

**CITY OF STORM LAKE
REGULAR COUNCIL SESSION MEETING,
CITY HALL
COUNCIL CHAMBERS
OCTOBER 2, 2023
5:00 PM**



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

AGENDA

Access to the official meeting can also be done through the following ways:

BY TELEPHONE:

Dial: 1-312-626-6799 or toll-free: 1-888-475-4499

Zoom Meeting ID: 933-2006-3301

BY COMPUTER:

<https://zoom.us/j/93320063301>

Open the Meeting

- **Call to Order**
- **Pledge of Allegiance**
- **Proclamation**

- A. **Consideration of Changes in Agenda and Setting the Agenda**
- B. **Disclosure by City Council Members**
- C. **Hear the Public**
- D. **Consent Agenda**
 - 1. [Consent Agenda](#)
 - 2. [Buy Local Information](#)
 - 3. [Motion to Approve BVU Beaver Bash Noise Variance Request](#)
 - 4. [SLPD City Code Enforcement Summary](#)
- E. **Unfinished Business**
- F. **New Business**
 - 1. [Ordinance No. 02-O-2023-2024 Vacating The Public Right-Of-Way In A Portion of Marshall Avenue In The City of Storm Lake - Third Reading.](#)
 - 2. [Public Hearing On The Proposal To Enter Into An Agreement For Private Development With Kwik Trip, Inc. Related To A Project Within The Storm Lake Industrial Park Urban Renewal Area, Which Includes The Potential Sale Of The City's Interest In Real Property.](#)
 - 3. [Resolution No. 08-R-2023-2024 Making Final Determination On Potential Sale Of Interest In Real Property And Approving And Authorizing Execution Of An Agreement For Private Development By And Between The City Of Storm Lake And Kwik Trip, Inc. Within The Storm Lake Industrial Park Urban Renewal Area](#)

4. [Resolution No. 09-R-2023-2024 To Add Fire Department Safety Trailer Use Fee](#)
 5. [City Council Requested Items](#)
- G. **Adjourn**

Meeting Protocol

If you wish to speak today, please:

1. To speak on an agenda item please approach the podium when that agenda item is called and upon recognition by the Mayor identify yourself by stating your name and address.
2. If your issue is not a topic on the agenda please approach the podium under the "Hear the Public" agenda item and upon recognition by the Mayor identify yourself by stating your name and address.
3. Please keep your remarks to three (3) minutes or less.
4. If you require accommodation for this meeting including but not limited to translation services, hearing assistance, or accessibility please contact the City Clerk at least four (4) hours prior to the start of the meeting.

**If you have concerns about any of the items on the consent agenda, they may be separated from the consent agenda and voted on individually.*

***Ordinances may be read at three consecutive meetings or readings may be waived and ordinances may be passed at only one or two meetings.*

Find us on Facebook <https://www.facebook.com/cityofstormlake> Follow us on Twitter [@Storm_Lake](#)
Find us on the Web at <http://www.stormlake.org>

Staff Summary

10/02/2023

Agenda Item # D.1.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Mayra Martinez City Clerk

SUBJECT: **Consent Agenda**

BACKGROUND:

The Consent Agenda Includes:

- List of Bills
- King's Pointe & Sunrise Pointe Disbursements,
- Approve September 18, 2023 City Council Minutes,
- Approve Renewal Liquor Licenses for Al's Liquor - Central Mart, LLC, Beer Thirty, Denoches Bar Dance Club,
- Approve Buy Local Information,
- Motion to Approve BVU Beaver Bash Noise Variance Request,
- Approve Storm Lake Police Department City Code Enforcement Update,

FISCAL IMPACT:

- City Will Pay The Following Expenditures:
- List of Bills: \$1,051,205.52
- King's Pointe & Sunrise Pointe Golf Course Bills: \$184,540.48
- The City Will Receive Income for Renewal Liquor License Fees

RECOMMENDATION: Approve Consent Agenda

ATTACHMENTS:

[09182023 CC Minutes.docx](#)

[10.2.2023 City Claims Expense Report](#)

[King's Pointe Claim 9.14.2023 to 9.27.2023](#)

[Al's Liquor - Central Mart Application](#)

[Beer Thirty Storm Lake Liquor Application 2023.pdf](#)

[Denoche's Bar Dance Club Liquor Application 2023.pdf](#)

CITY OF STORM LAKE REGULAR COUNCIL MEETING, CITY HALL COUNCIL CHAMBERS, SEPTEMBER 18, 2023, 5:00 PM

Present: Mayor Michael Porsch, Council Members Kevin McKinney, Tyson Rice, Maggie Martinez, Matt Ricklefs, and Maria Ramos. Absent – None.

Staff Present: City Manager Keri Navratil, Assistant City Manager David Derragon, King's Pointe Manager Amy Von Bank, Fire Chief Glenn Schlessner, Code Compliance Director Scott Olesen, Library Director Elizabeth Huff, Development Services Specialist Lee Dutfield, Communications Coordinator Dana Larsen, Public Services Supervisor Brandon Ripke, Finance Director Brian Oakleaf, and City Clerk Mayra Martinez.

Media Present: Ryan Thompson – KAYL Radio and Amber Mohmand – Storm Lake Times Pilot.

Mayor Porsch called the meeting to order at 5:00 pm.

Pledge of Allegiance

Agenda - Moved by Council Member McKinney to approve setting the agenda as presented. Seconded by Council Member Ricklefs. Vote: All ayes. Motion carried.

Disclosure by City Council Members – Council Member Rice abstains from the consent agenda as he has a conflict of interest which includes the Storm Lake Towing agreement.

Hear the Public – None

Mayor Porsch Proclamation for National Clean Energy Week September 25, 2023, to September 29, 2023.

Consent Agenda - Moved by Council Member Martinez to approve List of Bills Check #'s 80361, 80362, 80419 through 80466, EFT #'s 1203, 4528 through 4565, King's Pointe & Sunrise Pointe Disbursements, September 5, 2023, City Council Minutes, approve a BVU noise variance request for outdoor movies, approve the primary Tow Service Agreement for the Storm Lake Police Department, approve Buy Local Information, approve Storm Lake Police Department City Code Enforcement Update. Seconded by Council Member Ramos. Vote: All ayes. Motion carried.

Unfinished Business – None at this time.

New Business:

Sanitary Sewer Extension - Moved by Council Member Ricklefs to approve a contract with Reding's Gravel & Excavation for a sanitary sewer extension. Seconded by Council Member McKinney. Vote: All ayes. Motion carried.

Urban Renewal Report for Fiscal Year 2022-2023 - Moved by Council Member McKinney to approve the Urban Renewal Report for Fiscal Year 2022-2023. Seconded by Council Member Ramos. Vote: All ayes. Motion carried.

Vacation Of Marshall Avenue - Moved by Council Member Rice to approve the second reading of Ordinance No. 02-O-2023-2024 vacating the Public Right-Of-Way in a portion of Marshall

Avenue in the City of Storm Lake. Seconded by Council Member Ramos. Roll call vote: All ayes. Motion carried.

Highway 7/110 – City Manager Navratil presented Josh Pope from Bolton and Menk to provide an update of the Highway 7/110 project

City Council Requested Items – no more at this time.

Adjourn -- Moved by Council Member Ramos to adjourn at 5:28 pm. Seconded by Council Member Rice. Vote: All ayes. Motion carried.



Storm Lake, IA

My Buy Local_v1

Payment Date Range: 09/21/2023 - 10/04/2023

Vendor Name	Buy Local Info	Payable Description	Total Payments
BVC			
Joyce's Greenery	BVC	Spooner Family Sign Service- August 2023	935.00
Tom Snyder	BVC	Pickup Bed Installation	928.00
Buena Vista County Solid Waste	BVC	Recycling	61.88
	BVC Total:	1,924.88	
Contract/Agreement			
Charles Sargent Irrigation Company, Inc	Contract/Agreement	Pay #2 of Well 21	148,216.62
I & S Group, Inc	Contract/Agreement	General Engineering Services	14,004.00
Bolton & Menk, Inc	Contract/Agreement	Construction Services	4,864.00
SCE, LLC	Contract/Agreement	Curb Stop on 106 2nd Street	4,401.44
I & S Group, Inc	Contract/Agreement	Construction Admin	9,775.97
SCE, LLC	Contract/Agreement	Force Main Services	783.00
	Contract/Agreement Total:	182,045.03	
Local			
MidAmerican Energy Company	Local	91230-94002 Electric Services	76,945.69
Michael P. Reinert	Local	Plasma Cutters	5,350.00
Stanton Electric, Inc	Local	Light Replacement	4,828.33
Arnold Motor Supply, LLP	Local	Supplies	3,383.89
Bomgaars Supply, Inc	Local	Supplies	2,957.27
The Storm Lake Times	Local	August 2023 Publications	2,602.54
Graffix Inc	Local	Uniforms	1,575.00
King's Pointe Resort	Local	Open House 9/12/2023	1,387.50
A & A Automotive	Local	Alternator Replacement	1,307.15
Stanton Electric, Inc	Local	RR Electrical Upgrade	1,236.96
Michael P. Reinert	Local	Beam	1,785.03
Edwards Storm Lake	Local	Wheel Kit	794.00
Smith Concrete Service Inc	Local	Concrete	1,811.78
WalMart #01-1526	Local	Supplies	482.51
Smith Concrete Service Inc	Local	Concrete	471.75
Wiese Plumbing & Heating, Inc	Local	Service Call	413.80
Smith Concrete Service Inc	Local	Concrete	397.80
Storm City Auto Parts, Inc	Local	Oil Dry	380.25
Rent-All, Inc	Local	Concrete Planer	355.00
Plumbing & Heating Wholesale, Inc	Local	Valves	337.64
L & G Products, Inc	Local	Seed	330.00
Edwards Storm Lake	Local	Battery Replacement	285.59
Qwest Corporation	Local	Phone Service	246.36
Visual Edge Inc	Local	Copier Maintenance Agreement	181.75
Vetter Equipment	Local	Supplies	165.96
Stanton Electric, Inc	Local	Scoreboard W-9 Wiring	165.00
Rent-All, Inc	Local	Concrete Planer	157.00
Stanton Electric, Inc	Local	Switches	135.50
Iowa Office Supply Inc	Local	Office Supplies	116.20
Larson Oil & Distributing Co, Inc	Local	Tank Rental	100.00
A & A Automotive	Local	Service P12	262.89
Rent-All, Inc	Local	Trencher	85.00
Visual Edge Inc	Local	Copier Maintenance Agreement	84.15
A & A Automotive	Local	Service P15	73.77
Visual Edge Inc	Local	Copier Maintenance Agreement	113.36
Storm Lake Hydraulics Co, Inc	Local	Hyd Filters	30.78
Hy-Vee, Inc	Local	Supplies	29.95
Michael P. Reinert	Local	Tubing	28.60
North Lake Truck Repair	Local	Supplies	28.48
	Local Total:	111,424.23	

