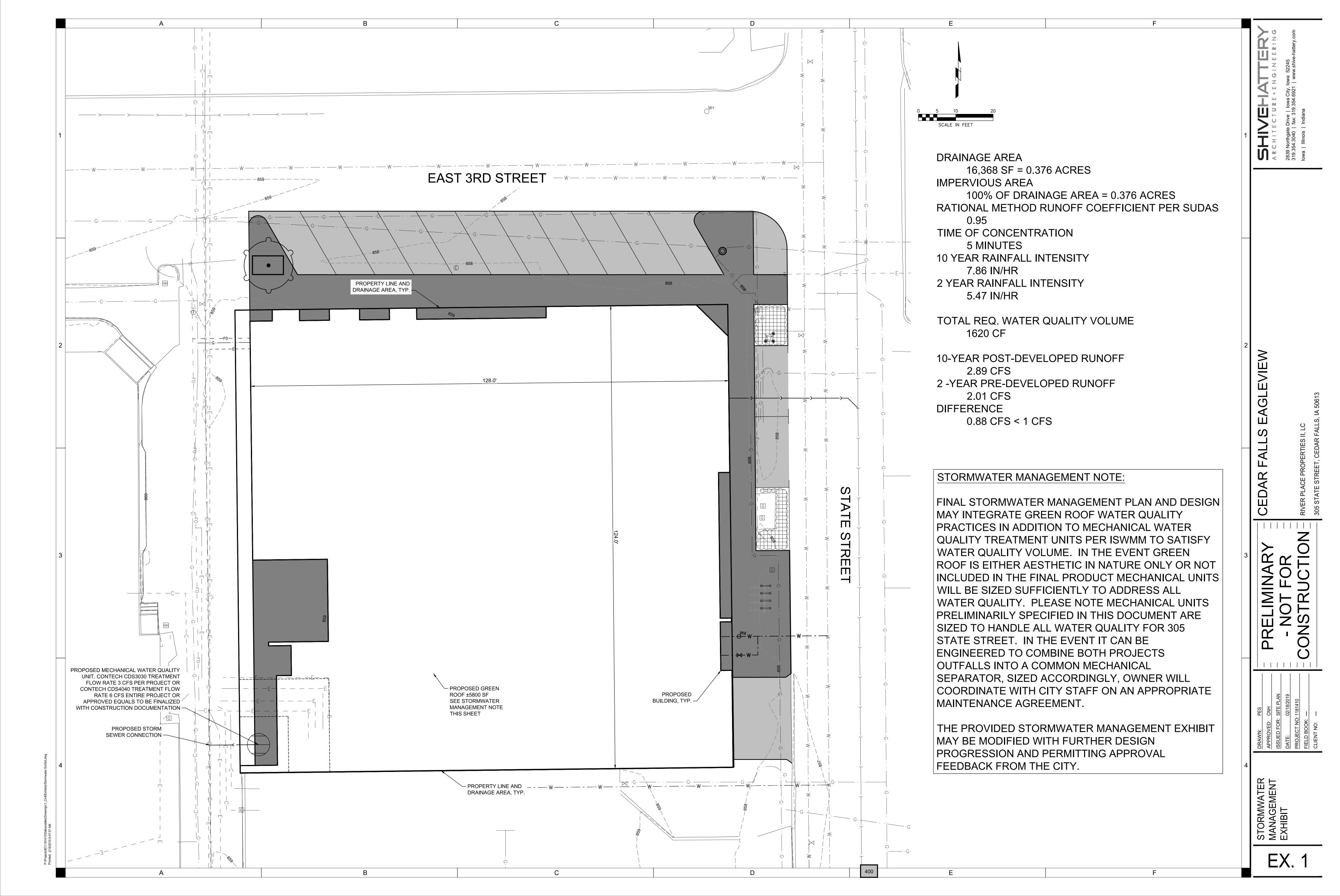
River Place Properties II - Cedar Falls, Iowa 305 State Street - preliminary design concept

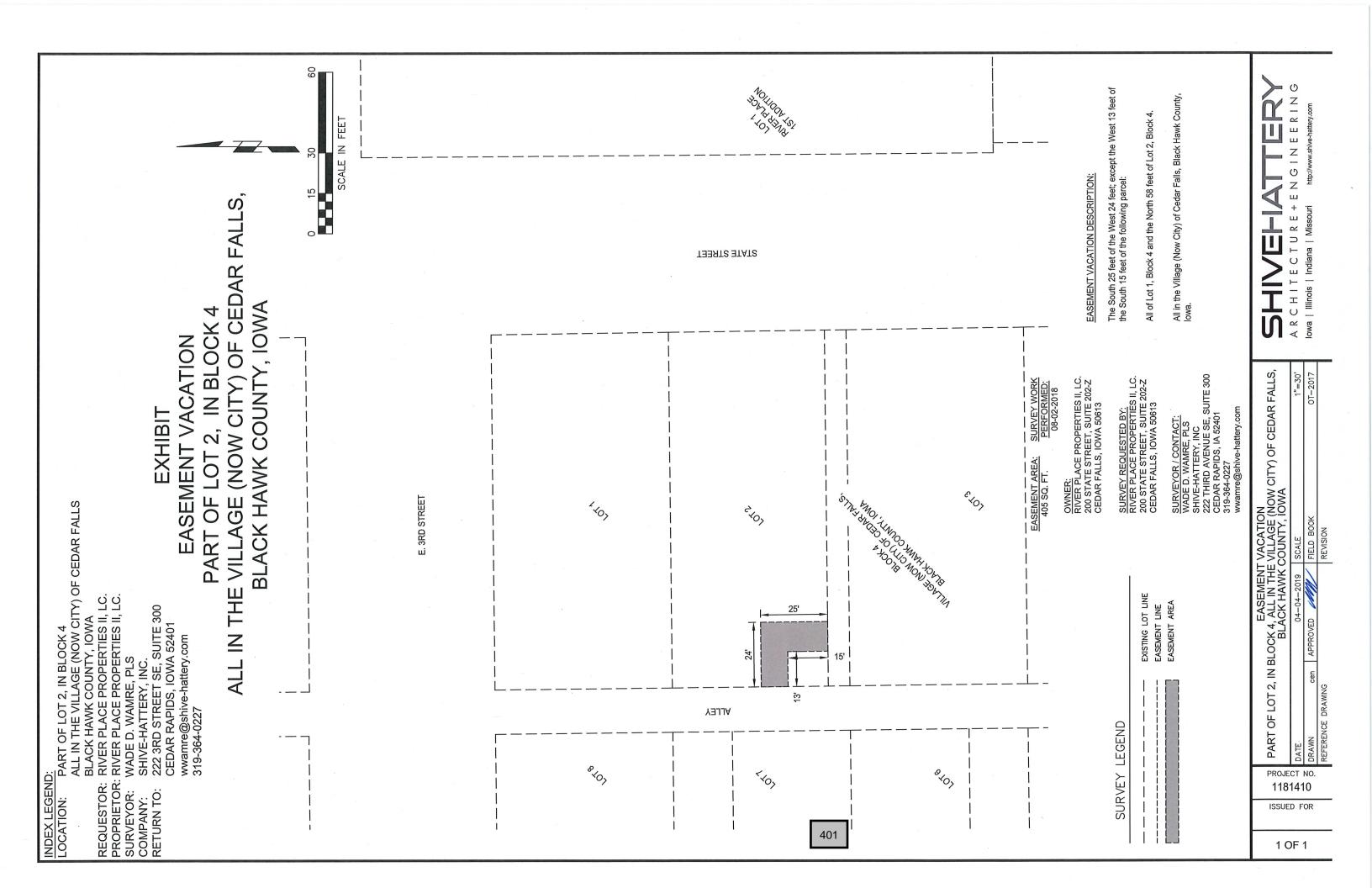


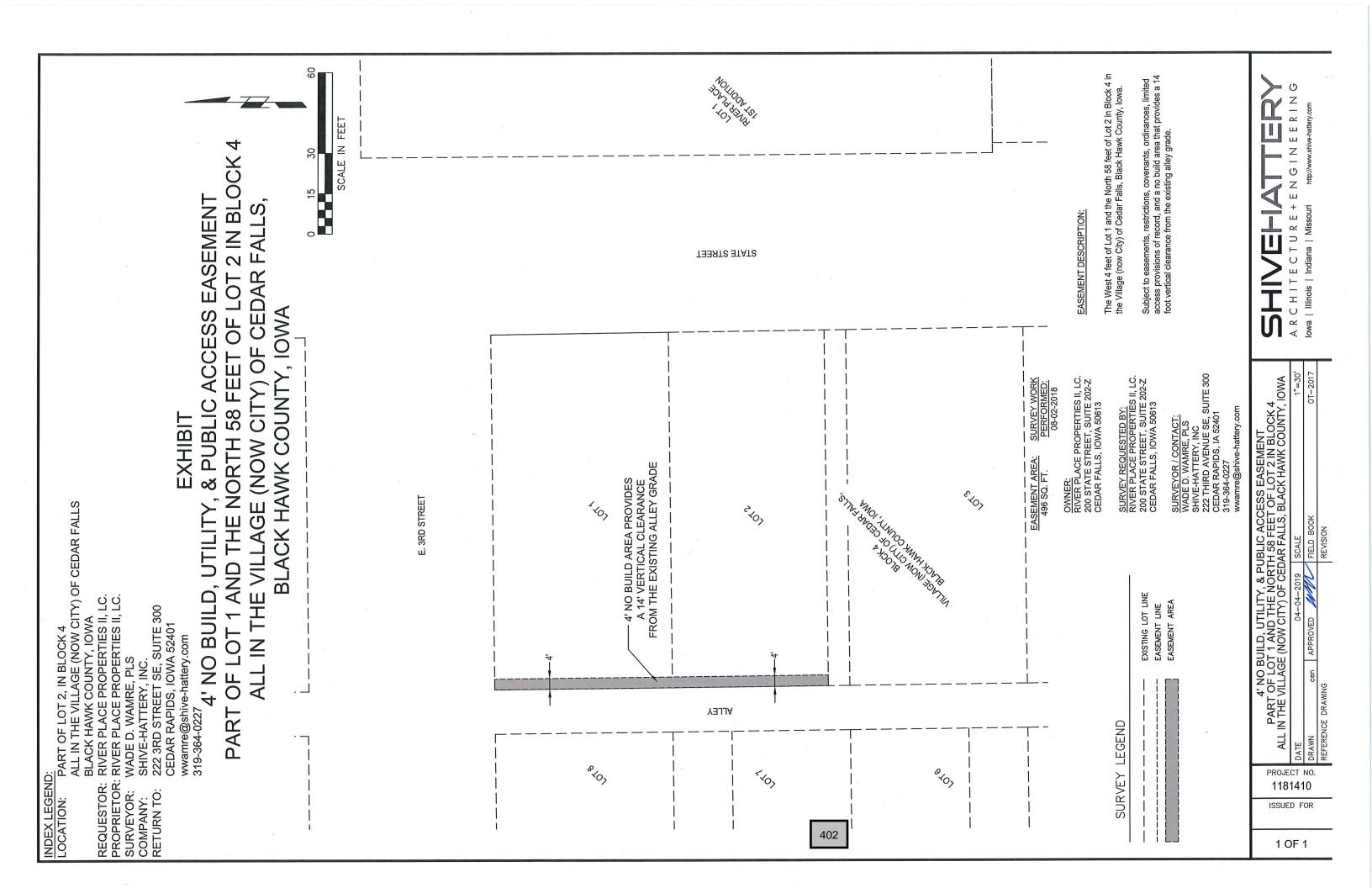


concept rendering aerial view











# **Parking Impact Analysis for the River Place Developments**

#### 302 Main Street and 123 3rd Street

The River Place development project currently under construction is located at the former Wells Fargo bank site. The site is located on the south side of 3<sup>rd</sup> Street between Main and State Streets. The approved site plan shows two mixed-use structures with different street addresses of 302 Main Street and 123 3<sup>rd</sup> Street. The 302 Main building will be three stories that will include 2,224SF of storefront retail and 4,410SF of banking services on the first floor; 10,870SF of second floor bank



offices; and a third story that includes 7,800SF of office use. The 123 3<sup>rd</sup> Street building will include 9,260SF of ground floor commercial space, 25 residential apartment units, and structured parking with 50 parking spaces. Our parking demand modeling includes both buildings as a single development project.

The subject property is located in a C-3 zoning district, which has no parking requirement for commercial uses, but which does require on-site residential parking at a ratio of 2 stalls per residential unit. The current site condition includes nine (9) angled parking spaces on 3<sup>rd</sup> Street between Main Street and the service alley; and two (2) spaces of parallel parking between the alley and State Street. The proposed site plan replaces the existing two parallel spaces between the alley and State Street with thirteen (13) angled on-street parking spaces, resulting in a net gain of eleven (11) spaces on 3<sup>rd</sup> Street. For our analysis, we are including these 11 new on-street spaces with the 50 structured parking spaces for a total of 61 new parking stalls created by the River Place development project.

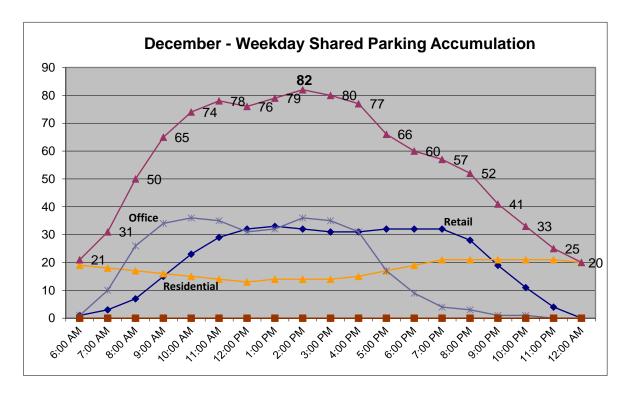
In estimating parking demand that will likely result from this project, we utilize recommended parking ratios published by the Institute of Transportation Engineers (ITE); and shared demand modeling as published by the Urban Land Institute (ULI). The ITE recommended parking ratios are listed below for each land use. To reflect the mixed-use aspect of this project located in a high-density urban downtown, we used a captive market reduction factor of 30% for our shared demand modeling. In other words, we are assuming that 30% of the parking demand generated by this development will be employee and/or downtown residents already parked in the downtown area. In high-density urban areas that are well served by public transit we have used reduction factors of much as 60% in other cities. However, due to the lack of public transit options in Black Hawk County, we are limiting our reduction factor to 30%.

<u>Land Use</u>	Recommended ITE Parking Ratio per 1,000SF
Residential Rental (Unit)	1.5 stalls per unit + 0.15 stalls for visitors = 1.65 stalls/unit
Retail	2.9 customer + 0.70 employee = 3.6 stalls/1,000SF
Office	3.5 employee + 0.30 visitor = 3.8 stalls/1,000SF
Family Restaurant	9.0 customer + 1.5 employee = 10.5/1,000SF

# Scenario #1 Land Use Breakdown - All Retail

For the 123 3<sup>rd</sup> Street portion of the project, the concept plan includes 9,260SF of ground floor commercial space. This commercial space is sub-divided into five (5) storefront units that range in size from 1,660SF to 2,060SF. For our demand modeling we included two different scenarios. The first model treats the entire 9,260SF of ground floor space at 123 3<sup>rd</sup> Street as retail. The second model includes part of the ground floor area as restaurant use with the following breakdown: 3,835SF restaurant; 5,425SF retail. Based on the ground floor storefront layout of the 302 Main Street building, we do not believe restaurant use is intended for this portion of the project.

	Residential (Units)	Retail (SF)	Office (SF)	Restaurant (SF)
123 3 <sup>rd</sup> Street	25	9,260		
302 Main Street		8,980	18,670	<u></u>
TOTALS	25	18,240	18,670	

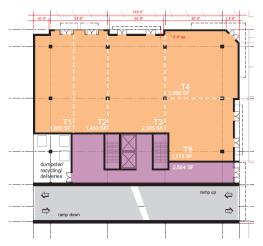


As the graph above illustrates, the shared demand modeling indicates a peak parking demand day of 82 parking spaces that would occur at 2:00pm on a weekday afternoon in December. It is important to understand that this modeling assumes full occupancies and it estimates parking demand on the busiest day of the year. When we look at the full year, the modeling indicates a "normal" or average peak demand of 72 parking spaces. Nonetheless, for this analysis we will use the "worst case scenario" number of 82 parking spaces needed at full demand.

Scenario #1 Results: Estimated Peak Demand = 82 Spaces
New Parking Provided = 61 Spaces
Difference = (21 Spaces)

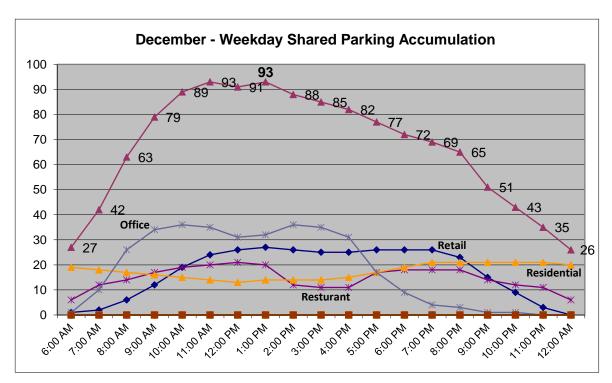


# Scenario #2 Land Use Breakdown - With Potential Restaurant Use



This second scenario of demand modeling replaces 3,835SF of retail with a restaurant use on the ground floor of 123 3<sup>rd</sup> Street. For modeling purposes, we included spaces T1, T2, and T3 as retail; and spaces T4 and T5 as restaurant. We did not include the common area space in our parking calculations. We selected spaces T4 and T5 as possible restaurant space due to the "square" configuration of the spaces, which makes them more conducive for restaurant uses. We felt it was important to include a possible restaurant use in scenario #2 because restaurants are permitted by right in the C – 3 zoning district, and as such the City cannot prohibit a potential restaurant use in this development project.