My Buy Local_v1
Payment Date Range: 09/21/2023 - 10/04/2023

Vendor Name	Buy Local Info	Payable Description	Total Payments
Non-Local			
Murphy Tractor & Equipment Co. Inc.	Non-Local	2023 Backhoe Loader	150,400.00
Davis Equipment Corporation	Non-Local	Irrigation System Replacement	49,290.94
KLM Engineering, Inc	Non-Local	SCADA Box for Tower 2	45,896.00
Winther, Stave & Co., LLP	Non-Local	Audit Services FY2023	17,500.00
Davis Equipment Corporation	Non-Local	Irrigation System Replacement	14,233.94
Vessco, Inc	Non-Local	Pump	12,228.00
Hawkins, Inc	Non-Local	Chemicals	11,148.94
Electric Pump Inc	Non-Local	Flygt Pump Replacement	9,111.07
Mississippi Lime Company	Non-Local	Lime	8,708.30
ACCO Unlimited Corporation	Non-Local	Pumps	8,554.66
Liberty Doors, Inc	Non-Local	Park Doors	8,410.00
Mississippi Lime Company	Non-Local	Lime	24,235.59
First Children's Finance	Non-Local	Storm Lake Child Care Market Analysis	7,500.00
Midwestern Mechanical of Iowa, Inc	Non-Local	Repair & Replace Needed Equipment	7,170.49
Municipal Supply, Inc	Non-Local	Meters	6,300.00
Chem-Sult, Inc	Non-Local	Sodium Chlorite	4,331.52
Fremarek, Inc	Non-Local	Weed Killer	3,977.04
Vessco, Inc	Non-Local	Pumps	3,820.15
Linde Inc	Non-Local	Carbon Dioxide	3,407.03
Davis Equipment Corporation	Non-Local	Sprinkler Parts	2,942.06
Hallett Materials	Non-Local	Sand	2,940.75
Kiesler Police Supply, Inc	Non-Local	Ammo	2,936.70
Foundation Analytical Laboratory, Inc	Non-Local	Testing Services	2,552.50
W. W. Grainger, Inc	Non-Local	Pads	2,180.70
TSZ Traffic Safety Zone ULC	Non-Local	Portable Traffic Cones	2,069.81
W. W. Grainger, Inc	Non-Local	Gas Detectors	1,979.06
National Fire Protection Association	Non-Local	National Fire Codes	1,655.12
Utility Equipment Co	Non-Local	Supplies	1,305.30
Midwest Petroleum Equipment, LLC	Non-Local	Vent Cap Replacement & Service	1,267.42
W. W. Grainger, Inc	Non-Local	Locks	1,248.28
Davis Equipment Corporation	Non-Local	Sprinkler Parts	1,072.78
Rice Signs LLC	Non-Local	Signs	938.08
Outdoor Recreation Products	Non-Local	Swing Seats	892.00
Pro Hydro-Testing LLC	Non-Local	SCBA Testing	741.00
Ahlers & Cooney, P.C.	Non-Local	DA Services	693.00
Vessco, Inc	Non-Local	Pumphead	682.29
Getty Images (US), Inc.	Non-Local	Istock Subscription	597.00
Dale Vitito	Non-Local	Uniforms	588.44
Ahlers & Cooney, P.C.	Non-Local	General Attorney Services	474.05
Foundation Analytical Laboratory, Inc	Non-Local	Testing Services	464.00
Alpha Wireless Communications	Non-Local	Radio Installation	433.20
National Fire Protection Association	Non-Local	National Electrical Codes	379.95
Midwest Radar & Equipment	Non-Local	Calibration Services	360.00
Foundation Analytical Laboratory, Inc	Non-Local	Testing Services	353.75
Central Iowa Distributing, Inc	Non-Local	Cleaning Supplies	292.30
SKM, LLC	Non-Local	Glass Panel	281.18
Siouxland Turf Products	Non-Local	Chemicals	265.25
W. W. Grainger, Inc	Non-Local	Splicing Kits	263.33
Ed M. Feld Equipment Company, Inc	Non-Local	Boots & Testers	230.22
Midwest Breathing Air, LLC	Non-Local	Quarterly Air Testing	222.00
Alex Air Apparatus 2 LLC	Non-Local	Hose Replacement	218.58
Marcus Lumber Company Corp	Non-Local	Supplies	176.05
Builders Sharpening & Service LLC	Non-Local	Couplers	175.07
Cintas First Aid & Safety	Non-Local	First Aid Supplies	144.25
HD Supply, Inc	Non-Local	Supplies	122.45
Siouxland Turf Products	Non-Local	Chemicals	105.00
James M. Sweeney & Associates, Inc	Non-Local	Background Checks	177.68
W. W. Grainger, Inc	Non-Local	Battery	73.28
Davis Equipment Corporation	Non-Local	Sprinkler Parts	69.90

My Buy Local_v1**Payment Date Range: 09/21/2023 - 10/04/2023**

Vendor Name	Buy Local Info	Payable Description	Total Payments
Iowa Lakes Regional Water	Non-Local	Water Service	65.11
W. W. Grainger, Inc	Non-Local	Safe	63.62
Firehouse Magazine	Non-Local	FY2024 Subscription #1104044797	55.00
Cintas First Aid & Safety	Non-Local	First Aid Supplies	46.94
Breanna Nieland	Non-Local	8/22/2023- Child Predator	46.00
Alpha Wireless Communications	Non-Local	Charger	45.00
Steven A Beeck	Non-Local	Window Cleaning Services	43.00
Davis Equipment Corporation	Non-Local	Sprinkler Parts	32.32
UPS	Non-Local	Shipping	22.50
W. W. Grainger, Inc	Non-Local	Traction Devices	20.97
Marcus Lumber Company Corp	Non-Local	Fasteners	3.87
Non-Local Total:		431,231.78	
Payroll/Refunds			
Cody Cameron	Payroll/Refunds	5/19/2023- Defense Tactics	155.00
Tyler Munden	Payroll/Refunds	6/9/2023- Basic SWAT	139.00
Payroll/Refunds Total:		294.00	
Grand Total:		726,919.92	

King's Pointe Resort

Claims Publication

From 9/14/2023 to 9/27/2023

Vendor	Description	Amount
360 Custom Designs, LLC	Supplies	\$ 1,646.94
Altour A&I LLC	Supplies	\$ 97.50
Amazon Capital Services, Inc	Supplies	\$ 228.56
Amy Von Bank	Reimbursement	\$ 609.02
Central Bank	Services	\$ 26.75
Cintas Corporation	Supplies	\$ 3,028.99
Daniels Filter Service	Supplies	\$ 540.08
Doll Distribution	Beverages	\$ 3,319.00
Fran Murr	Refund	\$ 450.00
Grainger	Supplies	\$ 766.21
GuestSupply	Supplies	\$ 5,804.60
Hard Tops of Iowa	Supplies	\$ 757.00
HyVee	Beverages	\$ 1,037.63
Iowa Information Inc.	Services	\$ 35.00
JJ&H Inc DBA as Vizergy	Services	\$ 1,241.45
Johnson Brothers	Beverages	\$ 2,512.75
Long Lines LLC	Utilities	\$ 1,065.92
M3 Accounting Services Inc.	Services	\$ 745.00
Martin Brothers	Food	\$ 14,500.03
Mediacom	Utilities	\$ 472.90
MidAmerican Energy	Utilities	\$ 24,394.84
North America Holding LLC	Services	\$ 119.45
Northern Lights	Supplies	\$ 562.38
Olsen Welding & Machine	Supplies	\$ 15.00
Pepsi Beverages Company	Beverages	\$ 1,551.43
Pitney Bowes Inc	Postage	\$ 81.93
Power Solutions Inc.	Services	\$ 99.00
Rebnord Technologies, Inc.	Services	\$ 2,988.33
SGS, LLC	Utilities	\$ 60.00
Shift 4	Services	\$ 792.28
Spencer Radio Group	Advertising	\$ 92.00
Storm Lake Ace Hardware	Supplies	\$ 278.43
Storm Lake Times	Advertising	\$ 216.60
Sysco Iowa, Inc.	Food	\$ 2,093.18
Visual Edge IT, INC	Services	\$ 311.33
W-O Payroll 9/15/23	Payroll	\$ 111,998.97
		<u>\$ 184,540.48</u>



State of Iowa

Alcoholic Beverages Division

Applicant

NAME OF LEGAL ENTITY

Central Mart llc

NAME OF BUSINESS(DBA)

Als Liquor

BUSINESS

(712) 732-6223

ADDRESS OF PREMISES

215 W Milwaukee ave

PREMISES SUITE/APT NUMBER

CITY

Storm Lake

COUNTY

Buena Vista

ZIP

50588

MAILING ADDRESS

216 E Milwaukee St

CITY

Spencer

STATE

Iowa

ZIP

51301

Contact Person

NAME

Alaire Nielsen

PHONE

(712) 262-2921

EMAIL

alaire@brewoil.co

License Information

LICENSE NUMBER

LE0002791

LICENSE/PERMIT TYPE

Class E Retail Alcohol License

TERM

12 Month

STATUS

Submitted
to Local
Authority

EFFECTIVE DATE

Oct 10, 2023

EXPIRATION DATE

Oct 9, 2024

LAST DAY OF BUSINESS

SUB-PERMITS

Class E Retail Alcohol License

PRIVILEGES



State of Iowa

Alcoholic Beverages Division

Status of Business

BUSINESS TYPE

Limited Liability Company

Ownership

• Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
inderjit singh	storm lake	iowa	50588	7122990838	100.00	Yes
Mary Fieldler						

Insurance Company Information

INSURANCE COMPANY

POLICY EFFECTIVE DATE

POLICY EXPIRATION DATE

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE
DATE

OUTDOOR SERVICE EXPIRATION
DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE
DATE

TEMP TRANSFER EXPIRATION
DATE



State of Iowa

Alcoholic Beverages Division

Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
LJ CONVENIENCE, L.L.C.	BEER THIRTY STORM LAKE	(347) 583-0000		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
208 E Milwaukee		Storm Lake	Buena Vista	50588
MAILING ADDRESS	CITY	STATE	ZIP	
208 E Milwaukee	Storm Lake	Iowa	50588	

Contact Person

NAME	PHONE	EMAIL
Kaurav Randhawa	(347) 583-0000	beerthirtystormlake@gmail.com

License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
LE0003793	Class E Retail Alcohol License	12 Month	Submitted to Local Authority
EFFECTIVE DATE	EXPIRATION DATE	LAST DAY OF BUSINESS	
Oct 7, 2023	Oct 6, 2024		
SUB-PERMITS			
Class E Retail Alcohol License			
PRIVILEGES			



State of Iowa

Alcoholic Beverages Division

Status of Business

BUSINESS TYPE

Limited Liability Company

Ownership

• Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
Kaurav Randhawa	Storm Lake	Iowa	50588	Owner	100.00	Yes

Insurance Company Information

INSURANCE COMPANY

POLICY EFFECTIVE DATE

POLICY EXPIRATION DATE

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE
DATE

OUTDOOR SERVICE EXPIRATION
DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE
DATE

TEMP TRANSFER EXPIRATION
DATE



State of Iowa

Alcoholic Beverages Division

Applicant

NAME OF LEGAL ENTITY	NAME OF BUSINESS(DBA)	BUSINESS		
DENOCHÉ'S BAR DANCE CLUB, L.L.C.	Denoches Bar Dance Club	(712) 730-8069		
ADDRESS OF PREMISES	PREMISES SUITE/APT NUMBER	CITY	COUNTY	ZIP
525 Erie St		Storm Lake	Buena Vista	50588
MAILING ADDRESS	CITY	STATE	ZIP	
525 Erie St	Storm Lake	Iowa	50588	

Contact Person

NAME	PHONE	EMAIL
Evelia Saragoza	(712) 730-8069	eveliag813@gmail.com

License Information

LICENSE NUMBER	LICENSE/PERMIT TYPE	TERM	STATUS
LC0048903	Class C Retail Alcohol License	12 Month	Submitted to Local Authority

EFFECTIVE DATE	EXPIRATION DATE	LAST DAY OF BUSINESS
Oct 19, 2023	Oct 18, 2024	

SUB-PERMITS
Class C Retail Alcohol License

PRIVILEGES



State of Iowa

Alcoholic Beverages Division

Status of Business

BUSINESS TYPE

Limited Liability Company

Ownership

• Individual Owners

NAME	CITY	STATE	ZIP	POSITION	% OF OWNERSHIP	U.S. CITIZEN
Evelia Saragoza	Storm Lake	Iowa	50588	owner	100.00	Yes

Insurance Company Information

INSURANCE COMPANY

Illinois Casualty Co

POLICY EFFECTIVE DATE

Sep 22, 2023

POLICY EXPIRATION DATE

Sep 22, 2024

DRAM CANCEL DATE

OUTDOOR SERVICE EFFECTIVE
DATE

OUTDOOR SERVICE EXPIRATION
DATE

BOND EFFECTIVE DATE

TEMP TRANSFER EFFECTIVE
DATE

TEMP TRANSFER EXPIRATION
DATE

Staff Summary

10/02/2023

Agenda Item # D.2.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Mayra Martinez City Clerk

SUBJECT: Buy Local Information

BACKGROUND:

In 2011 during a Study Session discussion Council asked staff to look at putting together some analysis information regarding the amount of purchases made locally. We have pulled that information together and a provided a summary of purchases identified in the current list of bills to be approved that are purchased locally (within the City of Storm Lake), within BV County, and outside of BV County are presented here for Council's review. This information is presented for both the City & King's Pointe's bills. As the reader reviews the information they should note the following key notes: Costs associated with any major capital project (those bid under the State of Iowa Bid Law) are excluded from the calculation Costs associated with travel is excluded from the calculation and % Costs associated with payroll is excluded from the calculation and % In some cases there is only one vendor or an item is only available from vendors outside of the City limits and/or BV County – we have not identified these some departments have fairly minor budgets and a major purchase can skew the % and or amount for a given review period (For Example: the Airport may have normally \$4,000 - \$6,000 in expenses until they purchase Jet Fuel or Av Gas which can be \$10,000 + and as a vendor who is not local this can skew the information for that review period) Local has been determined to be has an office front in the area and based on where the office front is located for local vs. BV County (For Example: Wal-Mart is considered local since they have a store in Storm Lake even though their headquarters is not located here) As with all analytical data it is possible to interpret the numbers in a variety of ways and as we move forward we would be happy to provide further detail and or revise the way in which we show the data. Likewise if you have any questions or concerns please don't hesitate to contact city staff.

FISCAL IMPACT:

<u>Breakout</u>	<u>Calculated Expenses</u>
Buena Vista County	\$1,924.88
Contract/Agreement	\$182,045.03
Local	\$111,424.23
Non-Local	\$431,231.78
<u>Payroll/Refunds, PaylTax & Ins</u>	<u>\$324,579.60</u>
Total Expenses:	1,051,205.52
Supporting Documents Attached	

RECOMMENDATION: Review Buy Local Information

ATTACHMENTS:
[Project Report](#)

Summary

Project Summary							
Project Number	Project Name	Total Budget	Date Range Budget	Beginning Balance	Total Activity	Ending Balance	Budget Remaining
OP1.122814	Richland Street, Phase 2 Improvem...	174,107.75	174,107.75	174,095.25	0.00	174,095.25	12.50
OP1.125106	BRIC	8,573,638.49	8,573,638.49	212,709.99	0.00	212,709.99	8,360,928.50
OP1.126252	Comprehansive Plan & Zoning Code U...	125,880.00	125,880.00	125,824.50	0.00	125,824.50	55.50
OT5.128791	Runway 17/35 Lighting Replacement	410,741.68	410,741.68	66,951.69	0.00	66,951.69	343,789.99
19-22797	Memorial Lift Station Improvements	2,533,320.00	877.16	2,544,600.96	0.00	2,544,600.96	-11,280.96
20-HSG-022	2021 Housing Sustainability Project	224,994.00	224,994.00	181,283.12	0.00	181,283.12	43,710.88
21-26215	Downtown Master Plan	113,000.00	113,000.00	103,650.00	0.00	103,650.00	9,350.00
22-26698	Storm Lake WTP- Well No. 21	1,769,929.00	1,769,929.00	168,963.04	151,047.59	320,010.63	1,449,918.37
22-26815	W 6th Street Utilities Extension	314,241.49	314,241.49	314,925.78	1,108.75	316,034.53	-1,793.04
22-27926	Storm Lake WTP- Well #22	129,200.00	129,200.00	55,917.75	2,300.00	58,217.75	70,982.25
23-29446	WWTP UV Disinfection Building	25,300.00	25,300.00	3,970.00	1,602.50	5,572.50	19,727.50
23-29447	College & 3rd St Lift Station Replacem...	185,000.00	185,000.00	9,200.00	5,380.00	14,580.00	170,420.00
HTG322020	T-Mobile Hometown Grant Q-3-22	0.00	0.00	39,814.00	0.00	39,814.00	-39,814.00
IA0091	SL Elevated Water Storage- Tower #5	760,100.15	760,100.15	464,848.92	1,933.75	466,782.67	293,317.48
New	Lead Service Line Replacement Prelim...	15,500.00	15,500.00	0.00	0.00	0.00	15,500.00
New1	King's Pointe Remodel/Refresh	419,800.00	419,800.00	7,500.00	0.00	7,500.00	412,300.00
New3	Memorial Road Street & Utility Impro...	336,980.00	336,980.00	57,370.00	0.00	57,370.00	279,610.00
OP1.125220	4th Street Watermain Improvement P...	553,406.16	553,406.16	572,839.16	4,864.00	577,703.16	-24,297.00
P11.118940	Oneida Street Reconstruction from RR...	2,526,433.98	-2,121.56	2,513,334.28	0.00	2,513,334.28	13,099.70
P11.120411	Highway 7/110 Traffic Lane/Signalizat...	4,661,065.85	0.00	4,175,219.63	0.00	4,175,219.63	485,846.22
SP21122	SL Library CDBG- COVID (CV) Grant	677,887.25	677,887.25	597,971.43	0.00	597,971.43	79,915.82
Report Total:		24,530,525.80	14,808,461.57	12,390,989.50	168,236.59	12,559,226.09	11,971,299.71

Group Summary						
Group	Total Budget	Date Range Budget	Beginning Balance	Total Activity	Ending Balance	Budget Remaining
Airport Projects	410,741.68	410,741.68	66,951.69	0.00	66,951.69	343,789.99
ARPA Project	760,100.15	760,100.15	464,848.92	1,933.75	466,782.67	293,317.48
Building Resilient Infrastructure and C...	8,573,638.49	8,573,638.49	212,709.99	0.00	212,709.99	8,360,928.50
Economic Development	778,115.49	778,115.49	765,497.40	1,108.75	766,606.15	11,509.34
King's Pointe Resort Projects	419,800.00	419,800.00	7,500.00	0.00	7,500.00	412,300.00
Library Project	677,887.25	677,887.25	597,971.43	0.00	597,971.43	79,915.82
Sanitary Sewer Projects	2,743,620.00	211,177.16	2,557,770.96	6,982.50	2,564,753.46	178,866.54
Street Construction	7,698,587.58	508,966.19	6,920,019.16	0.00	6,920,019.16	778,568.42
Water Project	2,468,035.16	2,468,035.16	797,719.95	158,211.59	955,931.54	1,512,103.62
Report Total:	24,530,525.80	14,808,461.57	12,390,989.50	168,236.59	12,559,226.09	11,971,299.71

Type Summary						
Group	Total Budget	Date Range Budget	Beginning Balance	Total Activity	Ending Balance	Budget Remaining
Construction	13,628,784.23	3,906,720.00	10,597,935.85	166,302.84	10,764,238.69	2,864,545.54

Staff Summary

10/02/2023

Agenda Item # D.3.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Chris Cole Police Chief

SUBJECT: **Motion to Approve BVU Beaver Bash Noise Variance Request**

BACKGROUND: Attached is a letter from BVU requesting a noise variance for amplified outdoor entertainment and music (DJ playing music) on the south forum lawn on Saturday, October 14th from 8pm to 11pm.

FISCAL IMPACT: None

RECOMMENDATION: Approve request

ATTACHMENTS:
[20230927132300040.pdf](#)

September 27, 2023

Chris Cole
Chief of Police
401 East Milwaukee Ave.
Storm Lake, Iowa 50588

Dear Chief Cole:

BVU is looking at hosting an outdoor concert event that will take place on our South Forum Lawn.