	Residential (Units)	Retail (SF)	Office (SF)	Restaurant (SF)
123 3 <sup>rd</sup> Street	25	5,425		3,835
302 Main Street		8,980	18,670	
TOTALS	25	14,405	18,670	3,835



Scenario #1 Results: Estimated Peak Demand = 93 Spaces

New Parking Provided = 61 Spaces

Difference = (32 Spaces)

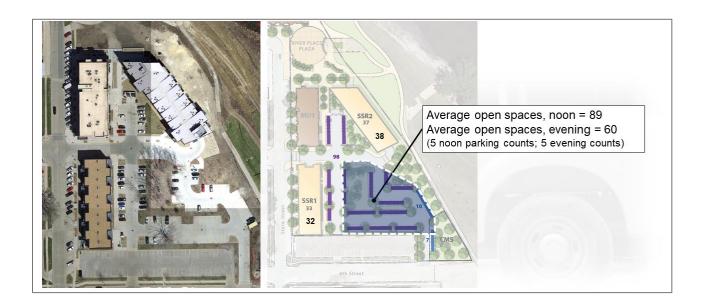


# **Summary and Conclusions**

As the two charts above indicate, the estimated peak seasonal demand is projected to occur on a weekday in December. One difference between the two scenarios is that the retail only use is projected to peak at 2:00pm in the afternoon; whereas the restaurant use is projected to peak at 11:00am on a weekday in December. Both scenarios result in parking "deficits", with a retail only deficit of (21) spaces compared to a restaurant deficit of (32) spaces. To reiterate, these parking demand models project maximum demand on the busiest days of the year, which may only happen a few times per year.

As noted in our downtown parking study and based upon the car counts conducted by the River Place property manager, the existing River Place surface parking lot shows consistent parking availability during all times of the day and on weekends. The average parking availability in the River Place lot was 89 open parking spaces during the typical lunch period; and an average of 60 spaces open during typical evening periods. The aerial image on the left of the slide below was taken on Saturday April 28, 2018 at 11:30am. As you can see from the image, the River Place parking lot shows ample parking availability at lunchtime on a Saturday in late April.

Considering that the existing River Place parking lot is owned by the same developer for the 123 3<sup>rd</sup> Street/302 Main Street development project, we believe there is sufficient developer-controlled private parking to support the project currently under construction on the former Wells Fargo site. We further believe the net gain of 11 angled parking spaces on 3<sup>rd</sup> Street will benefit the entire area, and not just the development site. On a final note, we would encourage retail over restaurant uses in the new buildings. However, the City has no way to dictate land uses that are permitted by-right in the C-3 zone.



\*\*END OF REPORT\*\*





310 East 4th Street Cedar Falls, IA 50613

Phone: 319-277-0213 www.communitymainstreet.org

# 2018-2019 Board of Directors:

Ty Kimble - President
Crystal Ford
Jessica Marsh
Dan Lynch
Ty Kimble
Audrey Dodd
Matt Dunning
WynetteFroehner
Amy Mohr
Clark Rickard
Stephanie Sheetz
Julie Shimek
Brad Strouse
Pam Taylor
Dawn Wilson

March 22, 2019

Members of the Planning and Zoning Commission,

The discussion during the last P & Z meeting regarding the new downtown development brought up some very good points by those in attendance. As you make decisions regarding the future of downtown, your role as commission members is important to the continued success of the district. We appreciate your willingness to ask questions, and consider the ordinances as well as various viewpoints to make thoughtful decisions.

During the past 31 years, the investments made – both financial and through sweat equity - has created our vibrant, magnetic downtown community. This collective effort produced an atmosphere where investing in the restored center of the city has become highly desirable. Parking, often times, has been part of the discussion. Since some of you are newer to the commission, I am providing a short background of Community Main Street's effort to improve parking in recent years.

Since early 2012, when significant construction projects in the downtown district were announced, members of the downtown community recognized the positive impact the projects would bring to the district and wholeheartedly welcomed the news. Community Main Street soon recognized that along with the growth, there would be challenges to face, including parking availability. In May of that year, CMS sent a letter to the City supporting the economic development in the district. In it, we respectfully requested that throughout the planning process for future development, consideration would be taken for the increased burden on existing public parking facilities and how such large-scale development would affect the district. Lack of available parking would not only impact the existing businesses, which have collectively invested millions of dollars in our downtown, but could negatively affect the success of the proposed developments themselves.

Although not part of the City's actual parking inventory, the lots along State Street were frequently full and used regularly by downtown patrons. Privately held lots were also used after hours, a practice that continues today. After sharing concerns and submitting a request to council and staff to jointly fund a professional parking study in 2012, it was determined a more cost-effective route would be to conduct the study internally. At the direction of the City Council, members of city staff were asked to work with representatives from Community Main Street to research parking trends and to develop a set of recommendations to improve downtown parking.

The result of the task force was the 2015 Parking Study Report, a year-long assessment of parking conditions in the district. Following the report results, Community Main Street volunteers and staff spent 2 years been actively add the short term priorities identified in the report and funded all costs associate with the recommendations.



Fast-forward to late 2018 and downtown development projects are going strong, with more on the horizon. A new parking study was recently completed, and Community Main Street is pleased the city is moving forward with improvements to the parking system. It is important to note, shared parking in private lots is one of the recommendations. This practice has been underway for many years due to the generosity of the private lot owners. Shared parking is often referenced during Planning and Zoning meetings. During the Planning & Zoning meeting on March 13, one of the commission members asked about the number of parking spots that would be lost when the Wells Fargo lot is no longer available. The city staff response was a bit confusing. Since it was not part of the public parking system, the loss of those spots was not of consideration. How can one consider private lot parking as favorable in once instance, but when it is no longer available, the parking loss is not to be considered? In our opinion, if private parking is going to be considered as part of the parking system, both gains and losses due to the private sharing agreements must be carefully considered.

One of the strengths of our downtown community is the business mix. The balance of retail, dining, nightlife, office, service, and residential makes our downtown a destination and community asset. Parking is a major component of the equation, for without adequate parking availability there cannot be a sufficient number of patrons to allow success of downtown businesses, both new and existing. Well-identified available parking options and safe secure walkability is of upmost importance to the retail and restaurant sectors. Community Main Street continues to fully support economic development projects within the district, but as development continues, protecting the opportunity for all business types to succeed is of essential for Cedar Falls to retain its unique personality and thriving city center. And we all know that successful businesses are what drive associated property and sales tax revenue.

The current, professionally done parking study has provided an updated set of recommendations, for which we are extremely grateful. We look forward to the establishment of the parking committee as recommended and hope that Planning and Zoning members and representatives from Community Main Street are included on the team. To provide a successful conclusion, we believe the expertise both CMS and P & Z participation would provide would be of great value to city staff.

We are confident that if we, working together, use the data collected in the parking study and carefully weigh the pros and cons of the recommendations we can develop a district-wide plan that adequately addresses the needs of both our current and future customers, employees and residents.

In conclusion, Community Main Street remains hopeful that you will continue to consider the serious concerns about parking availability in your role as a commissioner. We greatly appreciate your willingness to serve as a Planning and Zoning Commissioner and for the ongoing support of the Downtown District by the City of Cedar Falls and the role it plays in making the district a Great American Main Street!

Regards,

Carol Lilly

**Executive Director** 



February 5, 2019

310 East 4th Street Cedar Falls, IA 50613 Planning and Zoning City of Cedar Falls 220 Clay Street Cedar Falls, IA 50613

Phone: 319-277-0213 www.communitymainstreet.org

www.communitymainstreet.org Dear Iris, Karen and planning and zoning commission members,

# 2018-2019 Board of Directors:

Ty Kimble - President
Crystal Ford
Jessica Marsh
Dan Lynch
Ty Kimble
Audrey Dodd
Matt Dunning
WynetteFroehner
Amy Mohr
Clark Rickard
Stephanie Sheetz
Julie Shimek
Brad Strouse
Pam Taylor
Dawn Wilson

Community Main Street was established over 30 years ago to foster economic vitality and to promote and preserve the historic image and character of our downtown. The Main Street approach to economic development has been used strategically to transform the neighborhood and we have a proven track record of successful revitalization efforts.

The Cedar Falls Downtown District is booming. New developments have begun to transform our district into an urban neighborhood complimentary to our thriving historic core. Representatives from Eagle View Partners recently presented plans for a proposed project at 302 Main St. and 123 State Street (previously Wells Fargo) to the Community Main Street Design Committee. A project of such scale in the heart of the district is something of great importance to the entirety of Cedar Falls as it directly impacts the character of our nationally recognized, award winning, Great American Main Street. Due to the importance of the project, the Design Committee consulted the Design Specialists at Main Street lowa for guidance. As downtown continues to transform into an urban scale neighborhood, their perspective was very helpful.

We appreciate the efforts of the planning team to consider our feedback after meeting with the Design Committee on January 4th, several of which were addressed prior to final submission for Planning and Zoning consideration. The following recommendations remain:

- Historically corner buildings are typically stately and anchor the ends of the block. At 302 Main Street, a three-story façade rather than a set back with a "pasted on 3rd floor" would be more complimentary and in keeping with the historical character of the central core of the district. If a set back is approved, material choice should be reconsidered to include materials other than all glass.
- Building height of 123 State Street was discussed. At six stories, it will be the tallest building in the core. A reduction in height by at least one floor would be preferred, but not at the cost of losing valuable tenant parking.

In addition, we are grateful for the city's investment in a traffic/parking impact study on the proposed project. Throughout the planning process, we encourage the City to consider how such a large scale development will increase the burden on existing public parking facilities, impacting the existing businesses who have collectively invested millions of dollars in our downtown, and potentially may negatively affect the success of the proposed development itself.



The Cedar Falls Downtown District is a special neighborhood because of the people and partnerships that have worked diligently to build a successful community. In the spirit of continued success and partnership, we respectfully request the City consider the recommendations of the Design Committee and wait until the traffic study is complete so the results can be taken into consideration prior to making a decision on this project.

Respectfully,

Carol Lilly, On behalf of Community Main Street

cc Mark Kittrell

# **Karen Howard**

From:

Jill Smith < jsmith@taylorvet.com>

Sent:

Wednesday, March 6, 2019 10:17 PM

To:

Karen Howard

Subject:

Planning and zoning comments

I would like these comments to be read at the planning and zoning meeting regarding the Wells Fargo building site on Wednesday, March 13.

I just wanted to touch base with you to let you know some of the thoughts we have regarding the proposed building on the old Wells Fargo site. It will border our building at Taylor Veterinary Hospital on the State Street side. We have multiple concerns.

- ~ The fact that it is 6 stories doesn't even come close to fitting in with the rest of the downtown area. It will look totally out of place, towering over every other building in the area. It will overshadow our business by 4 stories.
- ~ They say the condos are pet friendly, which we like, except for the fact that there is no green space or "potty" area anywhere near the building, except for our lawn. The builders say that they are planning on putting a dog area behind the other State Street buildings, but no one will actually walk that far all of the time. We already have many condo owners that use our grass multiple times a day and don't clean up after themselves.
- ~ Having the one access to the parking off the alley will not go well during the winter months. Just try to drive down that alley right now. It is not plowed well at all, there are huge snowbanks on both sides and the ice and water all collect down the street forming ruts that are so deep some cars can't even make it through. This winter, harsh as it is, isn't really any different than other years. This happens when we just have smaller snowfalls too. The restaurant and beer delivery trucks block the alley at least once a day for 30-60 minutes, sometimes longer. Some of them park right where the entrance to the garage will be. If they are forced to move, then they will be blocking our parking exit even more than they already do. It makes me concerned as to how busy the "drive through" on the back part of the Main street building will be. We have not be told what it is, but the alley is not built for that kind of traffic. As a side note, the alley constantly has debris in it. Most of the time during the summer months, when we drive down it, we get nails, screws and metal in our tires. It has happened multiple times (at least 6) and we choose not to ever drive back there unless absolutely necessary.
- ~ Parking I know this can feel like an over-talked topic right now, but it is an issue. Not all the time, but certain times it is impossible. People park in our Taylor Vet lot, not leaving any spots for our clients who are carrying pet carriers, or 30 pound bags of pet food, or sick pets. It often happens towards the end of the day from about 4-5 on. They are having to park a block or more away which is often impossible with our elderly clients trying to carry their cats. We are fine sharing our lot after hours, with the understanding that when we have emergencies, we will park behind their cars, and they will have to wait until the emergency is over before they can leave. The parking situation will only get worse. The added retail space will add a lot of traffic, not to mention the office space will fill up the remaining spots that are labeled 24 hours for staff. As much as they say we can park behind the State Street building, the possibility of people walking all the way around that entire building to get to a parking lot is humorous.

We are all for developing that eyesore that is the Wells Fargo lot. We realize that there is a cost/benefit ratio to build something that will pay for the building. We don't think that this current project is the right one. It will destroy the continuity that our beautiful downtown has. Please reconsider this project and help them figure out a different option.

Thank you

Dr. Chad and Jill Smith

# •R DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

# INTEROFFICE MEMORANDUM

Administration Division

**TO:** Mayor Brown & City Council

FROM: Stephanie Houk Sheetz, AICP, Director of Community Development

**DATE:** April 8, 2019

**SUBJECT:** CDBG Banking Service Agreement for Lump Sum Drawdown

Cedar Falls receives approximately \$248,000 in Community Development Block Grant (CDBG) funds each year, as an entitlement community. These funds primarily support several programs: housing rehabilitations or housing repairs for income-qualifying residents; financial support to several service agencies such as Visiting Nurses, Northeast Iowa Food Bank, Consumer Credit Counseling, etc.

May 2<sup>nd</sup> of every year, Cedar Falls must meet a timeliness test. At that point, the maximum in unspent funds is 1.5 times its annual award. We estimate Cedar Falls will have 1.6 times our annual award. Therefore, as permitted by HUD, we are proposing a lump sum draw down into a separate account, of \$35,500.

The attached Service Agreement is similar to last year's lump sum agreement. We have advised HUD of our intent to complete this. There are several provisions staff will be sure to meet, as provided in the agreement: 1) first expenditure of the lump sum funds must occur within 45 days of the deposit and 2) substantial use of lump sum funds must occur within 180 days. We have several open rehabilitation projects that needed the spring weather to continue forward. These requirements can be met.

Please contact me with any questions. Thank you.

Service Agreement

between

The City of Cedar Falls

and

Farmers State Bank

April 22, 2019

All prices and levels of service in this financial service agreement for the City of Cedar Falls account number 352-687-8 are guaranteed for a two-year period.

The account relationship established between the City of Cedar Falls and Farmers State Bank is intended to satisfy the requirements of the requirements of the Department of Housing and Urban Development concerning Community Development Block Grants.

This agreement will be established for the following purposes and with the following conditions:

- These Community Development Block Grant (CDBG) funds are provided specifically for homeowner rehabilitation activities as allocated in the City of Cedar Falls' action plan
- Amount of initial funds to be placed in this account: \$35,500
- Term of Agreement: Maximum of 2 years
- The City of Cedar Falls will direct Farmers State Bank on drawdowns of the deposited funds for use by the City, and will also direct the bank to return any unused funds to the City of Cedar Falls' line of credit
- The City of Cedar Falls designates the Controller/City Treasurer or Director of Finance and Business Operations as authorized signatories for this financial account
- Initial disbursement of the CDBG funds by the City of Cedar Falls will occur within 45 days after deposit into this account (City will provide the Bank with documentation of compliance)
- 25 percent of the CDBG will be disbursed within 180 days of the deposit into this account (City will provide the Bank with documentation of compliance)
- At the end of the period specified in the agreement for undertaking activities, all unobligated deposited funds shall be returned to the City of Cedar Falls' line of credit unless the City enters into a new agreement conforming to the requirements of 24 CFR Section §570.513. In addition, the City of Cedar Falls shall reserve the right to withdraw any unobligated deposited funds required by HUD in the exercise of corrective or remedial actions authorized under §570.910(b), §570.911, §570.912 or §570.913.
- Interest rate payable shall meet the minimum as per 24 CFR Section §570.513(b)(9), and credited to the proposed deposit account. At no time will the interest rate paid on the account exceed the maximum allowable rate cited in that same section.
- In accordance with the 24 CFR Section §570.513(b)(9)(ii), the City shall not enter into a new agreement during any period of time in which an audit or monitoring finding on a previous lump sum drawdown agreement remains unresolved.