We are requesting a noise variance for the following:

Saturday, October 14th

8pm – 11pm Beaver Bash (Student DJ playing music)

We appreciate your consideration of the above requests and if additional information is needed, please contact McKrina Lopez, Coordinator for Community & Student Engagement at 712-749-2443. Thank you for your help in making our activities a success for the Buena Vista University and Storm Lake community.

Sincerely,

McKrina Lopez
Coordinator for Community & Student Engagement
Buena Vista University
610 West 4th Street
Storm Lake, Iowa 50588

Staff Summary

10/02/2023

Agenda Item # D.4.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council
FROM: Chris Cole Police Chief
SUBJECT: **SLPD City Code Enforcement Summary**

BACKGROUND:
9/14/2023 to 9/26/2023

Tall Grass and Weeds – 29

Parking restricted to hard surfaces – 1

Accumulate Junk – 15

Accumulate Trash – 1

Total: 46

0 Citations

White Summons - 9

FISCAL IMPACT: None

RECOMMENDATION: None

ATTACHMENTS:

Staff Summary

10/02/2023

Agenda Item # F.1.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Lee Dutfield Development Services Sepcialist

SUBJECT: **Ordinance No. 02-O-2023-2024 Vacating The Public Right-Of-Way In A Portion of Marshall Avenue In The City of Storm Lake - Third Reading.**

BACKGROUND: The purpose of this Ordinance is to vacate a portion of Marshall Avenue. As part of our Development Agreement with Kwik Trip, Inc., The City of Storm Lake has received an offer to sell Marshall Avenue Public Right-A-Way to the Developer for \$65,000. The City intends to accept the Developer's proposal if no competing offers are submitted.

Adoption of this ordinance will allow the City to transfer the Marshall Avenue Right-of-Way to the Developer under the terms and conditions set forth in the Development Agreement.

FISCAL IMPACT: N/A

RECOMMENDATION: Move to Adopt on Third and Final Reading Ordinance No. 02-O-2023-2024 Vacating The Public Right-Of-Way In A Portion of Marshall Avenue In The City of Storm Lake.

First Reading: ~~September 5th, 2023~~
Second Reading: ~~September 18th, 2023~~
Third Reading: October 2nd, 2023

ATTACHMENTS:
[Ordinance Vacating Marshall Avenue ROW \(02241588x7F7E1\).docx](#)
[09052023_-_Marshall_Ave_Map.pdf](#)

ORDINANCE NO. _____

AN ORDINANCE VACATING THE PUBLIC RIGHT-OF-WAY
IN A PORTION OF MARSHALL AVENUE IN THE CITY OF
STORM LAKE

WHEREAS, the City of Storm Lake, Iowa (the “City”) proposes to vacate a portion of the Marshall Avenue, as further described herein; and

WHEREAS, Iowa Code Sections 306.11, 306.12, and 364.12(2)(a) require that public ways be vacated by ordinance, after published and mailed notice and a public hearing before the City Council; and

WHEREAS, the City Council set a public hearing on the proposed vacation for its meeting held on September 5, 2023 and, following notice given as directed by law, held said public hearing; and

WHEREAS, the City Council now wishes to proceed with the vacation of the public right-of-way.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STORM LAKE, STATE OF IOWA:

Section 1: That no claim for damages was filed at or before the hearing and no person is entitled to damages from the vacation of this public right-of-way.

Section 2: That the public right-of-way in the portion of Marshall Avenue legally described as follows is hereby vacated:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

Section 3: That no public or private utility easements are located within the portion of Marshall Avenue containing this now-vacated public right-of-way.

Section 4: All ordinances or portions of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 5: If any section, provision, or part of this Ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the Ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Section 6: This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2023.

Mayor

ATTEST:

City Clerk

Read First Time: _____, 2023

Read Second Time: _____, 2023

Read Third Time: _____, 2023

PASSED AND APPROVED: _____, 2023.

I, _____, City Clerk of the City of Storm Lake, State of Iowa, hereby certify that the above and foregoing is a true copy of Ordinance No. _____ passed and approved by the City Council of the City at a meeting held _____, 2023, signed by the Mayor on _____, 2023, and published in the Storm Lake Times Pilot on _____, 2023.

City Clerk, City of Storm Lake, State of Iowa

02241588-1\11149-133



0 263 Feet



**BOLTON
& MENK**

Real People. Real Solutions.

Disclaimer:

This drawing is neither a legally recorded map nor a survey and is not intended to be used as one. This drawing is a compilation of records, information, and data located in various city, county, and state offices, and other sources affecting the area shown, and is to be used for reference purposes only. The City of Storm Lake is not responsible for any inaccuracies herein contained.

© Bolton & Menk, Inc - Web GIS 9/5/2023 2:48 PM



Map Name

Staff Summary

10/02/2023

Agenda Item # F.2.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Lee Dutfield Development Services Sepcialist

SUBJECT: **Public Hearing On The Proposal To Enter Into An Agreement For Private Development With Kwik Trip, Inc. Related To A Project Within The Storm Lake Industrial Park Urban Renewal Area, Which Includes The Potential Sale Of The City's Interest In Real Property.**

BACKGROUND: The Development Agreement proposes that the City would sell the Marshall Avenue Property to Developer for \$65,000, under the terms and conditions set forth in the Agreement, including that the Developer will pay the City an amount equal to the City's costs to relocate certain storm sewer infrastructure, less \$65,000, and that Developer use the Marshall Avenue Property and adjacent property (together, the "Development Property") to construct a 9,100 square foot convenience store to include gas canopy, side diesel, detached car wash, and all related site improvements.

The Development Agreement further contemplates that the City will complete certain Public Improvements (as defined in the Agreement) in support of the Project, under the terms and following satisfaction of the conditions set forth in the Agreement.

FISCAL IMPACT: There is no fiscal impact for holding the public hearing.

RECOMMENDATION: Open Public Hearing
Accept Oral or Written Comments
Close Public Hearing

ATTACHMENTS:
[Signed_Notarized DA Kwik Trip Inc.pdf](#)
[Deed Without Warranty \(02255368x7F7E1\).docx](#)



Legal

PHONE 608-781-8988

FAX 608-793-6120

1626 Oak St., P.O. Box 2107
La Crosse, WI 54602

www.kwiktrip.com

August 18, 2023

City of Storm Lake
Attn: Lee Dutfield
620 Erie Street
Storm Lake, IA 50588

Re: Agreement for Private Development – Kwik Trip, Inc.

Dear Lee:

Enclosed please find the Agreement for Private Development executed on behalf of Kwik Trip, Inc. Please return to me a recorded copy once the necessary steps have been taken.

If you have any questions, please feel free to give me a call at 608-793-6209 or email at eystenes@kwiktrip.com. Thank you!

Very truly yours,

Elizebeth Ystenes
Legal Department

Enclosure.

AGREEMENT FOR PRIVATE DEVELOPMENT

by and between

CITY OF STORM LAKE, IOWA

AND

KWIK TRIP, INC.

_____, 2023

AGREEMENT
FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT ("Agreement"), is made on or as of the ____ day of _____, 2023, by and between the CITY OF STORM LAKE, IOWA, a municipality ("City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2023, and KWIK TRIP, INC., a Wisconsin corporation, having offices for the transaction of business at 1626 Oak Street, La Crosse, Wisconsin ("Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of Iowa Code Chapter 403 (the "Urban Renewal Act"), the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Storm Lake Industrial Park Urban Renewal Area (the "Urban Renewal Area"), which is described in the Urban Renewal Plan approved for such area by Resolution No. 33-R-91-92 on September 16, 1991 and which has been amended several times, lastly by Amendment No. 9 as approved on April 3, 2023 (the "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has been or will be recorded among the land records in the office of the Recorder of Buena Vista County, Iowa; and

WHEREAS, Developer owns or will own certain real property located in the foregoing Urban Renewal Area and as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, Developer is willing to cause certain improvements (the "Minimum Improvements," as more particularly described herein) to be constructed on the Development Property and Developer will thereafter cause the same to be operated in accordance with this Agreement (the "Project"); and

WHEREAS, the City is willing to construct certain public infrastructure improvements (the "Public Improvements"), which improvements are being undertaken as an urban renewal project to support the Project in consideration for Developer's obligations all pursuant to the terms and conditions of this Agreement; and

WHEREAS, the City is willing to complete the relocation of certain storm sewer infrastructure (the "Storm Sewer Relocation," as more particularly described herein), and vacate certain public right-of-way and transfer it to the Developer in support of the Project, pursuant to the terms and conditions of this Agreement; 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 City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing Project has been undertaken and is being assisted.

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

ARTICLE I-A. PRECONDITION

Section 1-A.1. Condition Precedent. Developer's acquisition of the full right, title, and interest in the Development Property (not including the Marshall Avenue Property) on or before November 30, 2023 is a condition precedent to any rights or obligations of any party to this Agreement. If this condition is not timely satisfied, then this Agreement shall automatically terminate with no further action required by any party, and the parties shall have no further rights or obligations under this Agreement.

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Agreement for Private Development and all exhibits and appendices hereto, as the same may be from time to time modified, amended or supplemented.

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

City means the City of Storm Lake, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2023, as amended.

Commencement Date means the date of this Agreement.

Construction Plans means the plans, specifications, drawings and related documents reflecting the construction work to be performed by the Developer on the Development Property; the Construction Plans shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building inspector of the City as required by applicable City codes.

Developer means Kwik Trip, Inc., and its permitted successors and assigns.

Development Property means the real property legally described in Exhibit A and, following conveyance to the Developer consistent with the provisions of Section 8.2, the Marshall Avenue Property described in Exhibit A-1.

Employee means a person employed by Developer in operations in the Minimum Improvements.

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

Indemnified Parties means the City and the governing body members, officers, agents, servants, and employees thereof.

Marshall Avenue Property means the public right-of-way planned to be vacated and conveyed consistent with the terms of Section 8.2, as legally described in Exhibit A-1.

Minimum Improvements means the construction of a convenience store, as more particularly described in Exhibit B-1 to this Agreement.

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

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

Project means the Developer's construction and operation of the Minimum Improvements on the Development Property, as described in this Agreement.

Public Improvements means the infrastructure improvements to be completed by the City as described in Article IX and Exhibit B-2 of this Agreement, including paving and repairs to Memorial Road.

State means the State of Iowa.

Storm Sewer Relocation means the relocation of public storm sewer infrastructure to be completed by the City on the Marshall Avenue Property, Development Property, and other nearby property.

Termination Date means the date of termination of this Agreement, as established in Section 12.8 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts or other

labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the City pursuant to rights granted hereunder).

Urban Renewal Area means the area known as the Storm Lake Industrial Park Urban Renewal Area (as amended).

Urban Renewal Plan means the Urban Renewal Plan, as amended, approved with respect to the Storm Lake Industrial Park Urban Renewal Area, described in the preambles hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

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

a. The City is a municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City only, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

Section 2.2. Representations and Warranties of Developer. Developer makes the following representations and warranties:

a. Kwik Trip, Inc. is a Wisconsin corporation duly organized and validly existing under the laws of the State of Wisconsin and registered to do business in the State of Iowa, and has or will obtain all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by Developer and, assuming due authorization, execution and delivery by the City, is in full force and effect and is a valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of Developer or of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits, or proceedings pending or, to Developer's knowledge, threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position, or results of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

e. Developer will cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement and all local, State, and federal laws and regulations.

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

g. The construction of the Minimum Improvements will require a total investment of approximately \$2,600,000 for construction costs including labor, materials, and other related expenditures.

h. Developer has not received any notice from any local, State or federal official that the activities of Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Developer is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State or federal environmental law, regulation or review procedure applicable to the Development Property, and Developer is not currently aware of any such 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.

i. Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements as contemplated in this Agreement.

j. Developer will cooperate with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

k. Developer currently expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by December 31, 2025.

l. Developer would not undertake its obligations under this Agreement without the City's incentives proposed to be provided under the terms and conditions of this Agreement.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City. 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 this Agreement. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.

Section 3.2. Construction Plans. 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 3.2. The Construction Plans shall be in conformity with this Agreement and all applicable State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iii) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (iv) 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 3.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations of the City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property and the surrounding areas where the Minimum Improvements are to be constructed shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official.

Approval of the Construction Plans by the City shall not relieve Developer of any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State and local laws, ordinances and regulations, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject the City to any liability for the Minimum Improvements as constructed.

Section 3.3. Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be undertaken and completed: (i) by no later than December 31, 2025; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

Section 3.4. Certificate of Completion. Upon written request of Developer after completion of the Minimum Improvements, the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of Developer to cause construction of the Minimum Improvements.

Each duly issued Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.4, the City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

Issuance by the City of the Certificate of Completion pursuant to this Section 3.4 is solely for the purposes of this Agreement, and shall not constitute approval for any other City purpose shall it subject the City to any liability for the Development Property or the Minimum Improvements as constructed.

Section 3.5. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to the City performance by Developer of all the terms and provisions of this Agreement pertaining to Developer's obligations with respect to the construction of the Minimum Improvements. Without limiting the generality of the foregoing, Developer guarantees that: (a) construction of the Minimum Improvements shall commence and be completed within the time limits set forth herein; (b) the Minimum Improvements shall be constructed and completed in accordance with the Construction Plans; (c) the Minimum Improvements shall be constructed and completed free and clear of any mechanic's liens, materialman's liens and equitable liens (except inchoate liens and liens for which a bond is filed in accord with Iowa law); and (d) all costs of constructing the Minimum Improvements shall be paid when due (except reasonable retention and reasonable amounts in dispute).

Section 3.6. Damage to Memorial Road. If public infrastructure in the Memorial Road right-of-way is damaged due to construction of the Minimum Improvements, Developer shall

promptly repair or replace such public infrastructure to its previous condition per City engineer specifications at its sole cost and expense. In the event Developer fails to repair or replace the public infrastructure in a reasonable time, then the Developer shall pay to the City an amount equal to the City's documented costs incurred for repair or replacement of such infrastructure. The extent of repair or replacement needed for the damaged public infrastructure in the Memorial Road right-of-way shall be determined in the City's sole, but reasonable, discretion. Developer shall pay the amount required by this Section 3.6 to the City within thirty (30) days of the City's submission to Developer of documentation of the costs incurred for such infrastructure repair or replacement.

ARTICLE IV. INSURANCE

Section 4.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk-Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least \$1,000,000 for each occurrence. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the project and arising out of any act, error, or omission of Developer, its directors, officers, shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, Developer shall maintain or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of the payment of premiums on), insurance as follows:

i. Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without 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 \$750,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains, and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by Developer and approved by the City.

ii. Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$1,000,000.

iii. Such other insurance, including workers' compensation insurance respecting all employees of Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

c. All insurance required by this Article IV to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article IV, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to 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, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of this Article IV, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

d. Developer agrees to notify the City immediately in the case of damage exceeding \$25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof then-owned by Developer resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to Developer, and Developer will forthwith repair, reconstruct, and restore the portion of the Minimum Improvements then-owned by Developer to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer will apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof.

e. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE V. REAL PROPERTY TAXES

Section 5.1. Real Property Taxes. Developer and its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned or leased by them and pursuant to the provisions of this Agreement. Until Developer's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes on the Development Property.

Developer and their permitted successors and assigns agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption, deferral, or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date.

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer will maintain, preserve, and keep its properties within the City (whether owned in fee or a leasehold interest), including but not limited to the Minimum Improvements, in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Section 6.2. Maintenance of Records. Developer will keep at all times proper books of record and account of all dealings and transactions of or in relation to the business and affairs of Developer relating to this Project.

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

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer shall not discriminate against any applicant or employee because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial

status. Developer shall ensure that applicants and employees are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

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

Section 6.6. Employment. Following completion of the Minimum Improvements, but no later than February 1, 2026, Developer shall employ a Monthly Average of at least 35 Employees in its operations at the Minimum Improvements on the Development Property. Developer shall retain a Monthly Average of at least 35 Employees in its operations at the Minimum Improvements on the Development Property until at least the Termination Date. The Annual Certification submitted by Developer pursuant to Section 6.7 shall be evidence compliance with this obligation.

“Monthly Average” means the number of Employees employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in the Annual Certification in Section 6.7, divided by 12. If the Monthly Average of Employees employed by Developer does not meet the requirements of this Section 6.6, then an Event of Default shall have occurred. Developer shall provide information as requested by the City to determine compliance with the foregoing employment obligations.

Section 6.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Developer hereunder, a duly authorized officer of Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been paid for the prior fiscal year and any taxes due and payable for the current fiscal year as of the date of certification; (ii) the date of the first full assessment of the Minimum Improvements; (iii) certification of the number of Employees employed by Developer at the Development Property as of October 1 and as of the first day of each of the preceding eleven (11) months; and (iv) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Developer is not, or was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than October 15 of each year, commencing October 15, 2026, and ending on October 15, 2033, both dates inclusive. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit E for form required for the Annual Certification.

Section 6.8. Term of Operation. Developer or its permitted assign shall maintain its operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 6.6, until at least the Termination Date of this Agreement.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of Developer under this Agreement, Developer represents and agrees that, prior to the Termination Date, Developer will maintain its existence as a company and will not wind up or otherwise dispose of all or substantially all of its assets or transfer, convey, or assign its interests in this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof which consent shall not be unreasonably withheld.

In the event that Developer wishes to assign this Agreement, including its respective rights and duties hereunder, Developer and transferee individual or entity shall request that the City consent to an amendment or assignment of this Agreement to accommodate the transfer and to provide for the assumption of all Developer obligations under this Agreement. Such transfer shall not be effective unless and until the City and Developer consent in writing to an amendment or assignment of this Agreement authorizing the transfer.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Developer and its successors or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. STORM SEWER RELOCATION; MARSHALL AVENUE PROPERTY

Section 8.1. Storm Sewer Relocation.

a. The City agrees to complete the relocation of existing public storm sewer currently located on the Marshall Avenue Property and on the Development Property (the "Storm Sewer Relocation"), subject to each of the following conditions precedent:

i. The City shall have completed all applicable public bidding requirements for the Storm Sewer Relocation in the City's sole discretion and shall have awarded a contract for the Storm Sewer Relocation acceptable to the City in its sole discretion; and

ii. The Developer negotiating in good faith with the City to provide and providing all necessary public utility easements, over and through the Development Property, with no compensation to Developer; and

iii. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to approving and appropriating financing or funds sufficient to complete the construction of the Storm Sewer Relocation, in the City's sole discretion; and

iv. There has not been a substantial change for the worse in the financial resources and the ability of Developer, or a substantial decrease in the financing commitment secured by Developer for construction of the Minimum Improvements, which changes make the Developer unable to fulfill its covenants and obligations under this Agreement; and

v. Developer remains in compliance with all of the terms and provisions of this Agreement, including that Developer has paid the City for the Storm Sewer Relocation consistent with Section 8.3; and

vi. The City shall have acquired all easements from property owners other than Developer needed to permit the City to complete the Storm Sewer Relocation.

b. Subject to Unavoidable Delays, the City shall use its best efforts to complete the Storm Sewer Relocation by July 1, 2024. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

c. By approval of this Agreement, Developer grants the City access to the Development Property, at no cost to the City, for the purpose of completing the Storm Sewer Relocation. Developer releases the City and the Indemnified Parties from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to hold harmless the Indemnified Parties from any loss or damage to property or any injury to or death of any person occurring at or about the Development Property while the City undertakes the Storm Sewer Relocation.

Section 8.2. Transfer of Marshall Avenue Property. Following execution of this Agreement, the City shall diligently pursue vacation of the Marshall Ave Property (consistent with the procedures required by the Iowa Code for the vacation of public right-of-way). Subject to the prior completion of the vacation of the Marshall Avenue Property, the City shall convey the vacated Marshall Avenue Property to the Developer within forty-five (45) days of Developer closing on the Development Property, subject to Unavoidable Delays and subject to satisfaction of the following conditions prior to conveyance:

a. Developer shall have paid City Sixty-Five Thousand and 00/100 Dollars (\$65,000) by cash, cashier's check, or wire transfer; and

b. Developer shall have delivered to the City a duly executed original copy of the temporary construction easement over the Marshall Avenue Property that is attached hereto as Exhibit F.

The Developer acknowledges and agrees that Developer shall accept the Marshall Avenue Property "as is, where is, with all faults." The Developer has not relied and will not rely on, and the City is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining to the Marshall Avenue Property or relating thereto made or furnished by City or any agent representing or purporting to represent City, to whomever made or given, directly or indirectly, orally or in writing.

Section 8.3. Developer Payment for Storm Sewer Relocation. Following the City's receipt of bids for the Storm Sewer Relocation, the City shall provide the bid expected to be accepted to Developer for the Storm Sewer Relocation work. Within thirty (30) business days of the City's completion of the Storm Sewer Relocation and receipt of final invoice for the work, Developer shall pay the City an amount equal to the invoice amount less \$65,000.