# The service agreement will:

- Summarize the services to be provided to the City of Cedar Falls
- Identify the bank officer responsible for the City's accounts
- List the fees for the services provided
- Describe the methods used to calculate interest
- Briefly list some of the programs Farmers State Bank provides in the area of housing rehabilitation

If at any time Farmers State Bank substantially fails to comply with the terms of this agreement, The City of Cedar Falls shall terminate this agreement, provide written justification for the action, withdraw all unobligated deposit funds from Farmers State Bank, and return the funds to the City of Cedar Falls' line of credit.

#### 1. Services Provided

- a. The Bank will provide to the City of Cedar Falls those services normally associated with a commercial checking account.
  - i. Accept and verify deposits
  - ii. Collect deposit items
  - iii. Pay checks properly drawn against the account
  - iv. Insure the safety of the funds
    - 1. FDIC insurance of \$250,000 on the City of Cedar Falls' funds
    - 2. Balance of the City of Cedar Falls' funds covered under lowa Public Funds Pledging Agreement
  - v. Provide monthly statement
    - 1. List deposits
    - 2. List checks paid in numerical sequence with dollar amounts
    - 3. Provide balance information
    - 4. State interest earned for the statement cycle
    - 5. State the annual percentage yield
- b. In addition to the normal services provided to an account holder, the Bank will provide the following special services to the City of Cedar Falls
  - i. Issue checks to designated payees
    - 1. A voucher should be received by the bank between 8:30am 10:00 am
    - The voucher would request a check be prepared for a payee or payees listed and for the amounts indicated. All voucher requests would be signed by and authorized City official
    - 3. The checks will be delivered to the City of Cedar Falls, City Hall, 220 Clay Street, Cedar Falls, IA 50613
    - 4. The checks will require an authorized signature from a City official
  - ii. Provide Messenger Service
    - 1. The Bank will deliver checks in the afternoon between 2:00pm-3:00pm
    - 2. The day or days of the week for the messenger service would be predetermined by the City
    - 3. Provide the City of Cedar Falls a monthly listing of checks issued, The list would include check numbers, check dates, payees, and amounts.

# II. Farmers State Bank Personnel

Adam Heineman, Vice President, and Lexie Heath, Business Development Officer, will be the principal account officers and responsible for the proposed account. The Farmers State Bank staff handling the daily administration of the account will be identified to the City.

Administration of this agreement and the associated account will be performed by Farmers State Bank staff at no cost to the City of Cedar Falls

# III. Service Charge Schedule

a. Account Servicing

Account maintenance	No Charge
Account debits	No Charge
Account credits	No Charge

Deposit Items:

On Us \$0.05 Other \$0.05

Messenger Service per day

(One pickup – one delivery) No Charge

Check insurance per check

(after initial check order cost) No Charge

Wire Transfer:

Outgoing transfer \$20.00 Incoming transfer \$12.00

Coin & Currency:

Coin (per roll) \$0.10
Currency (per \$1,000) No Charge
Commercial NSF (per check) \$31.00
Stop Payments \$31.00
Special Statements \$5.00

Research request (plus copy cost) \$25.00/hour with \$12.00 minimum

The above listed service charges will be billed to the City on a monthly basis.

- b. Funds Availability Policy
  - a. Day of Deposit (assuming enough information is available to process)
    - i. Cash
    - ii. Wire transfers
    - iii. Pre-authorized credits
    - iv. Checks drawn on Farmers State Bank
  - b. First Business Day after deposit
    - i. All subsequent forms of deposit items

# IV. Interest

Monthly interest will be paid on the proposed account. Interest will be paid on the full available balance. The interest rate paid by Farmers State Bank shall be no more than three points below the rate 1-year Treasury obligations at constant maturity. The following rate will be paid on the proposed account

- a. Business Interest Checking Rate
  - i. A variable rate of interest administered by the Bank and subject to change on a daily basis

#### ii. Current Rate of Interest:

Variable Adjusted interest at 1 year CMT less 1.25%. As of 3/21/2019 the 1 year CMT rate is currently at 2.520% making the current rate on the account 1.27%. This rate is subject to change weekly.

As can be seen from the Service Charge Schedule section and the Interest Section, service charges and interest will be assessed and paid monthly.

The charge for service and the payment of interest are independent of each other. The Bank is being compensated for services provided and the account is earning interest on the entire balance.

# V. Rehabilitation Housing

The lump sum deposited by the City of Cedar Falls will be leveraged by Farmers State Bank to provide funds for loans to local borrowers engaged in rehabilitating local housing for Cedar Falls residents. These rehabilitation loans may be offered at below market interest rates, higher than normal risk or with longer than normal repayment periods, as periodically determined by Farmers State Bank, either directly to those borrowers or through recognized housing rehabilitation programs.

Farmers State Bank participates in a number of programs sponsored by federal, state and local governments to encourage home ownership. These programs may provide down-payment assistance, more flexible underwriting standards or direct grants to potential home-owners. Listing of our 2018 activity:

	<del></del>		· · · · · · · · · · · · · · · · · · ·
Program/Service	Federal Housing Administration (FHA) Loans	Total #/\$	2/\$209,840
<del></del>	Farmers State Bank partners with Iowa Bankers		
	Mortgage Corporation to offer customers FHA		
	loans. This program is available to qualifying		
	borrowers needing assistance with a down		
Description:	payment.		
Program/Service	VA Loans	Total #/\$	1/\$330,300
	Veterans Affairs (VA) loans help service members,		
	veterans, and eligible surviving spouses become		
	homeowners. VA guarantees a portion of the		
Description:	loans.		
Program/Service	FHLB HomeStart Program	Total #/\$	32/\$160,000
	Farmers State Bank utilizes the Federal Home Loan		
	Bank of Des Moines homestart program to assist		
	qualifying members with a down payment or		
	funds to be applied to closing costs. In 2018 we		
	were able to provide this funding to 32 clients,		
Description:	with grants totaling \$160,000.		
Program/Service	Small Mortgage Loans	Total #/\$	12/\$439,350
	Farmers State Bank continues to offer financing to		
Description:	families of modest income.		

#### VI. Conclusion

Farmers State Bank looks forward to working with the City staff on this account. If any additional information is needed please contact Lexie Heath or Adam Heinemann at 319-268-1879

# VII. Acceptance

The City of Cedar Falls accepts the two-year financial service agreement with Farmers State Bank for the Housing Rehabilitation Activity Account 352-687-8. The City of Cedar Falls reserves the right to terminate the agreement without cause at any time.

FARMERS STATE BANK	CITY OF CEDAR FALLS, IOWA
By: Weeks	Ву:
Title: Treasury Management Officer	Title:
Date: 04 08 2019	Date:
ATTEST:	
Jacqueline Danielsen, MMC, City Clerk	

# R DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

# INTEROFFICE MEMORANDUM

Administration Division

TO: Mayor Brown & City Council

**FROM:** Stephanie Houk Sheetz, AICP, Director of Community Development

**DATE:** April 8, 2019

SUBJECT: 2019 Street Construction: Cedar Heights Sidewalk Impact

Project Number: RC-000-3153

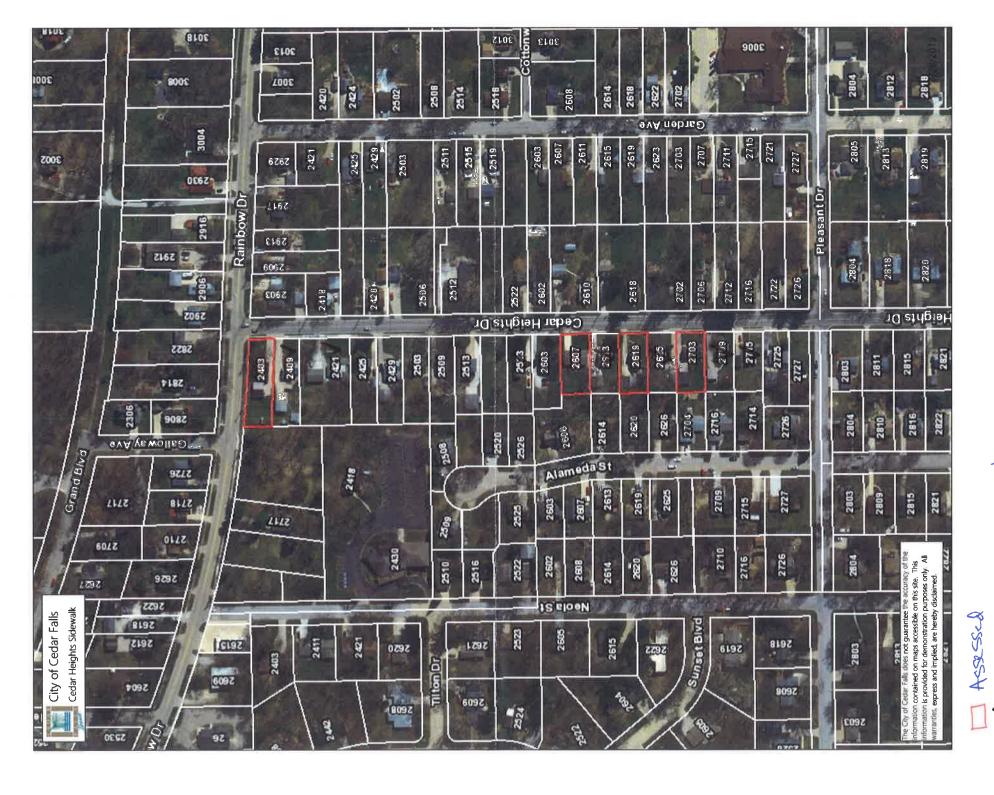
The reconstruction of Cedar Heights Drive also includes adding a storm sewer to address a drainage issue the neighborhood made the City aware of a number of years ago. This is the best time to add that work, however doing so means the sidewalk that is located along the west side of the street is being impacted. Reconstruction projects typically work within the existing curb lines and don't impact existing sidewalks. However, with the need to add storm sewer within the right of way and fact that the sidewalk is only three feet west of the curb, total removal of the sidewalk will be occurring.

Two years ago the City marked deficient sidewalks in Zone 9, which included this area of sidewalk. Residents either completed the repairs, paid the City for the repair, or in one case an assessment was filed for the cost to repair the sidewalk. Due to the unusual circumstance of the City's reconstruction and drainage improvement projects impacting repaired sidewalks within two years of the sidewalk zone inspection, staff recommends rescinding the Cedar Heights Drive assessment and reimbursing the property owners for their expense. Staff estimates the total reimbursement to be \$10,500. All property owners have been contacted.

The sidewalk will be entirely replaced after the storm sewer and roadway construction project is completed.

Attachment: Map of Impact Area

CC: Ron Gaines, PE, City Administrator Chase Schrage, Principal Engineer



Fixed sidewalk, after richer.

Total costs:

Assessed (4 propertie) = \$2,277.09

Fixed (4 propertie) ≈ \$8,222.91

RESOLUTION NO
RESOLUTION APPROVING AND AUTHORIZING REIMBURSEMENTS AND CANCELLATION OF ONE ASSESSMENT RELATIVE TO THE 2018 SIDEWALK ASSESSMENT PROJECT, ZONE 9, IN CONJUNCTION WITH 2019 STREET CONSTRUCTION PROJECT
WHEREAS, the City Council of the City of Cedar Falls, Iowa, adopted Resolution No. 21,424
on the 18 <sup>th</sup> day of February, 2019, levying final assessments for the 2018 Sidewalk Assessment
Project, Zone 9; and
WHEREAS, due to unusual circumstances, the City Council of the City of Cedar Falls, Iowa,
deems it in the best interest of the City of Cedar Falls, Iowa, to reimburse certain property owners and
cancel one assessment relative to the 2018 Sidewalk Assessment Project, Zone 9, in conjunction with
the 2019 Street Construction Project – Project No. RC-000-3153; and
NOW THEREFORE, be it resolved by the City Council of the City of Cedar Falls, Iowa, that
reimbursements to certain property owners is hereby approved, and the assessment for 2403 Cedar
Heights Drive, in the amount of \$510.41, is hereby cancelled.
BE IT FURTHER RESOLVED that any penalty and interest accumulated against the amounts
is also cancelled, and the City Clerk is hereby directed to notify the Black Hawk County Treasurer of
said cancellation.
PASSED AND ADOPTED this 15 <sup>th</sup> day of April, 2019.
James P. Brown, Mayor  ATTEST:
Jacqueline Danielsen, MMC, City Clerk

Prepared by: Jacqueline Danielsen, City of Cedar Falls, 220 Clay Street, Cedar Falls, IA 50613 (319) 268-5152

# • D • A • R DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

# INTEROFFICE MEMORANDUM

Administration Division

**TO:** Mayor Brown & City Council

**FROM:** Stephanie Houk Sheetz, AICP, Director of Community Development

**DATE:** April 10, 2019

**SUBJECT:** Small Cell Facility

In September 2018, the Federal Communications Commission (FCC) adopted a Small Cell Order. It is a result of explosive growth in wireless data usage and the nation's goal to have 5G Technology (5G FAST Plan). There were two parts to the Order: (1) a new set of regulations governing the rollout of small wireless facilities including shot clocks and (2) interpretations of sections of the Communications Act that limit local regulations that "effectively prohibit" implementing small wireless facilities. Next Century Cities created a summary of the Order and its impact. It is attached to this memo.

Historically, wireless facilities have been located outside of the right of way and the City has a section in its zoning ordinance regulating this. The Small Cell Order allows use of the public right of way, similar to other utilities. Several lowa communities have adopted Small Cell Design Guidelines in an effort to ensure the primary purpose of right of way is maintained, preserve the character of our neighborhoods, and achieve important aesthetic goals. Cedar Falls further wishes to avoid being counterproductive to the City's overhead to underground ordinance adopted in 2010.

There have been different opinions about the deadlines to enact local policy. At the same time, the FCC Small Cell Order is being challenged and rules may change in the future. For these reasons, staff is proposing the adoption of guidelines rather than an ordinance. Following adoption, staff would develop an application form to ensure appropriate review occurs prior to permitting a small cell facility in Cedar Falls. Staff will monitor changes in the regulation and responses of other lowa communities, to determine any recommendations for future actions.

The City & CFU have been working together on these guidelines and right of way agreements related to small cell wireless deployment. Staff recommends the following:

- 1. Resolution approving the City of Cedar Falls, Iowa Small Cell Design Guidelines
- 2. Resolution adopting:

- a. \$500 application fee Small Wireless Facility (However, when 5 or more submitted at the same time, for the same provider and with the same information, then the first is \$500 and other applications are \$100 each.)
- b. \$270 per year per Small Wireless Facility annual usage fee, unless otherwise established by a Master Wireless Facility Siting Agreement.

Please contact me with any questions. Thank you.

#### Attachments:

- 1. City of Cedar Falls Small Cell Design Guidelines
- 2. FCC 5G FAST Plan
- 3. Next Century Cities information:
  - a. Information Sheet
  - b. Summary of Final FCC Small Cell Order

CC: Ron Gaines, City Administrator
Kevin Rogers, City Attorney
Susan Abernathy, Director Employee & Legal Services
Bill Skubal, Director Electric, Gas & Water Operations

# City of Cedar Falls, Iowa Small Cell Design Guidelines

#### **SECTION I: PURPOSE**

The purpose of these guidelines is to establish general procedures and standards, consistent with all applicable federal and state laws, for the siting, construction, installation, collocation, modification, relocation, operation and removal of small cell wireless technology within the City's right of way. The goals of these guidelines are to:

- A. Provide standards, technical criteria and details for small cell facilities in the City's right of way to be uniformly applied to all applicants and owners of small cell facilities or support structures for such facilities.
- B. Enhance the ability of wireless communications carriers to deploy small cell wireless technology in the City quickly, effectively and efficiently so that residents, businesses and visitors benefit from wireless service availability.
- C. Preserve the character of the City's neighborhoods and corridors.
- D. Ensure that small cell facilities and support structures conform with all applicable health and safety regulations and will blend into their environment to the greatest extent possible.
- E. Achieve the City's goals as stated in the overhead to underground ordinance (City of Cedar Falls Ordinance 2717).
- F. Comply with, and not conflict with or preempt, all applicable state and federal laws.

#### **SECTION II: DEFINITIONS**

Abandoned means any small cell facilities or wireless support structures that are not operational or are unused for a period of three hundred sixty-five (365) days without the operator otherwise notifying the City and receiving the City's approval.

Antenna means communications equipment that transmits or receives radio frequency signals in the provision of wireless service.

Applicant means any Person applying for a Permit hereunder.

Architectural Review District means City-designated historic districts, landmark sites and conservation districts, National Register of Historic Places historic districts and sites, and the Cedar Falls Central Business District Overlay Zoning District or College Hill Neighborhood Overlay Zoning District defined in the City of Cedar Falls Code of Ordinances Chapter 26, Zoning.

*Block* An area of land within a subdivision that is entirely bounded by sxtreets, railroad rights-of-way, rivers, tracts or public land, or the boundary of the subdivision. A typical block length is 300 feet.

City means the City of Cedar Falls, Iowa.

City property means property other than Right of Way owned by the City.

Collocation or Collocate means to install, mount, maintain, modify, operate, or replace small cell wireless facilities on a wireless support structure.

County means Black Hawk County, Iowa.