ARTICLE IX. PUBLIC IMPROVEMENTS

Section 9.1. Public Improvements. Subject to satisfaction of the conditions precedent set forth in Section 9.2, the City shall complete the necessary steps to bid and construct the Public Improvements as described in this Agreement, including Exhibit B-2 hereof.

Section 9.2. Conditions Precedent to Construction of Public Improvements. It is recognized and agreed that the City's ability to perform the obligations described in this Agreement, with respect to construction of the Public Improvements, is subject to completion and satisfaction of certain separate City Council actions and required legal proceedings. Specifically, all obligations of the City to construct the Public Improvements are subject to each of the following conditions precedent:

- a. The City shall have completed all applicable public bidding requirements for the Public Improvements in the City's sole discretion and shall have awarded a contract for the Public Improvements acceptable to the City in its sole discretion; and
- b. The Developer negotiating in good faith with the City to provide and providing all necessary public utility easements, over and through the Development Property with no compensation to Developer; and
- c. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to the issuance of any bonds necessary for the construction of the Public Improvements, if any, (in the sole judgment of bond counsel for the City), including the sale of all or a portion of such bonds on terms and conditions necessary or desirable to the City, in the City's sole discretion; and
- d. There has not been a substantial change for the worse in the financial resources and the ability of Developer, or a substantial decrease in the financing commitment secured by Developer for construction of the Minimum Improvements, which changes make the Developer unable to fulfill its covenants and obligations under this Agreement; and

e. Developer remains in compliance with all of the terms and provisions of this Agreement, including that Developer has paid the City for the Storm Sewer Relocation consistent with Section 8.3.

Section 9.3. Design of the Public Improvements; No Special Rights. The design of the Public Improvements shall be the City's responsibility. Developer recognizes and agrees that the Public Improvements shall be owned and maintained by the City and that nothing in this Agreement grants Developer any special legal entitlements or other rights not held by members of the general public with respect to ownership, maintenance, or use of the Public Improvements. The Parties agree that the City and other Indemnified Parties are not responsible for and will have no liability to Developer associated with the specifications, design, plans, quality of construction, or sufficiency of the Public Improvements for any particular purpose.

Section 9.4. Construction of the Public Improvements. Contingent on the Developer's compliance with the terms of this Agreement and contingent upon satisfaction of the Conditions Precedent in Section 9.2 of this Agreement, the City intends to fund and then construct the Public Improvements. The City's obligation to construct the Public Improvements as described in this Article shall be subject in all respects to Unavoidable Delays, the provisions of this Article, and to the satisfaction of all conditions and procedures required (in the judgment of bond counsel for the City) by Chapter 384 of the Code including the holding of all required public hearings relating to the same.

Section 9.5. Completion of the Public Improvements. Subject to Unavoidable Delays, the City shall cause construction of the Public Improvements to be undertaken and completed by no later than November 30, 2024. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. Construction of the Public Improvements shall not materially interfere with or delay Developer in the construction of the Minimum Improvements. Construction of the Minimum Improvements on the Development Property shall not materially interfere with or delay City in the construction of the Public Improvements.

ARTICLE X. INDEMNIFICATION

Section 10.1. Release and Indemnification Covenants.

a. Developer releases the City and the Indemnified Parties from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend, and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements or Development Property.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, Developer agrees to protect and defend the Indemnified Parties, now or forever, and further agrees to hold the Indemnified Parties harmless from, any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from: (i) any violation of any agreement or condition of

this Agreement (except with respect to any suit, action, demand or other proceeding brought by Developer against the City to enforce their rights under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer or its officers, agents, servants, or employees or any other person who may be about the Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants, or employees.

d. All covenants, stipulations, promises, agreements, and obligations of 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.

e. The provisions of this Article X shall survive the termination of this Agreement.

ARTICLE XI. EVENTS OF DEFAULT AND REMEDIES

Section 11.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events during the term of this Agreement:

a. Failure by Developer to cause the construction of the Minimum Improvements to be completed pursuant to the terms and conditions of this Agreement;

b. Transfer of Developer’s interest in this Agreement or the assets of Developer in violation of the provisions of this Agreement;

c. Failure by Developer to timely pay ad valorem taxes for the portions of the Development Property and Minimum Improvements;

d. Failure by Developer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

e. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

f. Developer:

i. files 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. makes an assignment for the benefit of its creditors; or
- iii. admits in writing its inability to pay its debts generally as they become due;

or

iv. is adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against Developer, and shall not be discharged within ninety (90) days after such appointment, or if Developer shall consent to or acquiesce in such appointment; or

g. Any representation or warranty made by Developer in this Agreement, or in any written statement or certificate furnished by Developer pursuant to this Agreement, shall prove to have been incorrect, incomplete, or misleading in any material respect on or as of the date of the issuance or making thereof.

Section 11.2. Remedies on Default. Whenever any Event of Default referred to in Section 11.1 of this Agreement occurs and is continuing, the City may take any one or more of the following actions after giving thirty (30) days' written notice to Developer of the Event of Default, but only if the Event of Default has not been cured to the satisfaction of the City within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Developer does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement, including construction of the Public Improvements, until it receives assurances from Developer, deemed adequate by the City, that Developer will cure the default and continue its performance under this Agreement;

b. The City may terminate this Agreement;

c. The City may withhold the Certificate of Completion; or

d. The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Developer under this Agreement.

Section 11.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall

be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 11.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer, the Developer agrees that in the event the City prevails in such action, Developer shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. Developer represents and warrants that, to its best knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 12.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- a. In the case of Developer, is addressed or delivered personally to Kwik Trip, Inc., at 1626 Oak Street, La Crosse, WI 54602, Attn: Real Estate Department;
- b. In the case of the City, is addressed to or delivered personally to the City at City Hall, 620 Erie Street, P.O. Box 1086, Storm Lake, IA 50588, Attn: City Manager;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 12.3. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 12.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 12.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 12.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 12.7. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

Section 12.8. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2033, unless terminated earlier under the provisions of this Agreement.

Section 12.9. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit D, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for all costs of recording.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

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

[Remainder of page intentionally left blank; signature pages follow]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
 Michael Porsch, Mayor

ATTEST:

By: _____
 Mayra Martinez, City Clerk

STATE OF IOWA)
) SS
 COUNTY OF BUENA VISTA)

On this _____ day of _____, 2023, before me a Notary Public in and for said State, personally appeared Michael Porsch and Mayra Martinez, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Storm Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

 Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – City of Storm Lake]

KWIK TRIP, INC.,
A Wisconsin corporation

By: 

Print Name: Thomas E. Reinhart

Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.


Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

[Signature page to Agreement for Private Development – Kwik Trip, Inc.]



EXHIBIT A
DEVELOPMENT PROPERTY

The Development Property is described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (1), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six (6), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4 feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning,

EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

The Development Property will also include the Marshall Avenue Property, which is legally described on Exhibit A-1, following conveyance of the Marshall Avenue Property to the Developer, consistent with the terms and conditions of the Agreement.

EXHIBIT A-1
MARSHALL AVENUE PROPERTY

The Marshall Avenue Property is legally described as follows:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

EXHIBIT B-2 PUBLIC IMPROVEMENTS

Public Improvements means the paving and repairs to a segment of Memorial Road adjacent to the Development Property, to be completed by the City. The construction of the Public Improvements is expected to be completed by November 30, 2024.

The segment of Memorial Road included in the Public Improvements is depicted below:

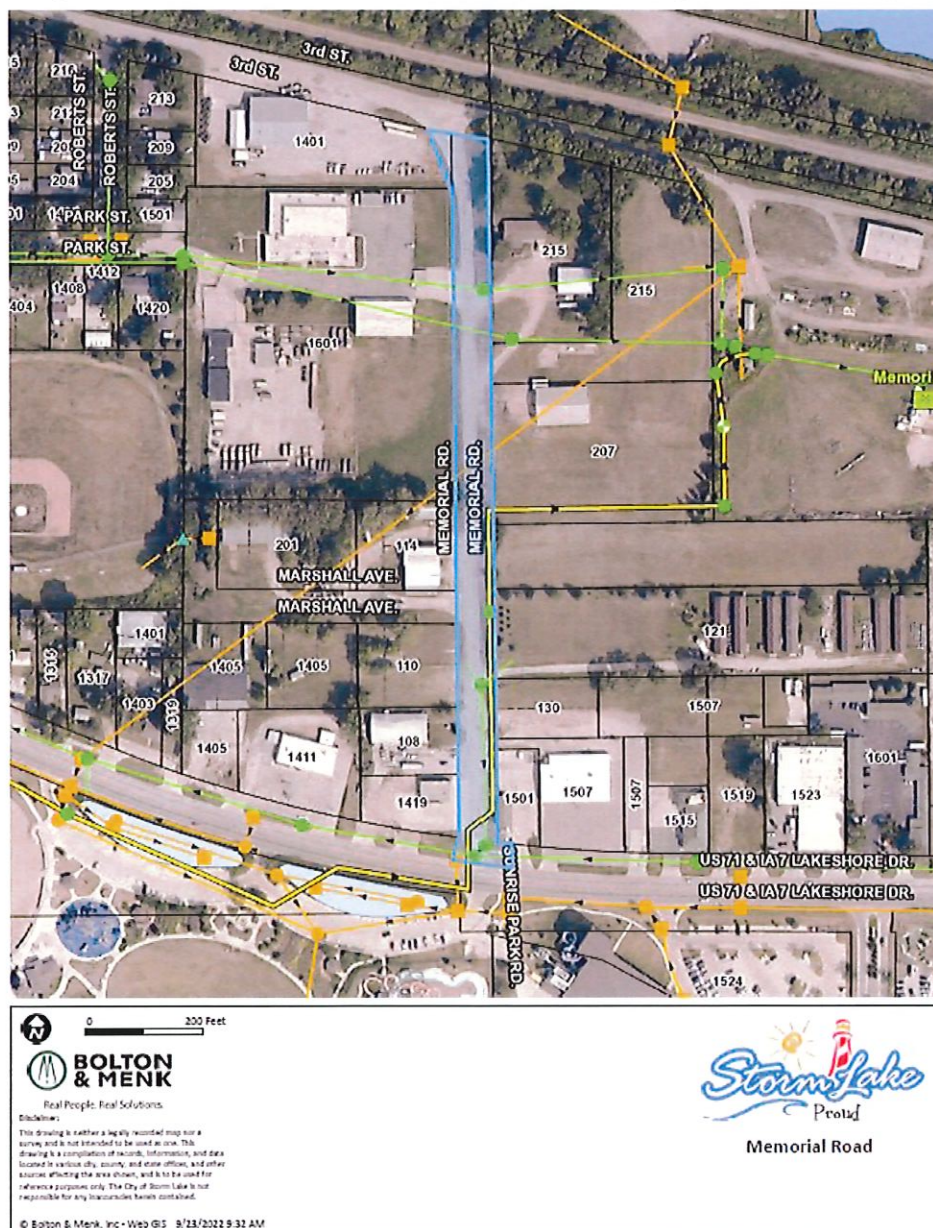


EXHIBIT C
CERTIFICATE OF COMPLETION

WHEREAS, the City of Storm Lake, Iowa, ("City") and Kwik Trip, Inc., a Wisconsin corporation ("Developer") did on or about the _____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (I), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11'W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six (6), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4

feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows: Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows: Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows: Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

AND

Marshall Avenue Property:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated the Developer to construct certain Minimum Improvements (as defined therein) in accordance with the Agreement; and

EXHIBIT D
MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Storm Lake, Iowa ("City") and Kwik Trip, Inc., a Wisconsin corporation ("Developer") did on or about the ____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement to develop certain real property located within the City, which real property is legally described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (I), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six 96), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4 feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

AND

Marshall Avenue Property:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the date first written above and terminates on December 31, 2033, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City and Developer desire to record a Memorandum of the Agreement for Private Development referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, Storm Lake, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2023.

[Remainder of page intentionally left blank; signature pages follow]

CITY OF STORM LAKE, IOWA

By: _____
Michael Porsch, Mayor

ATTEST:

By: Mayra Martinez, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2023, before me a Notary Public in and for said State, personally appeared Michael Porsch and Mayra Martinez, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Storm Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Memorandum of Agreement for Private Development – City of Storm Lake]

KWIK TRIP, INC.,
A Wisconsin corporation

By: 

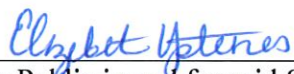
Print Name: Thomas E. Reinhart

Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LACROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.




Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

[Signature page to Memorandum of Agreement for Private Development – Kwik Trip, Inc.]

EXHIBIT E
ANNUAL CERTIFICATION

(due before each October 15th as required under terms of Development Agreement)

Developer certifies that, during the time period covered by this Certification, the Developer is and was in compliance with the terms of the Agreement as follows:

(i) All ad valorem taxes on the Development Property have been timely paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

(ii) The Minimum Improvements (building only) were first fully assessed on January 1, 20__, at a full assessment value of \$_____;

(iii) The total number of Employees employed by Developer in its operations at the Development Property as of October 1, 20__ and as of the first day of each of the preceding eleven (11) months were as follows:

October 1, 20__ : _____	April 1, 20__ : _____
September 1, 20__ : _____	March 1, 20__ : _____
August 1, 20__ : _____	February 1, 20__ : _____
July 1, 20__ : _____	January 1, 20__ : _____
June 1, 20__ : _____	December 1, 20__ : _____
May 1, 20__ : _____	November 1, 20__ : _____

(iv) The undersigned officer has re-examined the terms and provisions of the Agreement and certify that at the date of such certificate, and during the preceding twelve (12) months, the Developer is not, or was not, in default in the fulfillment of any of the terms and conditions of the Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this _____ day of _____, 20__.

KWIK TRIP, INC., a Wisconsin corporation

By: _____

Name: _____

Its: _____

Attachments: Proof of payment of taxes

EXHIBIT F
TEMPORARY CONSTRUCTION EASEMENT

KNOW TO ALL PERSONS BY THESE PRESENTS that Kwik Trip, Inc., a Wisconsin corporation (hereinafter referred to as the "Grantor"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Storm Lake, Iowa (hereinafter referred to as "City"), a Temporary Construction Easement upon, over, through and across the real property legally described as follows (hereinafter referred to as the "Easement Area"):

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

This Temporary Construction Easement is granted for the sole purposes of permitting the City and its contractors, agents, and assigns to enter upon and into said Easement Area and to use as much of the surface and subsurface thereof as necessary to complete the relocation of existing storm sewer infrastructure within the Easement Area. The rights granted under this easement agreement shall automatically terminate upon completion of such construction, which shall be no later than July 1, 2024.

Upon completion of the construction as provided for hereunder, the City shall restore the Easement Area in a good and workmanlike manner to a condition comparable to its condition before construction, including the removal of all debris and equipment used by the City in connection with the work performed in the Easement Area.

Until the City's construction work is completed and this easement is terminated, Grantor shall not use the Easement Area in any manner that would inhibit the City's use of the Easement Area as permitted by this easement agreement and Grantor shall ensure that no barricades, signs, fences, structures, or equipment impede the City's free and uninterrupted access over and across the Easement Area.

Grantor does hereby defend, indemnify, and hold harmless the City from and against all damages, liabilities, actions, claims, expenses (including, but not limited to, court costs and reasonable attorneys' fees), losses, judgments, liens and causes of action incurred by the City from loss of life, bodily injury, and property damage arising from or out of Grantor's use of the rights granted by this easement; this paragraph shall survive the termination of this easement agreement due to completion of the construction work.

Grantor does hereby covenant with City that Grantor has good and lawful authority to convey this easement; that said premises are free and clear of all liens and encumbrances whatsoever except as may be hereinabove stated; and that Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

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

Signed this 18th day of August, 2023.

KWIK TRIP, INC.,
A Wisconsin corporation

By: [Signature]

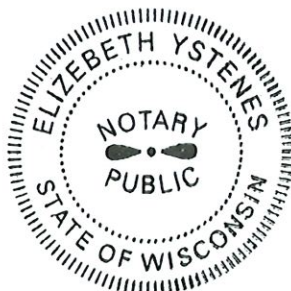
Print Name: Thomas E. Reinhart

Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

02174417-1V11149-133



[Signature]
Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

Prepared by: Jenna H.B. Sabroske, 100 Court Ave, Ste 600, Des Moines, IA 50309 (515) 246-0328
Taxpayer/Return to: Kwik Trip, Inc., at 1626 Oak Street, La Crosse, WI 54602, Attn: Real Estate Department

DEED WITHOUT WARRANTY

For the consideration of One Dollar and other valuable consideration, the **City of Storm Lake, Iowa** does hereby convey to **Kwik Trip, Inc.**, a Wisconsin corporation, the real estate in Buena Vista County, Iowa legally described as:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

This transfer is exempt under Iowa Code Section 428A.2(6).

[Signature page follows]

Dated: _____, 2023.

CITY OF STORM LAKE, IOWA

By: _____
Michael Porsch, Mayor

ATTEST: _____
Mayra Martinez, City Clerk

STATE OF IOWA, COUNTY OF BUENA VISTA:

On _____, 2023, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____ and Mayra Martinez, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of the City of Storm Lake, Iowa, the municipality executing the within and foregoing instrument; that the instrument was signed on behalf of the municipality by the authority of its City Council; and that the Mayor and City Clerk, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the municipality, by it and by them voluntarily executed.

Notary Public in and for Said State

02234586-1\20173-000

Staff Summary

10/02/2023

Agenda Item # F.3.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Lee Dutfield Development Services Sepcialist

SUBJECT: **Resolution No. 08-R-2023-2024 Making Final Determination On Potential Sale Of Interest In Real Property And Approving And Authorizing Execution Of An Agreement For Private Development By And Between The City Of Storm Lake And Kwik Trip, Inc. Within The Storm Lake Industrial Park Urban Renewal Area**

BACKGROUND: The Development Agreement proposes that the City would sell the Marshall Avenue Property to Developer for \$65,000, under the terms and conditions set forth in the Agreement, including that the Developer will pay the City an amount equal to the City's costs to relocate certain storm sewer infrastructure, less \$65,000, and that Developer use the Marshall Avenue Property and adjacent property (together, the "Development Property") to construct a 9,100 square foot convenience store to include gas canopy, side diesel, detached car wash, and all related site improvements within the Storm Lake Industrial Park Urban Renewal Area.

The Development Agreement further contemplates that the City will complete certain Public Improvements (as defined in the Agreement) in support of the Project, under the terms and following satisfaction of the conditions set forth in the Agreement.

FISCAL IMPACT: A total investment by the developer of approximately \$2,600,000 for construction costs including labor, materials, and other related expenditures within the Storm Lake Industrial Park Urban Renewal Area.

RECOMMENDATION: Approve Resolution No. 08-R-2023-2024 making final determination on potential sale of interest in real property and approving and authorizing execution of an Agreement for Private Development by and between the City of Storm Lake and Kwik Trip, Inc. within the Storm Lake Industrial Park Urban Renewal Area.

ATTACHMENTS:

Resolution No. 08-R-2023-2024
Deed Without Warranty (02255368x7F7E1).docx
Signed_Notarized DA Kwik Trip Inc.pdf

RESOLUTION NO. 08-R-2023-2024

**RESOLUTION MAKING FINAL DETERMINATION ON
POTENTIAL SALE OF INTEREST IN REAL PROPERTY
AND APPROVING AND AUTHORIZING EXECUTION OF
AN AGREEMENT FOR PRIVATE DEVELOPMENT BY
AND BETWEEN THE CITY OF STORM LAKE AND KWIK
TRIP, INC. WITHIN THE STORM LAKE INDUSTRIAL
PARK URBAN RENEWAL AREA**

WHEREAS, by Resolution No. 33-R-91-92, adopted September 16, 1991, this Council found and determined that certain areas located within the City are eligible and should be designated as an urban renewal area under Iowa law, and approved and adopted the Storm Lake Industrial Park Urban Renewal Plan (the "Plan" or "Urban Renewal Plan") for the Storm Lake Industrial Park Urban Renewal Area (the "Area" or "Urban Renewal Area") described therein, which Plan is on file in the office of the Recorder of Buena Vista County; and

WHEREAS, the Plan has subsequently been amended nine times, lastly by the adoption of Amendment No. 9 to the Plan, adopted by Resolution No. 53-R-2022-2023, adopted April 3, 2023; and

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

WHEREAS, such Plan provides for, among other things, the disposition of property for private development as a proposed urban renewal action; and

WHEREAS, the City of Storm Lake (the "City") has received a proposal from Kwik Trip, Inc. (the "Developer"), in the form of a proposed Agreement for Private Development (the "Agreement") by and between the City and Developer, pursuant to which, among other things, the City would agree to convey to Developer certain City-owned real property within the Urban Renewal Area as defined and legally described in the Agreement (the "Marshall Avenue Property"); further, the Agreement would require Developer to construct a 9,100 square foot convenience store to include gas canopy, side diesel, detached car wash, and all related site improvements on property within the Urban Renewal Area as defined and legally described in the Agreement (the "Development Property"); and