Page 1 of 12

Decorative Pole means a pole, arch, or structure other than a street light pole placed in the right of way specifically designed and placed for aesthetic purposes and on which no appurtenances or attachments have been placed except for any of the following (a) electric lighting; (b) specially designed informational or directional signage; (c) temporary holiday or special event attachments; and (d) appurtenances or attachments such as flags, banners, planters, and/or other aesthetic features.

Decorative Street Light means any street light or traffic signal other than a standard street light or traffic signal. Typically, it is specifically designed and placed for aesthetic purposes.

Industrial Area means an industrially-zoned area on the Official Zoning Map of the City of Cedar Falls.

*Non-decorative municipal service poles* means standard metal Cedar Falls Utilities-owned street lights and City-owned traffic signal structures.

Operator means a wireless service provider, cable operator, or a video service provider that operates a small cell facility and provides wireless service. Operator includes a wireless service provider, cable operator, or a video service provider that provides information services as defined in the Telecommunications Act of 1996, 110 Stat. 59, 47 U.S.C. § 153, and services that are fixed in nature or use unlicensed spectrum.

*Permit* means the non-exclusive grant of authority issued by the City of Cedar Falls to install a small cell facility and/or a wireless support structure in a portion of the Right of Way in accordance with these guidelines.

Permittee means the owner and/or operator issued a Permit pursuant to these guidelines.

*Person* means any natural person or any association, firm, partnership, joint venture, corporation, or other legally recognized entity, whether for-profit or not-for-profit.

Retail and Commercial Areas means a commercially-zoned area on the Official Zoning Map of the City of Cedar Falls.

Residential Area means a residentially-zoned area on the Official Zoning Map of the City of Cedar Falls.

Right of Way means the surface of, and the space within, through, on, across, above, or below, any public street, public road, public highway, public freeway, public lane, public alley, public court, public boulevard, public parkway, public drive, public utility easement, and any other land dedicated or otherwise designated for a compatible public use, which is owned or controlled by the City of Cedar Falls. Recreational trails, bike trails, and any other pathways on any portion of the City of Cedar Falls flood control system are specifically excluded from the definition of Right of Way, and no small cell facilities or supporting structures or appurtenances shall be located thereon.

Small Cell Facility means a wireless facility that meets both of the following requirements: (1) Each antenna is located inside an enclosure of not more than six (6) cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements could fit within an enclosure of not more than six (6) cubic feet in volume, and (2) All other wireless equipment associated with the facility is cumulatively not more than twenty-eight (28) cubic feet in volume. The calculation of equipment volume shall not include electric meters, concealment elements, telecommunications

demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

State means the State of Iowa.

*Toll* means the pause or delay of the running of the required time period.

*Utility Pole* means a structure that is designed for, or used for the purpose of, carrying lines, cables, or wires for electric or telecommunications service. Or any other pole not specifically described in these guidelines. "Utility pole" excludes street signs, non-decorative municipal service poles, decorative poles, and decorative street light.

Wireless Support Structure means a pole, such as a monopole, either guyed or self-supporting, street light pole, traffic signal pole, or a fifteen (15) foot or taller sign pole capable of supporting small cell facilities.

#### **SECTION III: REQUIREMENT TO COMPLY**

Placement, modification, operation, relocation and removal of a small cell facility and/or wireless support structure shall comply with these Design Guidelines, as may be amended from time to time, at the time the permit for installation, modification, relocation or removal is submitted for approval.

# SECTION IV: LOCATIONS OF SMALL CELL FACILITIES, RELATED GROUND EQUIPMENT, AND WIRELESS SUPPORT STRUCTURES

#### **Most Preferable Locations**

The following are the most preferred areas for new small cell facilities:

- A. Industrial Areas if not adjacent to a municipal park, residential area, or architectural review district.
- B. Highway Rights of Way areas if not adjacent to a municipal park, residential area or architectural review district.
- C. Retail and Commercial Areas if not adjacent to a municipal park, residential area or architectural review district.

# **Collocation Preference**

It is the City's strong preference that whenever an applicant proposes to place a new wireless support structure with a small cell facility within two hundred fifty (250) feet from an existing wireless support structure, the applicant either collocate with the existing facility or demonstrate that collocation is either not technically feasible or is aesthetically undesirable. The City reserves the discretion to determine collocation feasibility and aesthetics.

#### **Least Preferable Locations**

The following are the least preferred areas for new small cell facilities:

- A. Residential Areas
- B. Municipal Parks
- C. Architectural Review Districts

# Order of Preference for Wireless Support Structures

The following list indicates the order of preference for wireless support structures for small cell facilities:

- A. Non-decorative municipal service poles: It is the City's preference that small cell facilities be installed on existing non-decorative municipal service poles. Placement on non-decorative street lights shall be preferred over placement on traffic signal structures.
- B. Wood street light: It is the City's preference that small cell facilities be placed in a location where a street light presently exists. If the street light is on a wood pole, it shall be replaced with a new metal pole.
- C. *New poles:* If the first two (2) options above have proven to be unavailable, the City prefers the installation of a new pole to serve as a wireless support structure.
- D. Decorative municipal service poles: The use of decorative municipal street lights, traffic signals or poles as wireless support structures is strongly discouraged. These should only be proposed if the three (3) options above are unavailable or when requested by the City based on the proposed location. Use of decorative traffic signal mast arms is preferred over use of decorative street lights.
- E. Sign poles (15 feet or taller): The only sign poles that may be considered are those that are at least fifteen (15) feet tall. These are the least preferred option for a wireless support structure.
- F. Furniture: Other infrastructure in the Right of Way such as bus shelters, benches, trash cans, or mast arms without signals or street lights. These are the least preferred option for a wireless support structure.
- G. Utility pole: Not preferred.

#### **SECTION V: CONSIDERATION OF ALTERNATE LOCATIONS**

The City reserves the right to propose an alternate wireless support structure to the one proposed in the application. The City may also propose an alternate location for a new wireless support structure within one hundred (100) feet of the proposed location or within a distance that is equivalent to the width of the Right of Way in or on which the new wireless support structure is proposed, whichever is greater, which the operator shall use if it has the right to use the alternate location on reasonable terms and conditions and the alternate location does not impose technical limits or additional costs.

# **SECTION VI: GUIDELINES ON PLACEMENT**

Generally, an applicant shall construct and maintain small cell facilities and wireless support structures in a manner that does not (1) obstruct, impede or hinder the usual travel or public safety on a Right of Way; (2) obstruct the legal use of a Right of Way by other utility providers; (3) violate nondiscriminatory applicable codes; (4) violate or conflict with the City of Cedar Falls Code of Ordinances or these Design Guidelines; and (5) violate the federal Americans with Disabilities Act.

All small cell facilities must be connected to infrastructure such that they will be fully operable upon installation of the wireless support structure.

The City desires to promote cleanly organized and streamlined facilities using the smallest and least intrusive means available to provide wireless services to the community. Generally, a small cell facility and/or wireless support structure shall match and be consistent with the materials and finish of the adjacent municipal poles of the surrounding area adjacent to their location. Within an Architectural Review District, all small cell facilities and wireless support structures shall match the color and style of existing decorative poles.

# **Antennas on Existing or Replaced Utility Poles or Municipal Poles**

The antenna(s) associated with collocation on existing or replaced utility poles or municipal poles must have concealed cable connections, antenna mount and other hardware. The maximum dimensions for antennas shall not be more than six (6) cubic feet in volume, including any enclosure for the antenna. Any replaced utility poles or municipal poles within an Architectural Review District shall match the color and style of existing decorative poles, unless deemed infeasible by the owner of the utility pole or the City.

#### Right of Way

Small cell facilities and wireless support structures and related equipment shall be placed, as much as possible, in line with other utility features and in a location that minimizes any obstruction, impediment or hindrance to the usual travel or public safety on a Right of Way. Small cell facilities and wireless support structures shall not project over the traveled roadway, and shall not project beyond the Right of Way.

# **Height Above Ground**

Small cell facilities: Small cell facilities shall be installed at least eight (8) feet above the ground. If a small cell facility attachment is projecting toward the street, for the safety and protection of the public and vehicular traffic the City may require the attachment to be installed no less than sixteen (16) feet above the ground.

New wireless support structures: In areas where there are no wireless support structures, utility poles, or municipal poles taller than thirty-five (35) feet in height above ground level and the maximum allowable height for building construction in the underlying zoning district is thirty-five (35) feet in height above ground level or less, the overall height of a new wireless support structure and any collocated antennas shall not be more than thirty-five (35) feet in height above ground level.

In all other areas, the overall height of a new wireless support structure and any collocated antennas shall not be more than fifty (50) feet in height above ground level.

Existing wireless support structures: For an existing wireless support structure, the antenna and any associated shroud or concealment material are permitted to be collocated at the top of the existing wireless support structure and shall not increase the height of the existing wireless support structure by more than five (5) feet.

#### **Protrusion**

Other than the antenna, which may protrude up to twenty-four (24) inches, no other protrusions from the outer circumference of the existing or new structure or pole shall exceed twelve (12) inches. The pole and all attachments to the pole that are projecting, or any equipment or appurtenance mounted on the ground, shall comply with Americans with Disabilities Act and shall not obstruct an existing or planned sidewalk or walkway. The City, at its option, may waive the requirement to limit the protrusion to no more than twenty-four (24) inches.

#### <u>Location of Equipment – General</u>

Small cell facilities and related equipment shall not impede pedestrian or vehicular traffic in the Right of Way. If any small cell facility or wireless support structure is installed in a location that is not in accordance with the plans approved by the City, impedes pedestrian or vehicular traffic and/or does not comply or otherwise renders the Right of Way non-compliant with applicable laws, including the Americans with Disabilities Act, then the operator shall promptly remove the small cell facilities and/or

wireless support structure. If the operator does not complete removal in a reasonable timeframe, the City will remove it and bill the operator for the cost of the removal.

In an Architectural Review District, small cell facilities and related equipment must be located such that its appearance does not detract from aesthetic goals of said District, as established in plans or ordinances related to such districts. Such items should complement and enhance the design and character; at a minimum such items shall have a neutral effect on the overall aesthetics of the District. In addition, such districts are primarily pedestrian and may have wider sidewalks and other established or planned pedestrian enhancements in the public Right of Way to serve that. The small cell facilities and related equipment should respect this and locate in areas where more than 5' wide sidewalks are provided and locate to the street side of the pedestrian way.

The applicant is required to incorporate ambient noise suppression measures and/or to place the equipment in locations less likely to impact adjacent residences or businesses to ensure compliance with all applicable noise regulations and so as not to create a nuisance.

*Utility lines:* Service lines must be undergrounded whenever feasible to avoid additional overhead lines, as determined by the City and Cedar Falls Utilities. For metal poles, undergrounded cables and wires must transition directly into the pole base without any external junction box.

Spools and coils: To reduce clutter and deter vandalism, excess fiber optic or coaxial cables for small cell facilities shall not be spooled, coiled or otherwise stored on the pole except within the approved enclosure such as a cage or cabinet.

Above-ground conduit: All above-ground wires, cables and connections shall be encased in the smallest section or smallest diameter PVC channel, conduit, u-guard, or shroud feasible, with a maximum dimension of four (4) inches in diameter. Such conduit shall be finished in zinc, aluminum or stainless steel, or colored to match those metal finishes.

#### **Location of Ground Mounted Equipment**

Ground equipment should be minimal and the least intrusive. It should be placed to minimize any obstruction, impediment, or hindrance to the usual travel or public safety on a Right of Way, maximize the line of sight required to add to safe travel of vehicular and pedestrian traffic and maximize that line of sight at street corners and intersections and minimize hazards at those locations. The City may deny a request that negatively impacts vehicular and/or pedestrian safety.

The equipment shroud or cabinet must contain all the equipment associated with the facility other than the antenna. All cables and conduits associated with the equipment must be concealed from view, routed directly through the metal pole (with the exception of wood power poles) and undergrounded between the pole and the ground-mounted cabinet.

#### <u>Location of Pole Mounted Equipment</u>

All pole-mounted equipment must be installed as flush to the pole as possible. Equipment attached to metal poles must be installed using stainless steel banding straps or use integral brackets as designed and provided by the pole manufacturer and match the pole's color. Through-bolting or use of lag bolts is prohibited on metal or laminated wood poles. All pole mounted equipment shall be located as close together as technically possible and if possible, on the same side of the pole.

When pole-mounted equipment is either permitted or required, all equipment other than the antenna(s), electric meter and disconnect switch must be concealed within an equipment cage. Equipment cabinet may not extend more than twelve (12) inches from the face of the pole, unless the City determines at its sole discretion, to waive that requirement. The equipment cabinet must be non-reflective, colored to match the pole. Equipment cabinets should be mounted as flush to the pole as possible. Any standoff mount for the equipment cabinet may not exceed four (4) inches.

Electric meter: Metering requirements and their location will be determined by Cedar Falls Utilities.

Telephone/fiber optic utilities: Cabinets for telephone and/or fiber optic utilities may not extend more than twelve (12) inches from the face of the pole, and must be painted, wrapped or otherwise colored to match the pole. The City, at its option, may waive the requirement to limit the protrusion to no more than twelve (12) inches.

## **Undergrounded Equipment Vaults**

Equipment in an environmentally controlled underground vault may be required in some areas where technologically feasible and appropriate for the location.

# **New Wireless Support Structures**

Spacing: The City strongly discourages more than one (1) new wireless support structure per block and will not approve more than one (1) per two hundred fifty (250) feet on each side of the street to minimize the hazard of poles adjacent to roadways and minimize visual clutter and distractions to vehicular traffic. An exemption may be granted if the applicant can demonstrate that this restriction has the effect of preventing wireless service to this location. Wireless support structures shall be spaced apart from utility poles or wireless support structures supporting small cell facilities at the same spacing between utility poles in the immediate proximity.

If multiple requests are received to install two (2) or more poles that would violate the spacing requirement or to collocate two (2) or more small cell facilities on the same wireless support structure, priority will be given to the first request received that meets these guidelines.

Alignment with other poles: The centerline of any new wireless support structure must be aligned, as much as possible, with the centerlines of existing poles on the same street segment, but only if the new structure's height does not conflict with overhead power utility lines and facilities, and the pole may be offset sufficiently to avoid such conflict.

Metal pole footings and foundations: The design including the pier, footings and anchor bolts shall be stamped, sealed and signed by a professional engineer licensed and registered by the State of Iowa, and subject to the City's review and approval. Based on the specific design of the small cell facility proposed, new metal poles may be required to be installed with reinforced concrete piers. All anchor bolts must be concealed from public view with an appropriate pole boot or cover subject to the City's prior approval.

*Metal pole material:* All new metal poles must be constructed from hot-dip galvanized steel or other corrosion-resistant materials approved by the City and finished in accordance with these guidelines to avoid rust stains on adjacent sidewalks, buildings or other improvements.

*Metal pole finish:* All new metal poles must match the finish of nearby poles and be in compliance with ATSM standards.

*Metal pole design:* All new metal poles must match the design of nearby poles. For example, Architectural Design Districts must have a decorative pole, street light or traffic signal.

Lighting, planters, flags, banners: The City may require the applicant to install functional streetlights and/or brackets to hold hanging flower planters, flags and/or banners when technically feasible and the City determines that such additions will enhance the overall appearance and usefulness of the proposed facility. The City may install hanging flower planters, flags and/or banners or similar enhancement features utilizing the brackets, at any time.

Equipment and cabinets located at ground level in an Architectural Review District that has brick, colored concrete or other public Right of Way enhancements shall replace or repair any such impacted items. In the case of brick areas, the ground mounted items shall have a concrete foundation underneath the brick, designed to prevent frost heaving, drainage or trip hazards.

# **City-Owned Wireless Support Structures**

Required load analysis: Installations on all City-owned poles, including traffic signals, sign poles, and Cedar Falls Utilities-owned street lights, shall have an industry standard pole load analysis completed, sealed and signed by a professional engineer licensed and registered by the State of lowa and submitted to the City with each permit application indicating that the City-owned pole to which the small cell facility will be attached will safely support the load.

Height of attachments: All attachments on all City-owned poles or Cedar Falls Utilities-owned street light poles shall be at least eight (8) feet above grade and if a small cell facility is projecting toward the street, for the safety and protection of the public and vehicular traffic, the City may require the attachment to be installed no less than sixteen (16) feet above the ground.

*Power source:* The power source and associated metering must be determined and approved by Cedar Falls Utilities.

Installations on traffic signals and street lights: Installations on all traffic signal structures or street lights must not interfere with the integrity of the facility in any way that may compromise the safety of the public. The installation must not interfere with other existing uses (seasonal or permanent) on the pole such as traffic signals, street lights, hanging flower planters, flags, and/or banners or similar enhancements. Installation of small cell facilities on any traffic signal structure or street light shall (a) be encased in a separate conduit than the traffic light electronics; (b) have a separate electric power connection than the traffic signal/street light structure; and (c) have a separate access point than the traffic signal/street light structure.

Reservation of space for future public safety or transportation uses: An application for space on a City owned or operated wireless support structure that conflicts with space reserved for future public safety, utility, communication or transportation uses will be denied unless the operator pays for the replacement of the pole or wireless support structure and the replaced pole or wireless support structure will accommodate the future use and the small cell facility.

#### **SECTION VII: UNDERGROUNDING REQUIREMENTS**

The City may deny requests to install structures and facilities in the Right of Way or on City property in an area where the City has required all structures and facilities except those owned by the City to be

placed underground or elsewhere in the Right of Way or a utility easement. These areas are easily identifiable as those locations where electric has been placed underground; however, if an applicant is uncertain as to whether such facilities have been placed underground in the area, the applicant should contact the City for clarification before applying for or installing any wireless support structures and/or small cell facilities in the area. The applicant may request a waiver if the operator is unable to achieve its service objective using a location in the Right of Way or on City property where the prohibition does not apply, in a utility easement the operator has the right to access, or in or on other suitable locations or structures made available by the City at reasonable lease rates, fees and terms.

#### SECTION VIII: GENERAL AESTHETIC REQUIREMENTS

#### Concealment

*New wireless support structures:* It is the City's preference that all new wireless support structures be camouflaged. The applicant shall submit its proposal for camouflage with the permit application.

Small cell facilities: Small cell facilities shall be concealed or enclosed as much as possible in an equipment box, cabinet, or other unit that may include ventilation openings. Unless approved by the City in writing, there shall be no external cables and wires hanging off a pole. The approved ones shall be sheathed or enclosed in a conduit, so that wires are protected and not visible or visually minimized to the extent possible.

Equipment enclosures: Equipment enclosures, including electric meters, shall be as small as possible. Ground-mounted equipment shall incorporate concealment elements into the proposed design. Concealment may include, but shall not be limited to, landscaping, strategic placement in less obtrusive locations and placement within existing or replacement street furniture.

Landscaping: Landscape screening shall be provided and maintained around ground mounted equipment enclosures. The planting quantity and size should be such that 100% screening is achieved within two (2) years of installation. The City may grant an exemption from this landscaping requirement based on the characteristics of the specific location for the equipment enclosure, alternative aesthetic enhancements proposed with the enclosure or other ordinances that may be in place to ensure safety in the Right of Way. Tree "topping" or the improper pruning of trees is prohibited. Any proposed pruning or removal of trees, shrubs or other landscaping already existing in the Right of Way, or proposed root pruning or other impacts to underground vegetation, must be noted in the application and must be approved by the City Arborist. Removal shall be strongly discouraged, and shall only be allowed when there are no other feasible alternatives.

When underground vaults are proposed, they shall be located to minimize disruption to the placement of street trees. Adequate planting depth shall be provided between the top of the vault and the finished grade to allow plants to grow in a healthy condition.

*Underground service lines:* The electrical and fiber lines to each facility must be underground, unless overhead service is deemed beneficial by the City of Cedar Falls and Cedar Falls Utilities.

# **Allowed Colors**

All colors shall match the background of any wireless support structure that the facilities are located upon. In the case of existing wood poles, finishes of conduit shall be zinc, aluminum or stainless steel, or colored to match those metal finishes, and equipment cabinets shall be the color of brushed aluminum.

Ground mounted equipment cabinets shall be the color of brushed aluminum or match the color of the pole.

#### Signage/Lights/Logos/Decals/Cooling Fans

Signage: Any signage related to the new small cell facility is not intended to be for advertisement purposes. The operator shall post its name, location identifying information, and emergency telephone number in an area on the cabinet of the small cell facility. It should be visible but not distracting to Right of Way users. Signage required under this section shall not exceed 4" x 6", unless otherwise required by law (e.g., RF ground notification signs) or the City. If no cabinet exists, the signage shall be placed at the base of the pole. In no case shall signage, logos, decals or similar items exceed a total of 24 square inches.

Lights: New small cell facilities and wireless support structures shall not be illuminated, except in accord with state or federal regulations, or unless illumination is integral to the camouflaging strategy such as a design intended to look like a street light pole.

Logos/Decals: Remove and paint over unnecessary equipment manufacturer decals. New small cell facilities and wireless support structures shall not include advertisements and may only display information required by a federal, state or local agency. Utilize the smallest and lowest visibility radio-frequency (RF) warning sticker required by government or electric utility regulations. Place the RF sticker as close to the antenna as possible.

Cooling fans: In residential areas, use a passive cooling system. In the event that a fan is needed, use a cooling fan with a low noise profile.

#### **SECTION IX: AESTHETIC REQUIREMENTS**

As noted in Section IV, the City's preference for wireless support structures is non-decorative municipal services poles. Decorative municipal poles should be avoided.

When collocating on decorative traffic signal mast arms, the preferred collocation spot is on the traffic signal pole without attached street signs, with the antenna placed at the top of the vertical pole immediately below the finial. Each proposed collocation will be subject to a site-specific review to include a to-scale drawing of all elements of the small cell facility proposed, including but not limited to electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power.

The City strongly discourages the use of the City's decorative street lights as wireless support structures. They should be used only when no other options exist for providing service to a location, including the ability to install a new wireless support structure. If an existing decorative street light is used, a vertical extension shall not increase the height of the existing street light more than five (5) feet. If a replacement decorative street light must be used, then the height thereof shall not exceed the height of the original street light by more than five (5) feet. In either event, the light fixture must be located at the top of the pole, and the small cell facility must not interfere with the attachment of flags, hanging planters and/or banners or similar enhancements.

If existing non-decorative municipal service poles are not available for collocation, operators may propose a new wireless support structure. New wireless support structures shall match the design in

place for the area it is proposed. Information on the manufacturer and model identification and detailed drawings of these support structures are available from Cedar Falls Utilities.

#### **New Wireless Support Structures**

Residential areas: In residential areas, new wireless support structures should be located to avoid obstructing the view of building facades by placing the wireless support structure at a corner, intersection or along a lot line. However, the safety of vehicles and pedestrians is paramount, therefore any placements near or on corners must not obscure the sight distance to vehicles approaching the intersection. New wireless support structures should be located in the yard location where other overhead utilities are located unless it is not technically feasible to do so. Applicants shall clearly explain the rationale for requests that deviate from this expectation.

In order to meet the service needs of operators, the City will consider requests to locate small cell facilities on other City property, such as municipal parking lots, at reasonable lease rates, fees and terms.

#### **SECTION X: GENERAL PROVISIONS**

#### **Permit**

In conjunction with the application for required Right of Way permit, any small cell facility proposed shall include sufficient information to demonstrate all of the guidelines herein are met. City and Cedar Falls Utilities, as appropriate, shall review and determine if the application is complete and guidelines are met.

In addition to the Right of Way permit, any electrical equipment or footings must obtain a building permit and an inspection must be completed by the City and Cedar Falls Utilities, as appropriate.

#### **Engineering Standards**

Permittee and Operator must adhere to all generally accepted Engineering standards and practices, including the Statewide Urban Design Manual.

#### **Compliance with Laws**

Permittee and Operator must comply with all ordinances of the City of Cedar Falls, as well as State and Federal laws, rules, and regulations.

#### **Tree Maintenance**

Operator, its contractors, and agents shall obtain written permission from the City Arborist before trimming trees in the Right of Way hanging over its small cell facility and/or wireless support structure to prevent branches of such trees from contacting an attached small cell facility. When trimming such trees on private property is desired, then before commencing any such work the operator, its contractors, and agents shall notify the property owner and the City Arborist, and obtain the owner's permission. When directed by the City, operator shall trim under the supervision and direction of the City Arborist. The City shall not be liable for any damages, injuries, or claims arising from operator's actions under this section.

#### **Graffiti Abatement**

As soon as practical, but not later than fourteen (14) calendar days from the date operator receives notice thereof, operator shall remove all graffiti on any of its small cell facilities and/or wireless support

structures located in the Right of Way. The City may agree to an extension of time for abatement when necessitated by the need to order replacement equipment when such equipment is ordered in a timely manner.

#### **Minor Technical Exceptions**

The City recognizes that in some circumstances strict compliance with these guidelines may result in undesirable aesthetic outcomes and that minor deviations should be granted when the need for such deviation arises from circumstances outside the applicant's control.

<u>Waivers if requirements have the effect of prohibiting the provision of wireless service to a location</u> In the event that any applicant asserts that strict compliance with any provision in these guidelines, as applied to a specific proposed small cell facility, would effectively prohibit the provision of personal wireless services, the City may grant limited waivers from strict compliance.

These Guidelines shall take effect on the date approved by the City Council and shall apply to all applications for small cell siting, construction, installation, collocation, modification, relocation,

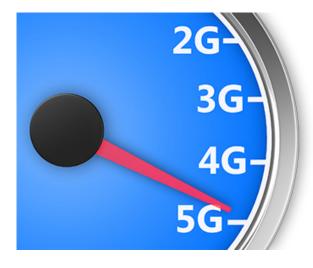
#### **Effective Date**

operation and removal filed after the ef	fective date.	
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Approved by Cedar Falls City Council on		by Resolution No
Authorized by:	Attest:	Date Approved:
(Mayor)	(City Clerk)	



Home / About the FCC / FCC Initiatives /

# The FCC's 5G FAST Plan



outdated regulations.

The United States is moving swiftly to lead the world in the next generation of wireless connectivity—or 5G. These new networks and technologies will enable faster speeds and low-latency wireless broadband services, cultivating the Internet of Things and innovations not yet imagined.

Under Chairman Pai, the FCC is pursuing a comprehensive strategy to Facilitate America's Superiority in 5G Technology (the 5G FAST Plan). The Chairman's strategy includes three key components: (1) pushing more spectrum into the marketplace; (2) updating infrastructure policy; and (3) modernizing

"Forward-thinking spectrum policy, modern infrastructure policy, and market-based network regulation form the heart of our strategy for realizing the promise of the 5G future." – FCC Chairman Pai

### **Spectrum**

Forward-thinking spectrum policy is critical for next generation wireless networks. The FCC is focused on making additional low-, mid-, and high-band spectrum available for 5G services.

High-band: The FCC has made auctioning high-band, millimeter-wave spectrum a priority. The FCC held (https://docs.fcc.gov/public/attachments/DOC-355910A1.pdf) its first 5G spectrum auction in 2018 in the 28 GHz (https://docs.fcc.gov/public/attachments/DOC-353228A1.pdf) band. In 2019, the FCC will hold an auction in the 24 GHz (https://docs.fcc.gov/public/attachments/DOC-353228A1.pdf) band starting on March 14 and auctions in the upper 37 GHz, 39 GHz, and 47 GHz (https://docs.fcc.gov/public/attachments/DOC-353229A1.pdf) bands later in the year. With these auctions, the FCC will release almost 5 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined. And we are working to free up another 2.75 gigahertz of 5G spectrum into the market—more than all other flexible use bands combined.

https://www.fcc.gov/5G

- Mid-band: Mid-band spectrum has become a target for 5G buildout given its balanced coverage and capacity characteristics. With our work on the 2.5 GHz, 3.5 GHz (/document/fcc-seeks-transform-25-ghz-band-nextgen-5g-connectivity), and 3.7-4.2 GHz (/document/fcc-proposes-expand-flexible-use-mid-band-spectrum) bands, we could make up to 844 megahertz available for 5G deployments.
- *Low-band:* The FCC is acting to improve use of low-band spectrum (useful for wider coverage) for 5G services, with targeted changes to the 600 MHz (/document/auction-1002-long-form-applications-granted-3), 800 MHz (/general/800-mhz-spectrum), and 900 MHz (/document/900-mhz-notice-inquiry) bands.
- Unlicensed: Recognizing that unlicensed spectrum will be important for 5G, the agency is creating new opportunities for the next generation of Wi-Fi in the 6 GHz (/news-events/blog/2018/06/20/scoring-victory-5g) and above 95 GHz (/document/fcc-proposes-open-spectrum-horizons-new-services-technologies) band.

### **Infrastructure Policy**

The FCC is updating infrastructure policy and encouraging the private sector to invest in 5G networks.

- Speeding Up Federal Review of Small Cells (/document/fcc-acts-speed-deployment-next-gen-wireless-infrastructure):
  The FCC adopted new rules that will reduce federal regulatory impediments to deploying the small-cell infrastructure needed for 5G (as opposed to large cell towers) and help to expand the reach of 5G for faster, more reliable wireless service.
- <u>Speeding Up State and Local Review of Small Cells</u>
   (<a href="https://docs.fcc.gov/public/attachments/DOC-353927A1.pdf">https://docs.fcc.gov/public/attachments/DOC-353927A1.pdf</a>): The FCC has reformed rules designed

# **Broadband Deployment Advisory Committee**

The Broadband Deployment Advisory
Committee, formed by Chairman Pai in
2017, provides advice and
recommendations for the Commission on
how to accelerate the deployment of highspeed Internet access. See the latest BDAC
news (/broadband-deployment-advisorycommittee).

decades ago to accommodate small cells. The reforms ban short-sighted municipal roadblocks that have the effect of prohibiting deployment of 5G and give states and localities a reasonable deadline to approve or disapprove small-cell siting applications.

### **Modernizing Outdated Regulations**

The FCC is modernizing outdated regulations to promote 5G backhaul and digital opportunity for all Americans.

Restoring Internet Freedom (/document/fcc-releases-restoring-internet-freedom-order): To lead the world in 5G, the United States needs to encourage investment and innovation while protecting Internet openness and freedom. The FCC adopted the Restoring Internet Freedom Order, which sets a consistent national policy for Internet providers.

https://www.fcc.gov/5G

- One-Touch Make-Ready (/document/fcc-speeds-access-utility-poles-promote-broadband-5g-deployment): The FCC has updated its rules governing the attachment of new network equipment to utility poles in order to reduce cost and speed up the process for 5G backhaul deployment.
- <u>Speeding the IP Transition (/document/fcc-acts-enable-investment-next-generation-networks-0)</u>: The FCC has
  revised its rules to make it easier for companies to invest in next-generation networks and services
  instead of the fading networks of the past.
- Business Data Services (/document/business-data-services-report-and-order): In order to incentivize investment in modern fiber networks, the FCC updated rules for high-speed, dedicated services by lifting rate regulation where appropriate.
- Supply Chain Integrity (/document/fcc-proposes-protect-national-security-through-fcc-programs-0): The FCC has proposed to prevent taxpayer dollars from being used to purchase equipment or services from companies that pose a national security threat to the integrity of American communications networks or the communications supply chain.



Rulemakings

News & Speeches



February 27, 2019 - Public Notice

FCC Announces Auction 102 Qualified Bidders (/document/fcc-announces-auction-102-qualified-bidders)

January 24, 2019 - Public Notice

Auction 101 Bidding Concludes (/document/auction-101-bidding-concludes)

438

https://www.fcc.gov/5G 3/6

December 12, 2018 - News Release

FCC Adopts Rules for Major 2019 5G Incentive Auction (/document/fcc-adopts-rules-major-2019-5g-incentive-auction)

November 21, 2018 - News Release

Adopting Rules for a 5G Incentive Auction (/document/adopting-rules-5g-incentive-auction)

October 23, 2018 - News Release

FCC Proposes More Spectrum for Unlicensed Use (/document/fcc-proposes-more-spectrum-unlicensed-use)

October 23, 2018 - News Release

FCC Acts to Increase Investment and Deployment in 3.5 GHz Band (/document/fcc-acts-increase-investment-and-deployment-35-ghz-band)

September 28, 2018 - Plan

FCC's 5G FAST Plan (/document/fccs-5g-fast-plan)

September 26, 2018 - News Release

FCC Streamlines Deployment of Next Generation Wireless Infrastructure (/document/fcc-streamlines-deployment-next-generation-wireless-infrastructure)

August 3, 2018 - Public Notice

<u>FCC Establishes Procedures for First 5G Spectrum Auctions (/document/fcc-establishes-procedures-first-5g-spectrum-auctions-0)</u>

August 3, 2018 - FNPRM

<u>FCC Proposes Steps Towards Auction of 37 GHz, 39 GHz, and 47 GHz Bands (/document/fcc-proposes-steps-towards-auction-37-ghz-39-ghz-and-47-ghz-bands-0)</u>

August 2, 2018 - News Release

FCC Speeds Access to Utility Poles to Promote Broadband, 5G Deployment (/document/fcc-speeds-access-utility-poles-promote-broadband-5g-deployment)

July 13, 2018 - Notice of Proposed Rulemaking, Order

FCC Expands Flexible Use of Mid-band Spectrum (/document/fcc-expands-flexible-use-mid-band-spectrum)

lune 7, 2018 - News Release

<u>FCC Takes Next Steps to Open Spectrum Frontiers for 5G Connectivity</u>

(/document/fcc-takes-next-steps-open-spectrum-frontiers-5g-connectivity)

439

https://www.fcc.gov/5G 4/6

May 10, 2018 - News Release

FCC Seeks to Transform 2.5 GHz Band for NextGen 5G Connectivity

(/document/fcc-seeks-transform-25-ghz-band-nextgen-5g-connectivity)

April 17, 2018 - Public Notice

<u>Spectrum Frontiers Auction Comment PN (/document/spectrum-frontiers-auction-comment-pn)</u>

March 30, 2018 - Report and Order

FCC Acts to Speed Deployment of Next-Gen Wireless Infrastructure

(/document/fcc-acts-speed-deployment-next-gen-wireless-infrastructure-0)

March 1, 2018 - Public Draft

Proposed Rules to Streamline Wireless Infrastructure Deployment

(/document/proposed-rules-streamline-wireless-infrastructure-deployment)

February 23, 2018 - Notice of Proposed Rulemaking

FCC Looks to Speed Introduction of Innovative Technologies & Services

(/document/fcc-looks-speed-introduction-innovative-technologies-services-0)

February 28, 2018 - Notice of Proposed Rulemaking

FCC Proposes to Open Spectrum Horizons for New Services &

 $\underline{Technologies} \ ( \textit{/document/fcc-proposes-open-spectrum-horizons-new-services-technologies-0}) \\$ 

November 27, 2017 - Report and Order

FCC Takes Steps to Facilitate Next Generation Wireless Technologies in Spectrum Above 24 GHz (/document/fcc-takes-next-steps-facilitating-spectrum-frontiers-spectrum)

August 3, 2017 - Notice of Inquiry

<u>Expanding Flexible Use in Mid-Band Spectrum Between 3.7 and 24 GHz</u> (/document/fcc-opens-inquiry-new-opportunities-mid-band-spectrum-0)

October 24, 2017 - Notice of Proposed Rulemaking

FCC Moves to Promote Investment in the 3.5 GHz Band (/document/fcc-moves-promote-investment-35-ghz-band-0)

April 21, 2017 - Notice of Proposed Rulemaking and Notice of Inquiry

<u>Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment (/document/wireless-infrastructure-nprm-and-noi)</u>

December 14, 2017 - Public Notice

### FCC Seeks Comment on Plan to Ease Collocations on Twilight Towers

(/document/fcc-seeks-comment-plan-ease-collocations-twilight-towers-0)

November 17, 2017 - Report and Order

FCC Streamlines Requirements for Utility Pole Replacements (/document/fcc-streamlines-requirements-utility-pole-replacements-0)

April 28, 2017 - Report and Order

FCC Advances Competition, Investment in Business Data Services Market (/document/business-data-services-report-and-order)

January 4, 2018 - Declaratory Ruling, Report and Order, and Order

FCC Releases Restoring Internet Freedom Order (/document/fcc-releases-restoring-internet-freedom-order)

April 21, 2017 - Notice of Proposed Rulemaking

<u>Accelerating Wireline Broadband Infrastructure Deployment</u>

(/document/accelerating-wireline-broadband-infrastructure-deployment)

#### Tags:

https://www.fcc.gov/5G

3G, 4G and 5G (/tags/3g-4g-and-5g) - Spectrum (/tags/spectrum-0) - Wireless Services (/tags/wireless-services)

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#### **Next Century Cities: Connecting Communities**

Next Century Cities supports mayors and community leaders across the country as they seek to ensure that everyone has fast, affordable, and reliable internet access.

Across the country, innovative municipalities are recognizing the importance of leveraging gigabit level internet to attract new businesses and create jobs, improve health care and education, ensure civic participation, and connect residents to new opportunities. Next Century Cities is committed to celebrating these successes, demonstrating their value, and helping other cities to realize the full power of truly high-speed, affordable, and accessible broadband.

#### **Our Principles**

Next Century Cities believes that there is no single pathway to a smart, effective approach to next-generation broadband. What matters is meaningful choice, dedicated leadership, and smart collaboration. Our members are committed to the following principles:

**High-Speed Internet Is Necessary Infrastructure:** fast, reliable, and affordable internet – at globally competitive speeds – is no longer optional. Residents, schools, libraries, and businesses require next-generation connectivity to succeed.

The Internet Is Nonpartisan: because the internet is an essential resource for residents and businesses in all communities, the provision of fast, reliable, and affordable internet transcends partisanship. This collaboration welcomes leaders of all affiliations and beliefs who believe fast, reliable, and affordable high-speed internet access is essential to secure America's internet future.

**Communities Must Enjoy Self-Determination:** broadband solutions must align with community needs—there is no perfect model that is universally appropriate. Towns and cities should have the right to consider all options – whether public, nonprofit, corporate, or some other hybrid – free from interference.

**High-Speed Internet Is a Community-Wide Endeavor:** building effective next-generation networks requires cooperation across communities. It is critical to involve and include multiple stakeholders and perspectives to succeed, including businesses, community organizations, residents, anchor institutions, and others. Everyone in a community should be able to access the internet on reasonable terms.

**Meaningful Competition Drives Progress**: a vibrant, diverse marketplace, with transparency in offerings, pricings, and policies will spur innovation, increase investment, and lower prices. Communities, residents, and businesses should have a meaningful choice in providers.

Collaboration Benefits All: innovative approaches to broadband deployment present diverse challenges and opportunities to communities and regions. Working together, cities can learn from the experiences of others, lower costs, and make the best use of next-generation networks.



### A 21st Century Partnership

We invite cities to join Next Century Cities and strengthen the ability of communities nationwide to prosper and compete in the 21st century. Next Century Cities supports mayors and community leaders across the country as they seek to ensure that everyone has fast, affordable, and reliable internet access.

**Elevating the Conversation:** we work with leaders and their communities to share stories. Cities that have or would like to develop truly next-generation networks are visionary cities, and their leaders recognize what it takes to be competitive in the 21st century. Next Century Cities works with these leaders and their cities to make the case nationally and within communities that next-generation internet is an essential infrastructure that can deliver transformative benefits to communities today.

**Supporting Cities:** communities stepping into the 21st century through next-generation networks face myriad challenges. It is essential to provide crucial support to facilitate these innovative projects. Next Century Cities and our members work to overcome obstacles to success.

**Providing Tools for Success:** developing a next-generation network is a daunting task for a city of any size. It is important that communities have access to resources, advice, and tools to develop effective broadband internet networks. We are committed to developing and aggregating resources to guide new projects, as well as tools to help those already equipped with this infrastructure better leverage their networks to yield community benefits.

We are excited to continue working with diverse towns and cities across the country to lead a new conversation on what it will take to compete and thrive in the 21st century.

For more information, contact Deb Socia at Deb@NextCenturyCities.org.



### **Summary of Final FCC Small Cell Order**

Accelerating Wireless Broadband Deployment by Removing Barriers to Infrastructure Investment; Declaratory Ruling and Third Report and Order; WT Docket No. 17-79; WC Docket No. 17-84

Prepared in collaboration with Mark Del Bianco, Principal, Law Office of Mark C. Del Bianco

DISCLAIMER: This document is intended to be a tool for education and information. It offers a summary of the proposed FCC order. This document is not intended to provide legal advice, or to be a legal analysis or a comprehensive list of all potential outcomes of this order. We offer this information for reference purposes only, as a starting point for analysis by interested parties.

At its September 2018 open meeting, the FCC adopted a report and order (collectively, the "Order") in its ongoing proceeding to streamline the rollout of infrastructure for broadband services, including small cells for 4G and 5G wireless service.[i] This summary addresses the effect of the Order on the issues of most importance to NCC members that have or are considering enacting small cell ordinances, or have or will be negotiating agreements with carriers or infrastructure providers such as Mobilitie or Crown Castle.

The Order has two parts: (1) an new set of regulations (the "Rules") that govern shot clocks and other limited aspects of the rollout of small wireless facilities (a/k/a "small cells") and (2) a Declaratory Ruling that does not enact any new regulations but is the FCC's interpretation of how the provisions of Section 253 and 332(c)(7) of the Communications Act that limit state or local regulations that "effectively prohibit" the provision of wireless services should be applied.[ii] The Declaratory Ruling portion of the Order adopts the position that a state or local government need only "materially inhibit" a particular small wireless facility deployment in order for its action to constitute an "effective prohibition" under Section 253 or 332(c)(7). Based on this conclusion, the Declaratory Ruling provides guidance on fees local governments may charge and on how they may regulate ancillary rollout issues such as tower spacing, equipment design and other aesthetic concerns. In lay terms, this means the FCC is making it easier for private companies to take local governments to court if they believe municipal policies are effectively prohibiting network investment.



### **Key Takeaways from the Order**

- The Order is a blatant effort by the FCC to strengthen the hand of carriers in negotiations with local governments over small cell deployment and to limit the ability of local governments to negotiate in the public interest around small cells.
- The good news is that the FCC has left local governments with some power and flexibility to enact reasonable regulations governing small cell deployments. With the right approach and partner, local governments have a higher hill to climb but can still negotiate win-win outcomes that benefit carriers while addressing citizens' concerns.
- Local governments should immediately take proactive steps to maintain their leverage in possible negotiations with carriers.
- Local governments should move expeditiously to enact zoning and other regulations to address issues of importance to their community. These may include application processing cost recovery, antenna design, location and spacing, additional pole and equipment aesthetic requirements, and other factors of local concern.
- In particular, setting out and standardizing aesthetic requirements, including preapproval of antenna, equipment cabinet and street furniture designs where
  appropriate, will make it easier for local governments to process applications
  reasonably expeditiously and to defend challenged siting decisions or failures to
  meet shot clock deadlines.

#### **Key Issues for Members**

#### What types of facilities does the Order apply to?

The Order applies to all types of facilities used to provide wireless services. There are specific shot clock and other rules that govern certain small wireless facilities, i.e., generally those less than 50 feet tall and on which the antenna size is less than 3 cubic feet.

# What happens if a local government already has an agreement with a carrier or infrastructure provider that covers small wireless facilities?

- The FCC did not address whether existing agreements are preempted by the Order. While existing agreements were not explicitly grandfathered, there is no obvious means of voiding them. The result is that local governments should be able to keep existing agreements.
- In order to preempt existing agreements involving private parties, the FCC would have to make certain findings that doing so was in the public interest. It did not do so in the Order.



- Further evidence that the FCC did not intend to preempt existing agreements is its expressed intent in the Order to facilitate "mutually agreed solutions."
- Any attempt to preempt an existing agreement would require the carrier to file a lawsuit against the municipality, which seems very unlikely.
- Even if a carrier filed a case, we do not believe it would be able to convince a court to void a freely negotiated commercial agreement.

# Going forward, can a local government negotiate new agreements with carriers or infrastructure providers? If so, are there issues that cannot be addressed in an agreement?

- Yes, local governments can still negotiate with carriers and infrastructure
  providers. Nothing in the Order preempts local governments' ability to negotiate
  future agreements in order to provide a mutually acceptable process for
  deployment of small cells.[iii] However, the Rules and presumptions created by
  the Order give carriers more leverage when negotiating with local governments
  and reduce the ability of local governments to enact regulations that achieve
  desirable outcomes when carriers are unwilling to engage in good faith
  negotiations, or to negotiate at all.
- The Declaratory Ruling provides guidance on some parameters of the
  deployment of small cells, including such factors as the cost, aesthetic
  requirements and location, but it does not prohibit local governments or carriers
  from reaching their own arrangements on these or any other factors. This means
  that if a local government wants to follow the Lincoln model of offering very rapid
  permitting in return for fees higher than the FCC sets, it may still do so.

## Are there limits on the amounts that local governments can charge for small cell application and use fees?

- There is a presumed safe harbor for application and use fees, but no specific cap on fees.
- The safe harbor amounts are (a) \$500 for a single up-front application that includes up to five Small Wireless Facilities, with an additional \$100 for each Small Wireless Facility beyond five, (b) \$270 per Small Wireless Facility per year for all recurring fees, including any possible ROW access fee or fee for attachment to municipally-owned structures in the ROW, and (c) \$1,000 for non-recurring fees for a new pole.
- The FCC views these amounts as safe harbors because it believes they are low enough that no carrier would challenge them if they were imposed unilaterally in a local government's regulations.
- Nothing in the Order prevents a local government from charging higher fees. However, under the FCC's framework, if a carrier files a lawsuit challenging the fees imposed by a local government, the burden would be on the local government to demonstrate that the amount is a reasonable approximation of its costs and that its costs are reasonable.
- The FCC did not specify a methodology for calculating cost, or what expenses could be included.



 We believe that the revenue-reducing effect of a cost-based methodology will be much greater for usage fees than for application fees, because usage fees are recurring.

# Can a local government require in-kind contributions or set application or use fees at levels to achieve social goals such as closing the digital divide?

- If a court were to accept the FCC conclusion that fees must be cost-based, local governments would not be able to require in-kind contributions or set application or usage fees above cost.
- Local governments can still negotiate agreements containing provisions for noncost-based fees (as San Jose and Honolulu did), but the Order attempts to remove most of a local government's negotiating leverage on these issues, so there will now be little incentive for a provider to agree to do so.

#### What are the new application shot clocks?

- The Rules create four new shot clocks:
  - § Collocation of small wireless facilities: Local government has 60 days to act upon to an application
  - § Collocation of facilities other than small wireless facilities: 90 days.
  - § Construction of new small wireless facilities: 90 days.
  - § Construction of new facilities other than small wireless facilities: 150 days.
- The Rules also provide for the resetting or pausing of the shot clock when a local government determines that an application is incomplete. If a municipality determines that an application is materially incomplete within ten day of filing and notifies the applicant of the deficiencies, the shot clock resets when the completed application is filed. In order to prevent last minute "pausing" of the shot clock by local governments, an incompleteness determination must be made by the 30th day after an application is filed, and within 10 days after resubmission if a re-submitted application is still incomplete.

### What is the legal effect of the new shot clocks?

- The shot clock deadlines have no direct legal effect.
- If an application is not acted on within the deadline, nothing happens unless a carrier either commences a formal complaint proceeding at the FCC or files a case in state or federal court. In either case, the carrier would have to demonstrate that the failure to act on the application amounts to an "effective prohibition" on wireless service under Section 253 or 332.
- Either process will take months, perhaps years.
- The Order recognizes that the shot clock is only a presumption, and that local governments have the ability to demonstrate to a court that the delay is reasonable under the circumstances.
- If a court finds that a shot clock violation is an effective prohibition, it will most likely order the local government simply to make a decision by a specific date in



- the near future; a court is very unlikely to order a local government to grant a specific application.
- We believe that carriers prefer certainty and rather than litigate over a few shot clock violations will be willing to negotiate a reasonable time for guaranteed local government action on applications.

# Do different shot clock deadlines apply when multiple applications are filed at the same time (batched)?

- No.
- However, the FCC acknowledged that batched applications could strain local governments' resources and potentially justify a failure to meet shot clock deadlines.[iv]
- We believe that in any carrier lawsuit that was based on a failure to meet the shot clock deadlines on a large batch of applications, a court would be very sympathetic to a local government's argument that the batch application had caused a legitimate overload on its permitting resources.

# What types of local government permits/authorizations do the new shot clocks apply to?

- The Rule applies to any request for authorization to place, construct, or modify wireless service facilities, including a zoning permit, a building permit, an electrical permit, a road closure permit, and an architectural or engineering permit.
- The Order does not specify whether or how the shot clocks apply to requests to
  use light poles and other government facilities, whether located in or outside the
  right of way.

## May a local government still take aesthetics into account in its small cell zoning regulations?

- Yes.
- Aesthetic requirements must be reasonable, no more burdensome than those
  applied to similar types of infrastructure deployments (e.g., equipment cabinet
  size and color requirements would need to be similar to those for telco or cable
  company cabinets), and objective and published in advance.[v]

### May a local government require minimum spacing between small wireless facilities?

- Yes. The Order considers spacing requirements to be a subset of aesthetics requirements, and thus subject to same standard.
- The Order gives no guidance on what might be a reasonable spacing distance.



#### What if a local government has an undergrounding requirement for all utilities?

- Regulations requiring all utility facilities (including antennas) to be placed underground would effectively prohibit wireless services because antennas have to be placed above ground in order to function.
- Regulations requiring all wireless equipment other than antennas to be placed underground would be permissible, so long as they are applied on a non-discriminatory basis to other service providers, e.g. telco and cable companies.
- It is not clear what sorts of poles or other above ground antenna facilities a local government would have to allow access to in order to avoid being considered "effectively prohibiting wireless service."

#### **Frequently Asked Questions**

What happens if a city is in negotiations with a carrier and they demand that the agreement provisions on such issues as fees, spacing and aesthetic requirements follow the "guidelines" in the FCC small cell Order?

In that case, the city has two or perhaps three options. First, the city can capitulate to the carrier's claims about what the Order requires. Obviously, we do not believe any city should do so. The second option is for the city to abandon the negotiation process and instead act unilaterally to adopt an ordinance, a set of regulations or a model franchise agreement (if it has a franchising process in place) that it believes is consistent with the desires of its residents and at the same time presents a low (and thus acceptable) risk of a court challenge.

If a city has already negotiated a small cell facility agreement with one or more carriers/infrastructure providers, it has a third option. It can adopt an ordinance or draft a template agreement reflecting essentially the same terms as the executed agreement. In either case, it becomes much more difficult (albeit not impossible) for other carriers to challenge the model agreement or ordinance on its face because it contains essentially the same terms that the first carrier has already agreed do not effectively prohibit it from providing a wireless service.

#### What are cities doing to prepare for the Jan 13 deadline?

Most NCC members seem to be either negotiating agreements with carriers, taking unilateral steps to develop and put in place a process for consideration of applications to place small cell wireless facilities, or doing both simultaneously.

If a city enters into an agreement with a carrier and then the Order is overturned, is the city stuck with the agreement?

The answer in general is yes. No city is required to enter into any agreement with a carrier or infrastructure provider. If a city does so voluntarily, it will almost certainly be held to the terms of the agreement by a court. However, a city might be able to resolve this problem by including in the agreement a clause voiding the agreement or requiring



its modification, in the event of a regulatory change (including the overturning of the Order). Many types of telecommunications agreements contain such regulatory change clauses because parties recognize that the wording or scope of specific provisions in the agreement has been dictated by the then-existing telecommunications regulatory scheme, and should be changed if the regulations change.

### If a city enacts an ordinance and then the Order is overturned, can it adjust the ordinance?

Yes. However, unless the original ordinance specifically permits retroactive application of aesthetic or other requirements, existing wireless facilities approved under the first ordinance may be effectively grandfathered. Almost certainly, neither application nor usage fee increases could be applied retroactively.

### What is the risk if a city does not have an ordinance in place prior to the Jan 13 deadline?

The only risk we are aware of for a city that has no process in place to consider applications for placement of small cell wireless facilities is the risk that it will be sued in state or federal court by a carrier arguing that the failure constitutes a city action that "effectively prohibits" it from providing wireless service. In the short term (say 180 days after January 13), there is very little risk that a carrier will bring such a lawsuit. There is little benefit to a carrier in doing so. The only relief a carrier could get in such a case would be an order requiring the city to enact an ordinance within a certain period of time. A court could not order the placement of specific antennas or create its own process for a city to follow. If a city is taking observable public steps to develop an ordinance, a lawsuit is unlikely and it is even more unlikely that a judge would rule against a city.

In the longer term (say after mid-2019), the risk of a lawsuit will increase and it becomes less defensible for a city not to have an approval process in place (or at least publicly in development). That is why we recommend that cities publicly begin developing a process for small cell facility regulation now. Doing so will allow adequate time for consideration of all the issues and the development of a policy that reflects residents' concerns, while at the same time providing for placement of infrastructure for the next generation of wireless services.

The Order identifies application and usage fee amounts that are neither caps nor safe harbors, but simply what the FCC believes are levels at which carriers will not file legal challenges. What local government usage fees are covered by these FCC "guidelines"?

The Order identifies \$270 per year as a presumptively reasonable annual usage fee. This covers the right to attach an antenna to a pole or other facility and to locate associated equipment nearby. But if a city is providing not just the right to place antennas on city-owned poles, but ancillary facilities or services (such as access to electricity, existing underground ducts and underground casements at each pole), the FCC fee "guidelines" do not apply and the city can set the usage fees at any level it



wishes. Cities should not be misled by carriers falsely claiming that the FCC's \$270 annual usage fee includes anything other than the right to mount an antenna on a pole and put equipment nearby.

Does the Order impose non-discrimination requirements, i.e., does it require municipalities to treat wireless carriers the same as they treat electric companies, cable companies or other utilities?

No. The non-discrimination requirements identified in the Order are the FCC's interpretations of the language of Sections 253 and 332(C)(7), and are limited in scope. Section 253(a) addresses only state or local government actions (including discrimination) that effectively prohibit "any interstate or intrastate telecommunications service," while Section 332(c)(7)(B)(i)(II) is even narrower: only actions that effectively prohibit "personal wireless services," which is a small subset of telecommunications service. Thus, Section 253 only limits discrimination between providers of "telecommunications service," and the only type of discrimination that could potentially be problematic under Section 332(C)(7) would discrimination between "competing wireless services." Therefore, the Order does not (and the FCC could not) prohibit discrimination in fees, aesthetic requirements and application requirements as between wireless carriers and companies that do not provide "telecommunications service," a category that includes not only traditional utilities, but also cable companies and even wireline broadband Internet access providers (which under current FCC rules are not providers of telecommunications services).

How does the Order's interpretation of the "effective prohibition" language affect the ability of localities to regulate the number or location of small cell wireless antennas? If a carrier has full geographic coverage already, can a locality require it to justify the need to add additional capacity?

In the Small Cell Order, the FCC reaffirmed its interpretation that a locality can violate the "effective prohibition" language of Sections 253 and 332 by enacting regulations that merely "materially inhibit" the ability of wireless carriers to provide services. It specifically included in this category local regulations that affect carriers' ability to densify their networks or to add capacity to their networks. If this interpretation survives on appeal, then it would be unlikely that a locality could successfully defend a broad regulation that required a carrier to justify every requested small cell facility placement. However, NCC believes that a regulation that allows for reasonable rollout of small cell facilities based on objective criteria that reflect community concerns would be consistent with the FCC's interpretation. Such a regulation should not be seen as "materially inhibiting" any carrier's ability to offer its services, so long as a reasonable number of potential wireless facility locations would be available under the objective criteria. Such a regulation would be even more defensible if it has a "safety valve" that allows a carrier to meet capacity needs by allowing for placement of additional wireless facilities that do not meet the objective criteria. The regulation could even place the burden on the carrier to demonstrate the need for any additional non-compliant facility. A single "safety valve" decision would involve a limited geographic area and would be fact-specific, and should not be challengeable as a "material inhibition" on provision of wireless service in the locality.



### **Bottom Line**

- This order significantly diminishes local decision making, but does not eliminate
  it.
- Local governments cannot say no to all small cell antennas within specific neighborhoods or other areas of their communities.
- Local governments can charge more than the recommended permitting fees and annual fees, but may have to show how the fees correlate with the local government's cost for managing the permitting and right of way.
- The order decreases a community's capacity to receive recompense for the use
  of their right of way that is in excess of the cost of managing that right of way.
- Local governments that are prepared by proactively putting in place policies and procedures will be able to retain some local control.
- If you have an existing agreement, we believe it will be hard for a vendor to justify
  a request to change that agreement and it seems unlikely that the courts would
  side with them.
- There will very likely be court challenges to this order.

### **Important Tips and Action Steps**

- ANTENNA PLACEMENT you cannot say no to any antennas on poles in an area. However, you can say no to a specific placement as long as there is a reasonable alternative.
- UNDERGROUND you cannot require that all of this infrastructure be placed underground, but you may be able to require that all but the antenna be placed underground. However, if you are planning to do so, you must do so for ALL utilities and you must have an ordinance in place.
- STREET FURNITURE you can require that street furniture have a certain
  aesthetic and a setback from the street (for both aesthetic and public safety
  reasons, such as to prevent loss of parking due to inability to open car doors).
  You must have an ordinance in place that applies to ALL utilities' street furniture
  in the local government's right of way.
- SHROUDING You can require a certain aesthetic for certain neighborhoods and certain types of poles. If these requirements are in place in advance of a carrier approaching you, you are less likely to experience push back and your position will be more defensible if challenged in court.
- PERMITTING The time to revise and organize your permitting process is now. If your permitting process includes a plan to adhere to the shot clocks in the order, you will more likely be able to meet them.
- SHOT CLOCK DEADLINES The deadlines may be difficult to meet, but there is NO DEEMED GRANTED provision in this order. Batch permitting may be particularly problematic for local governments as the scope of such requests can overwhelm a permitting department, but if you work in good faith, keep the carrier updated, and are still unable to meet the deadline, it is likely the carrier will work with you. If instead they take you to court, your due diligence and proactive efforts will work in your favor.
- APPLICATION COSTS The costs listed in the order are for guidance. If you
  stay at or below them, your fees very likely will not be challenged in court.
  However, you can charge more if you have evidence that your costs are higher.



- Including your engineering costs, permitting staff costs, and post-installation inspection costs may justify a higher application fee. If those costs are reasonable, the fee is unlikely to be challenged and if challenged, will likely be upheld even under the FCC's test.
- ANNUAL ROW FEE If at or below the cost specified by the order (\$270/year), this fee will very likely be unchallenged by carriers. If higher, a court may require the local government to justify the fee as being directly related to cost.
- NEGOTIATING Remember that one of the single most valuable characteristics
  of your permitting from the carrier perspective is predictability. If you can give a
  high degree of certainty that permits will be finished in a predictable manner,
  carriers will be much more willing to negotiate for higher fees or more public
  interest requirements than those set by the FCC.



#### **Endnotes**

- [i] Accelerating Wireline Broadband Deployment by Removing Barriers to Infrastructure Investment, Declaratory Ruling and Third Report and Order, WT Docket No. 17-79; WC Docket No. 17-84 (the "Order").
- [ii] Section 253(a) provides that "[n]o State or local statute or regulation, or other State or local legal requirement, may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service." Section 332(c)(7) provides that "[t]he regulation of the placement, construction, and modification of personal wireless service facilities by any State or local government or instrumentality thereof—(I) shall not unreasonably discriminate among providers of functionally equivalent services; and (II) shall not prohibit or have the effect of prohibiting the provision of personal wireless services."
- [iii] However, parts of the Declaratory Ruling and even the Rules acknowledge the ability of local governments and carriers to negotiate outcomes different from those envisioned in the Declaratory Ruling. For example, with regard to proposals to allow local governments to implement best practices or an informal dispute resolution process, the FCC stated "Although we do not at this time adopt these proposals, we note that the steps taken in this order are intended to facilitate cooperation between parties to reach mutually agreed upon solutions. For example, as explained below, mutual agreement between the parties will toll the running of the shot clock period, thereby allowing parties to resolve disagreements in a collaborative, instead of an adversarial, setting." Order, ¶ 131. That reference is to 47 C.F.R. § 1.6003(d), which allows local governments and carriers to agree to toll (i.e., lengthen) the shot clock period for any type of wireless facility. Similarly, nothing in the Declaratory Ruling prohibits local governments from reaching agreements with carriers and infrastructure providers that contain provisions fleshing out (or even departing from) the broad FCC guidelines on cost, aesthetic requirements, antenna location and other factors.
- [iv] The FCC noted that under its "approach, in extraordinary cases, a siting authority, as discussed below, can rebut the presumption of reasonableness of the applicable shot clock period where a batch application causes legitimate overload on the siting authority's resources. Thus, contrary to some localities' arguments, our approach provides for a certain degree of flexibility to account for exceptional circumstances.

The siting authority then will have an opportunity to rebut the presumption of effective prohibition by demonstrating that the failure to act was reasonable under the circumstances and, therefore, did not materially limit or inhibit the applicant from introducing new services or improving existing services. Order, ¶¶ 115-119.

[v] The Order's discussion of the first two factors is brief and provides little guidance: "[A]esthetic requirements that are technically feasible and reasonable in that they are reasonably directed to avoiding or remedying the intangible public harm of unsightly or out-of-character deployments are also permissible. In assessing whether this standard has been met, aesthetic requirements that are more burdensome than those the state or locality applies to similar infrastructure deployments are not permissible, because such discriminatory application evidences that the requirements are not, in fact, reasonable



and directed at remedying the impact of the wireless infrastructure deployment." Order,  $\P$  87.



#### • R DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-273-8600 Fax: 319-273-8610

www.cedarfalls.com

#### INTEROFFICE MEMORANDUM

Administration Division

**TO:** Honorable Mayor James P. Brown and City Council

**FROM:** Stephanie Houk Sheetz, AICP, Director of Community Development

**DATE:** April 10, 2019

**SUBJECT:** 100 Block Alley Reconstruction

Project No. RC-039-3154 Request for PS&E Approval

Submitted within for City Council approval are the Plans, Specifications, and Estimate of Costs and Quantities for the 100 Block Alley Reconstruction.

I would recommend setting Monday, May 6, 2019 at 7:00 p.m. as the date and time for the public hearing on this project and Tuesday, May 14, 2019 at 2:00 p.m. as the date and time for receiving and opening bids. I would also request that the Notice to Bidders be published by April 19, 2019. The Plans and Specifications will be ready for distribution to contractors on April19, 2019 allowing more than three (3) weeks of review before contract letting.

This project involves the construction of one downtown alley, in the 100 block of Main Street, on the east side. Originally, it had been anticipated to reconstruct the alley at the same time as the parking lot, but due to project complications we were not able to do so. The City entered into contract with AECOM in November 2018, to complete the design and prepare this project for bidding and reconstruction in 2019.

Work will include removal and replacement of the existing pavement, significant underground utility work, relocation of a transformer (to support widening the alleyway), subdrain, installing connection points for each property for sump pump and downspout tie ins to the new subdrain, storm sewer, three sets of stairs (for access to/from rear entrances and the parking lot), decorative bollards, removable bollards (to allow closing the alley for special events, as requested), a 4' landscaped area, and a bid alternate for colored concrete that could be selected to complement Parkade and side street streetscape designs. In addition, the City has worked with 6 property owners to coordinate improvements to their rear entrances in conjunction with the project. Each property owner would pay for the cost of above grade stair replacements/improvements. Each owner has signed an agreement. These will be on the May 6, 2019 Council agenda for City approval, in conjunction with the public hearing.

The total estimated cost for the construction of this project is \$153,466.03. Of that \$25,372.00 would be reimbursed by property owners, for stair improvements. CIP #78 estimated construction to be \$150,000, utilizing TIF and a grant from Black Hawk County Gaming Association. The City has secured the grant, generally to cover 30% of the project.

This project meets the Organizational Goal #4 of the City Council goals for fiscal year 2019, utilizing TIF to make landscaping, alley, and other streetscape improvements in the Downtown and College Hill.

The Plans, Specifications, and Estimate of Costs and Quantities are available for your review at the City Clerk's office or the Engineering Division of the Community Development Department.

Att: Engineer's Estimate

CC: Chase Schrage, Principal Engineer Jamie Castle, AIA, Building Official

### 100 BLOCK ALLEY RECONSTRUCTION

City Project Number RC-039-3154

Engineer's Estimate

	4/2/2019																		
No.	Spec	Bid Items	Unit	Unit Cost	City	102	104	106	108	110	114	116	117	118	120	122	128	Total Quantity	Total Cost
1	2010	MODIFIED SUBBASE	CY	\$ 35.00	232.1													232.1 \$	8,125.19
2	2010	SUBGRADE PREPARATION	SY	\$ 5.00	760.0													760.0 \$	3,800.00
3	2523	ELECTRICAL CIRCUITS	LF	\$ 15.00	202.0													202.0 \$	3,030.00
4	4020	STORM SEWER PIPE, RCP, 15 IN.	LF	\$ 60.00	10.0													10.0 \$	600.00
5	4040	LONGITUDINAL SUBDRAIN, PERFORATED, 4 IN.	LF	\$ 10.00	182.2													182.2 \$	1,822.00
6	4041	FOOTING DRAIN COLLECTOR, 12 IN.	LF	\$ 35.00	263.8													263.8 \$	9,233.00
7	4040	SUBDRAIN OUTLETS	EACH	\$ 300.00	4.0													4.0 \$	1,200.00
8	4040	SUBDRAIN FOOTING DRAIN CONNECTION	EACH	\$ 300.00	9.0													9.0 \$	2,700.00
9	4040	FOOTING DRAIN CLEANOUT, 12"	EACH	\$ 1,000.00	2.0													2.0 \$	2,000.00
10	6010	DOUBLE GRATE INTAKE, SW-505	EACH	\$ 7,000.00	2.0													2.0 \$	14,000.00
11	7010	PCC PAVEMENT, 8 IN.	SY	\$ 40.00	696.4													696.4 \$	27,857.78
12	7010	SIDEWALK, 6 IN.	SY	\$ 55.00	11.5													11.5 \$	632.50
13	7040	REMOVAL OF PAVEMENT	SY	\$ 7.00	705.4													705.4 \$	4,937.57
14	7040	SAWCUT FOR REMOVALS	LF	\$ 6.00	206.0													206.0 \$	1,236.00
15	9080	CONCRETE STEPS	SF	\$ 30.00	30.0					15.2		10.0			42.5	68.7	25.0	191.4 \$	5,742.00
16	9080	RAISED LANDINGS AND RAMPS	SY	\$ 50.00								17.9		18.3	3			36.2 \$	1,810.00
17	9080	RAILINGS, DECORATIVE	LF	\$ 200.00	12.0					3.0		24.3		25.0	)	13.8	5.0	83.1 \$	16,610.00
18	9080	RAILINGS, DECORATIVE, REMOVABLE	LF	\$ 250.00											8.5			8.5 \$	2,125.00
19	9080	RAILINGS, REMOVABLE	LF	\$ 150.00										15.9	)			15.9 \$	2,385.00
20		LIGHTED BOLLARDS	EACH	\$ 800.00	10.0													10.0 \$	8,000.00
21		REMOVABLE BOLLARDS	EACH	\$ 800.00	10.0													10.0 \$	8,000.00
22		UTILITY BOLLARDS	EACH	\$ 800.00	14.0													14.0 \$	11,200.00
23	2010	REMOVALS AS PER PLAN	LS	\$ 1,000.00	1.0													1.0 \$	1,000.00
24	6010	UTILITY ADJUSTMENT, MINOR	EACH	\$ 1,500.00	1.0													1.0 \$	1,500.00
25	9030	PLANTINGS	EACH	\$ 60.00	139.0													139.0 \$	8,340.00
26	9020	SODDING	SQ	\$ 100.00	5.8													5.8 \$	580.00
27		TRANSFORMER PAD	EACH	\$ 5,000.00	1.0													1.0 \$	5,000.00
Alternate Bid																			
28		PCC PAVEMENT, COLORED, 8 IN.	SY	\$ 100.00	82.7													82.7 \$	8,270.00
				TOTALS	\$ 128,094.03	\$ -	\$ -	\$ -	\$ -	\$ 1,056.00	\$ -	\$ 6,055.00	\$ -	\$ 8,300.00	\$3,400.00	\$ 4,811.00	\$ 1,750.00	\$	153,466.03

### **DEPARTMENT OF COMMUNITY DEVELOPMENT**



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197

www.cedarfalls.com

**MEMORANDUM** 

**Engineering Division** 

**TO:** Honorable Mayor James P. Brown and City Council

FROM: Matthew Tolan, EI, Civil Engineer II

**DATE:** April 11, 2019

**SUBJECT:** Walnut Box Culvert Replacement Project

City Project No. BR-106-3152 Request for PS&E Approval

Submitted within for City Council approval are the Plans, Specifications, and Estimate of Costs and Quantities for the Walnut Box Culvert Replacement Project.

I would recommend setting Monday, May 6<sup>th</sup>, 2019 at 7:00 p.m. as the date and time for the public hearing on this project and Tuesday, May 14<sup>th</sup>, 2019 at 2:00 p.m. as the date and time for receiving and opening bids. I would also request that the Notice to Bidders be published by April 19<sup>th</sup>, 2019. It is anticipated that the Plans and Specifications will be ready for distribution to contractors on April 19<sup>th</sup>, 2019 allowing more than two (2) weeks of review before contract letting.

This project involves the removal of existing bridge structure, placement of new double cell 14' x 6' precast RCB culvert, creek channel excavation, erosion control measures, and reconstruction of portions of one (1) City Street.

The total estimated cost of the Walnut Box Culvert Replacement Project is \$807,010.10. The funding for this project will be provided by the Storm Water Fund and Local Sales Tax.

The Plans, Specifications, and Estimate of Costs and Quantities are available for your review at the City Clerk's office or at the Engineering Division of the Department of Community Development.

xc: Stephanie Houk Sheetz, Director of Community Development Chase Schrage, Principal Engineer

### Walnut Street Box Culvert Replacement University Branch of Dry Run Creek

# 14ft. X 6ft. Double Cell Precast Concrete Box Culvert & Associated Work CITY PROJECT NO. BR-106-3152

# FINAL ESTIMATE OF COSTS AND QUANTITIES May, 2019

NO.	ITEM CODE	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	TOTAL COST
1		Clearing & Grubbing	L.S.	1.0	\$10,000.00	\$10,000.00
3		Topsoil, Furnish & Spread Excavation, Class 10, Roadway	C.Y.	419.0 825.0	\$20.00 \$14.00	\$8,380.00 \$11,550.00
4			C.Y.	82.5	\$13.00	\$1,072.50
5			C.Y.	8.2	\$30.00	\$246.00
6	2010-108-E-0	Excavation, Class 13, Channel	C.Y.	125.9	\$15.00	\$1,888.50
7	2010-108-G-0	Compaction, Subgrade, Roadway	STA.	4.5	\$300.00	\$1,350.00
8	2010-108-H-0	Geogrid	S.Y.	1484.1	\$5.00	\$7,420.50
9 10	2010-108-I-0	Modified Subbase, 12 IN., Roadway Removal of Existing Bridge Structure	S.Y.	2473.5	\$14.00 \$15.000.00	\$34,629.00 \$15,000.00
11	2010-108-J-2A 2010-999-1	Excavation, Class 23, Structure	L.S. C.Y.	1.0 369.7	\$15,000.00	\$4,806.10
12	2010-999-2	Granular Subbase Backfill, Culvert	C.Y.	75.4	\$18.00	\$1,357.20
13	2010-999-3	Granular Bedding, Culvert	C.Y.	91.3	\$45.00	\$4,108.50
14	2010-999-4	Flowable Mortar, Culvert	C.Y.	61.0	\$140.00	\$8,540.00
15	3010-108-D-0	Granular Backfill (Replacement of Unsuitable Backfill)	TON	50.0	\$25.00	\$1,250.00
16	4010-108-A-1	Sewer, Sanitary, 8" Truss Pipe	L.F.	72.0	\$60.00	\$4,320.00
17 18	4010-108-E-0	Sewer, Sanitary Service Stub, 4" SDR 23.5  Removal of Sanitary Sewer, VCP, 8"	L.F.	25.0	\$50.00 \$10.00	\$1,250.00 \$1,380.00
19	4010-108-H-0 4020-108-A-1	Sewer, Storm, 18 IN. Dia., 2000D, RCP	L.F.	138.0 114.0	\$65.00	\$7,410.00
20	4020-108-A-1	Sewer, Storm, 18 IN. Dia., 2000, 1101 Sewer, Storm, 18 IN. Dia., Standard Perf., HDPE	L.F.	170.0	\$75.00	\$12,750.00
21	4020-108-A-1	Sewer, Strom, 24 IN. Dia., 2000D, RCP	L.F.	64.0	\$60.00	\$3,840.00
22	4020-108-A-1	Sewer, Storm, 24 IN. Dia., Standard Perf., HDPE	L.F.	267.0	\$70.00	\$18,690.00
23	4020-108-C-0	Removal of Storm Sewer, RCP, 12"	L.F.	448.0	\$15.00	\$6,720.00
24	4030-999-1	Double Cell 14 Ft. X 6 Ft. Culvert, Precast, PCC	L.F.	54.0	\$2,800.00	\$151,200.00
25	4030-999-2	Double Cell 14 Ft. X 6 Ft. Culvert Apron, 2:1 Sloped End Section, Precast, PCC, Including	L.S.	1.0	\$17,000.00	\$17,000.00
26	4030-999-3	Double Cell, Flared End Section, 30° South & -30° North, 2 - 2.3:1 Slope Walls, PCC, Including	L.S.	1.0	\$25,000.00	\$25,000.00
27 28	4030-999-4 4040-108-A-0	1 Ft. X 4 Ft. X 36 Ft. Curtain Wall, Precast, PCC Subdrain, Standard Perf., 6 IN.	EA. L.F.	2.0 778.0	\$3,000.00 \$11.00	\$6,000.00 \$8,558.00
29			EA.	12.0	\$200.00	\$2,400.00
30	4040-108-D-0	Subdrain, Outlet, 6 In x 6 Ft., CMP	EA.	2.0	\$250.00	\$500.00
31		Storm Sewer Service Stub, Non Perforated HDPE, 4"	EA.	4.0	\$300.00	\$1,200.00
32	5010-108-A-1	Watermain, Trenched, SJ DIP, 6" (Polyethylene Wrapped)	L.F.	585.0	\$60.00	\$35,100.00
33		Watermain, Trenched, SJ DIP, 10" (Polyethylene Wrapped)	L.F.	130.0	\$75.00	\$9,750.00
34		Bend, 6" MJ 45°	EA.	4.0	\$210.00	\$840.00
35		Bend, 6" MJ 90°	EA.	8.0	\$220.00	\$1,760.00
36 37	5010-108-C-1 5010-108-C-1	Cross, 6" X 6" MJ Cross, 10" X 10" MJ	EA.	1.0	\$350.00 \$400.00	\$350.00 \$400.00
38	5010-108-C-1	Tee, 6" X 6" MJ X MJ	EA.	1.0	\$350.00	\$350.00
39	5010-108-C-1	Tee, 10" X 6" MJ X MJ	EA.	1.0	\$400.00	\$400.00
40		Reducer, 10" X 6" MJ X PE	EA.	2.0	\$250.00	\$500.00
41	5010-108-C-1	Sleeve, 10" X 12" Solid	EA.	2.0	\$400.00	\$800.00
42		6" Nitrile Gaskets	EA.	14.0	\$120.00	\$1,680.00
43		10" Nitrile Gaskets	EA.	4.0	\$160.00	\$640.00
44	5010-108-C-1		EA.	4.0	\$135.00	\$540.00
45	5010-108-C-1	1	EA.	2.0	\$180.00	\$360.00
46 47	5010-108-C-1 5010-108-C-1	Joint Restraint Gasket, 6"  Joint Restraint Gasket, 10"	EA.	14.0 2.0	\$140.00 \$220.00	\$1,960.00 \$440.00
48		Mechanical Joint Restraint, 6"	EA.	32.0	\$130.00	\$4,160.00
49		Mechanical Joint Restraint, 10"	EA.	6.0	\$160.00	\$960.00
50			EA.	2.0	\$1,000.00	\$2,000.00
51	5010-108-D-0	Service Longside, ¾"	EA.	2.0	\$1,500.00	\$3,000.00
52	5020-108-A-0	Valve, 6" MJ Gate W/ Box	EA.	4.0	\$1,600.00	\$6,400.00
53			EA.	1.0	\$2,200.00	\$2,200.00
54		Hydrant Assembly	EA.	2.0	\$4,800.00	\$9,600.00
55 56		Remove Hydrant Assembly Manhole, Sanitary Sewer, SW-301	EA. EA.	1.0 2.0	\$1,000.00 \$4,000.00	\$1,000.00 \$8,000.00
57		Manhole, Storm Sewer, SW-301	EA.	2.0	\$3,000.00	\$6,000.00
58		Manhole Adjustment, Minor	EA.	2.0	\$5,000.00	\$1,000.00
59		Remove Manhole	EA.	3.0	\$1,000.00	\$3,000.00
60	6010-108-H-0	Remove Intake	EA.	7.0	\$1,000.00	\$7,000.00
61	6010-999-1	Intake, Type D	EA.	12.0	\$5,000.00	\$60,000.00
62		Pavement, Stand. Or Slip-Form, PCC, 8 IN., Class 'C'	S.Y.	2246.0	\$47.00	\$105,562.00
63		Removal of Driveway	S.Y.	80.6	\$8.00 \$8.00	\$644.80
64 65	7030-108-A-0	Removal of Sidewalk Sidewalk, 4", Type 'C', Class III, PCC	S.Y.	122.4 65.0	\$8.00 \$50.00	\$979.20 \$3,250.00
66		Sidewalk, 6", Type 'C', Class III, PCC	S.Y.	78.4	\$60.00	\$4,704.00
67		Pedestrian Ramps, Detectable Warnings	S.F.	100.0	\$35.00	\$3,500.00
68	7030-108-H-1	Driveway, 6", Type 'C', Class III, PCC	S.Y.	80.6	\$50.00	\$4,030.00
69	7030-108-H-2	Surfacing, 1" Roadstone	TON	50.0	\$14.00	\$700.00
70	7040-108-A-0	Patch, HMA (ST) Surface, ½", No Fric.	TON	5.0	\$250.00	\$1,250.00
71		Removal of Pavement	S.Y.	2246.0	\$15.00	\$33,690.00
72	8030-108-A-0		L.S.	1.0	\$10,000.00	\$10,000.00
73 74	8940-999-1 8940-999-2	Type A Signs, Aluminum Sign Post, Square Tubing 14 Gauge 2" Galvanized	S.F. L.F	29.5 74.5	\$25.00 \$40.00	\$737.50 \$2,980.00
74 75		Hydraulic Seeding	S.F	15412.0	\$40.00	\$2,980.00 \$7,706.00
76	9020-108-A-0	Sod, Provide & Place	S.F	7200.0	\$0.50	\$4,680.00
77	9040-108-D-1		L.F	240.0	\$15.00	\$3,600.00
78		Rolled Erosion Control Product, Extended Term (RECP)	S.Y.	452.2	\$24.00	\$10,852.80
79	9040-108-J-0	Revetment, Class E	TON	210.0	\$45.00	\$9,450.00
80		Sediment Filter, Intake Well	EA.	12.0	\$250.00	\$3,000.00
	0040 400 T 0	Cleaning, Sediment Filter Basin	EA.	12.0	\$200.00	\$2,400.00
81 82		Handrail, 2 IN. Dia. Steel Pipe, Hot Dip Galvanized	L.F.	103.5	\$225.00	\$23,287.50

TOTAL STREET RECONSTRUCTION TOTAL SANITARY WORK TOTAL WATER MAIN REPLACEMENT

\$703,870.10 \$17,950.00 \$85,190.00

### DEPARTMENT OF COMMUNITY DEVELOPMENT



City of Cedar Falls 220 Clay Street Cedar Falls, Iowa 50613 Phone: 319-268-5161 Fax: 319-268-5197

www.cedarfalls.com

MEMORANDUM

**Engineering Division** 

TO: Honorable Mayor James P. Brown and City Council

FROM: Chase Schrage, Principal Engineer

**DATE:** April 10, 2019

**SUBJECT:** Ridgeway Avenue Reconstruction Project

Project No. RC-293-3172 Request for PS&E Approval

Submitted within for City Council approval are the Plans, Specifications, and Estimate of Costs and Quantities for the Ridgeway Avenue Reconstruction Project.

I would recommend setting Monday, May 6, 2019 at 7:00 p.m. as the date and time for the public hearing on this project and Tuesday, May 14, 2019 at 2:00 p.m. as the date and time for receiving and opening bids. I would also request that the Notice to Bidders be published by April 19, 2019. The Plans and Specifications will be ready for distribution to contractors on April 19, 2019 allowing more than three (3) weeks of review before contract letting.

This project involves the reconstruction of Ridgeway Avenue from Nordic Drive west approximately 750 feet. Work will include removal and replacement of the existing pavement, installation of a roundabout, storm sewer, subdrain, replacement of driveway approaches, and installation of a pedestrian trail.

The total estimated cost for the construction of this project is \$1,942,700. This project will be funded by the South Cedar Falls TIF and private funds.

The Plans, Specifications, and Estimate of Costs and Quantities are available for your review at the City Clerk's office or the Engineering Division of the Community Development Department.

xc: Stephanie Houk Sheetz, Director of Community Development



#### **DEPARTMENT OF FINANCE & BUSINESS OPERATIONS**

CITY OF CEDAR FALLS, IOWA 220 CLAY STREET CEDAR FALLS, IOWA 50613 319-273-8600 FAX 319-268-5126

### INTEROFFICE MEMORANDUM

Financial Services Division

**TO:** Mayor Brown and City Council Members

FROM: Lisa Roeding, Controller/City Treasurer

**DATE:** April 9, 2019

**SUBJECT:** FY2019 Budget Amendment

Please find attached the notice for a FY19 budget amendment. This budget amendment is necessary due to the timing of various projects and participation in various grants.

The Code of Iowa requires that the City have a public hearing and I would request that the hearing be set for May 6, 2019.

CC: Jennifer Rodenbeck, Director of Finance & Business Operations Ron Gaines, City Administrator Form 653 C1

### NOTICE OF PUBLIC HEARING AMENDMENT OF FY2018-2019 CITY BUDGET

The City Council of	Cedar Falls	in	BLACK HAWK	County, Iowa
will meet at	220 Clay Street, Ceda	r Falls,	IA 50613	
at	7:00 pm	on _	5/6/2019 (Date)	
,for the purpose of amen	1	et of the	city for the fiscal year ending June 30,	2019
			propriations in the following functions for owing revenues and expenditures by fundations	

		Total Budget		Total Budget
		as certified	Current	after Current
		or last amended	Amendment	Amendment
Revenues & Other Financing Sources				
Taxes Levied on Property	1	20,820,495		20,820,495
Less: Uncollected Property Taxes-Levy Year	2	0		0
Net Current Property Taxes	3	20,820,495	0	20,820,495
Delinquent Property Taxes	4	0		0
TIF Revenues	5	3,753,970		3,753,970
Other City Taxes	6	5,957,056		5,957,056
Licenses & Permits	7	934,000	18,800	952,800
Use of Money and Property	8	723,375	2,500	725,875
Intergovernmental	9	23,111,603	688,000	23,799,603
Charges for Services	10	12,180,850	326,350	12,507,200
Special Assessments	11	0		0
Miscellaneous	12	1,584,333	1,014,424	2,598,757
Other Financing Sources	13	2,986,590	2,330,000	5,316,590
Transfers In	14	12,817,790		12,817,790
Total Revenues and Other Sources	15	84,870,062	4,380,074	89,250,136
Expenditures & Other Financing Uses				
Public Safety	16	11,601,490	653,100	12,254,590
Public Works	17	13,553,020	187,550	13,740,570
Health and Social Services	18	24,500		24,500
Culture and Recreation	19	8,004,550	281,824	8,286,374
Community and Economic Development	20	2,915,600	37,200	2,952,800
General Government	21	5,023,550	-450,250	4,573,300
Debt Service	22	1,007,000	23,150	1,030,150
Capital Projects	23	31,290,050	8,820,000	40,110,050
Total Government Activities Expenditures	24	73,419,760	9,552,574	82,972,334
Business Type / Enterprises	25	9,865,550	373,900	10,239,450
Total Gov Activities & Business Expenditures	26	83,285,310	9,926,474	93,211,784
Transfers Out	27	12,817,790		12,817,790
Total Expenditures/Transfers Out	28	96,103,100	9,926,474	106,029,574
Excess Revenues & Other Sources Over				
(Under) Expenditures/Transfers Out Fiscal Year	29	-11,233,038	-5,546,400	-16,779,438
Beginning Fund Balance July 1	30			87,393,024
Ending Fund Balance June 30	31	76,159,986	-5,546,400	70,613,586

Explanation of increases or decreases in revenue estimates, appropriations, or available cash:

These over expenditures are primarily due to the timing of capital projects and participation in various grant programs. Some of the expenditures will be covered by grant reimbursements, additional revenues, or cash reserves.

There will be no increase in tax levies to be paid in the current fiscal year named above related to the proposed budget amendment. Any increase in expenditures set out above will be met from the increased non-property tax revenues and cash balances not budgeted or considered in this current budget.

Jennifer Rodenbeck