WHEREAS, the Agreement further contemplates that the City will complete the relocation of existing storm sewer infrastructure (the "Storm Sewer Relocation") and construct certain Public Improvements (as defined in the Agreement) in support of the Project, under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the Agreement provides that the Developer will pay the City \$65,000 for the Marshall Avenue Property and will also pay the City an amount equal to the City's costs for the Storm Sewer Relocation, less \$65,000; and

WHEREAS, Iowa Code Chapter 403 authorizes cities to dispose of property and construction public improvements in furtherance of the objectives of an urban renewal project and to take other actions as may be necessary to carry out the purposes of said Chapter; and

WHEREAS, because the Marshall Avenue Property is located within an urban renewal area, the City's sale of the Marshall Avenue Property to the Developer is subject to the provisions of Iowa Code Section 403.8; and

WHEREAS, by Resolution adopted August 21, 2023, this Council: (i) set forth its proposal to dispose of interests in the Marshall Avenue Property; (ii) approved a reasonable competitive bidding procedure to seek competing bids for the Marshall Avenue Property; (iii) determined that the Agreement offered "fair value" for the Marshall Avenue Property; and (iv) gave notice of its intention to accept the Agreement with Developer if no qualified competing proposals were received; and

WHEREAS, the Council has determined that the Agreement is in the best interests of the City and the residents thereof and that the performance by the City of its obligations thereunder is a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Iowa Code Chapters 15A and 403, taking into account any or all of the factors set forth in Chapter 15A, to wit:

- a. Businesses that add diversity to or generate new opportunities for the Iowa economy should be favored over those that do not.
- b. Development policies in the dispensing of the funds should attract, retain, or expand businesses that produce exports or import substitutes or which generate tourism-related activities.
- c. Development policies in the dispensing or use of the funds should be targeted toward businesses that generate public gains and benefits, which gains and benefits are warranted in comparison to the amount of the funds dispensed.
- d. Development policies in dispensing the funds should not be used to attract a business presently located within the state to relocate to another portion of the state unless the business is considering in good faith to relocate outside the state or unless the relocation is related to an expansion which will generate significant new job creation. Jobs created as a result of other jobs in similar Iowa businesses being displaced shall not be considered direct jobs for the purpose of dispensing funds; and

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement,

which includes the potential sale of the Marshall Avenue Property, and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

NOW THEREFORE, BE IT RESOLVED, BY THE CITY COUNCIL OF THE CITY OF STORM LAKE IN THE STATE OF IOWA:

Section 1. The Council finds that disposal of interests in the Marshall Avenue Property to the Developer as set forth in the Agreement will benefit the health, safety and welfare of, and is in the best interests of the residents of the City. The Council further finds that transfer of the Marshall Avenue Property will promote economic development in the City and that these benefits, together with the other consideration provided for in the Agreement, constitute fair value for the disposal of interests in the Marshall Avenue Property under Section 403.8, Code of Iowa.

Section 2. The proposal to sell the Marshall Avenue Property to the Developer pursuant to the terms of the proposed Agreement is hereby approved.

Section 3. That the performance by the City of its obligations under the Agreement, including but not limited to selling the Marshall Avenue Property to the Developer under the terms set forth in the Agreement, be and is hereby declared to be a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Iowa Code Chapters 15A and 403, taking into account the factors set forth therein.

Section 4. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 2nd day of October, 2023.

Michael Porsch, Mayor

ATTEST:

Mayra A. Martinez, City Clerk

Prepared by: Jenna H.B. Sabroske, 100 Court Ave, Ste 600, Des Moines, IA 50309 (515) 246-0328
Taxpayer/Return to: Kwik Trip, Inc., at 1626 Oak Street, La Crosse, WI 54602, Attn: Real Estate Department

DEED WITHOUT WARRANTY

For the consideration of One Dollar and other valuable consideration, the **City of Storm Lake, Iowa** does hereby convey to **Kwik Trip, Inc.**, a Wisconsin corporation, the real estate in Buena Vista County, Iowa legally described as:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

This transfer is exempt under Iowa Code Section 428A.2(6).

[Signature page follows]

Dated: _____, 2023.

CITY OF STORM LAKE, IOWA

By: _____
Michael Porsch, Mayor

ATTEST: _____
Mayra Martinez, City Clerk

STATE OF IOWA, COUNTY OF BUENA VISTA:

On _____, 2023, before me, the undersigned, a Notary Public in and for the State of Iowa, personally appeared _____ and Mayra Martinez, to me personally known, who, being by me duly sworn, did say that they are the President and Secretary, respectively, of the City of Storm Lake, Iowa, the municipality executing the within and foregoing instrument; that the instrument was signed on behalf of the municipality by the authority of its City Council; and that the Mayor and City Clerk, as such officers, acknowledged the execution of the instrument to be the voluntary act and deed of the municipality, by it and by them voluntarily executed.

Notary Public in and for Said State

02234586-1\20173-000

KWIK TRIP
INC.**KWIK STAR**

Legal

PHONE 608-781-8988

FAX 608-793-6120

1626 Oak St., P.O. Box 2107
La Crosse, WI 54602www.kwiktrip.com

August 18, 2023

City of Storm Lake
Attn: Lee Dutfield
620 Erie Street
Storm Lake, IA 50588

Re: Agreement for Private Development – Kwik Trip, Inc.

Dear Lee:

Enclosed please find the Agreement for Private Development executed on behalf of Kwik Trip, Inc. Please return to me a recorded copy once the necessary steps have been taken.

If you have any questions, please feel free to give me a call at 608-793-6209 or email at eystenes@kwiktrip.com. Thank you!

Very truly yours,

Elizebeth Ystenes
Legal Department

Enclosure.

AGREEMENT FOR PRIVATE DEVELOPMENT

by and between

CITY OF STORM LAKE, IOWA

AND

KWIK TRIP, INC.

_____, 2023

AGREEMENT
FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT ("Agreement"), is made on or as of the ____ day of _____, 2023, by and between the CITY OF STORM LAKE, IOWA, a municipality ("City"), established pursuant to the Code of Iowa of the State of Iowa and acting under the authorization of Chapters 15A and 403 of the Code of Iowa, 2023, and KWIK TRIP, INC., a Wisconsin corporation, having offices for the transaction of business at 1626 Oak Street, La Crosse, Wisconsin ("Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of Iowa Code Chapter 403 (the "Urban Renewal Act"), the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the Storm Lake Industrial Park Urban Renewal Area (the "Urban Renewal Area"), which is described in the Urban Renewal Plan approved for such area by Resolution No. 33-R-91-92 on September 16, 1991 and which has been amended several times, lastly by Amendment No. 9 as approved on April 3, 2023 (the "Urban Renewal Plan"); and

WHEREAS, a copy of the foregoing Urban Renewal Plan, as amended, has been or will be recorded among the land records in the office of the Recorder of Buena Vista County, Iowa; and

WHEREAS, Developer owns or will own certain real property located in the foregoing Urban Renewal Area and as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, Developer is willing to cause certain improvements (the "Minimum Improvements," as more particularly described herein) to be constructed on the Development Property and Developer will thereafter cause the same to be operated in accordance with this Agreement (the "Project"); and

WHEREAS, the City is willing to construct certain public infrastructure improvements (the "Public Improvements"), which improvements are being undertaken as an urban renewal project to support the Project in consideration for Developer's obligations all pursuant to the terms and conditions of this Agreement; and

WHEREAS, the City is willing to complete the relocation of certain storm sewer infrastructure (the "Storm Sewer Relocation," as more particularly described herein), and vacate certain public right-of-way and transfer it to the Developer in support of the Project, pursuant to the terms and conditions of this Agreement; 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 City and in accord with the public purposes and provisions of the applicable State and local laws and requirements under which the foregoing Project has been undertaken and is being assisted.

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

ARTICLE I-A. PRECONDITION

Section 1-A.1. Condition Precedent. Developer's acquisition of the full right, title, and interest in the Development Property (not including the Marshall Avenue Property) on or before November 30, 2023 is a condition precedent to any rights or obligations of any party to this Agreement. If this condition is not timely satisfied, then this Agreement shall automatically terminate with no further action required by any party, and the parties shall have no further rights or obligations under this Agreement.

ARTICLE I. DEFINITIONS

Section 1.1. Definitions. In addition to other definitions set forth in this Agreement, all capitalized terms used and not otherwise defined herein shall have the following meanings unless a different meaning clearly appears from the context:

Agreement means this Agreement for Private Development and all exhibits and appendices hereto, as the same may be from time to time modified, amended or supplemented.

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

City means the City of Storm Lake, Iowa, or any successor to its functions.

Code means the Code of Iowa, 2023, as amended.

Commencement Date means the date of this Agreement.

Construction Plans means the plans, specifications, drawings and related documents reflecting the construction work to be performed by the Developer on the Development Property; the Construction Plans shall be as detailed as the plans, specifications, drawings and related documents which are submitted to the building inspector of the City as required by applicable City codes.

Developer means Kwik Trip, Inc., and its permitted successors and assigns.

Development Property means the real property legally described in Exhibit A and, following conveyance to the Developer consistent with the provisions of Section 8.2, the Marshall Avenue Property described in Exhibit A-1.

Employee means a person employed by Developer in operations in the Minimum Improvements.

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

Indemnified Parties means the City and the governing body members, officers, agents, servants, and employees thereof.

Marshall Avenue Property means the public right-of-way planned to be vacated and conveyed consistent with the terms of Section 8.2, as legally described in Exhibit A-1.

Minimum Improvements means the construction of a convenience store, as more particularly described in Exhibit B-1 to this Agreement.

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

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

Project means the Developer's construction and operation of the Minimum Improvements on the Development Property, as described in this Agreement.

Public Improvements means the infrastructure improvements to be completed by the City as described in Article IX and Exhibit B-2 of this Agreement, including paving and repairs to Memorial Road.

State means the State of Iowa.

Storm Sewer Relocation means the relocation of public storm sewer infrastructure to be completed by the City on the Marshall Avenue Property, Development Property, and other nearby property.

Termination Date means the date of termination of this Agreement, as established in Section 12.8 of this Agreement.

Unavoidable Delays means delays resulting from acts or occurrences outside the reasonable control of the party claiming the delay including but not limited to storms, floods, fires, explosions or other casualty losses, unusual weather conditions, strikes, boycotts, lockouts or other

labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts of any federal, State or local governmental unit (other than the City pursuant to rights granted hereunder).

Urban Renewal Area means the area known as the Storm Lake Industrial Park Urban Renewal Area (as amended).

Urban Renewal Plan means the Urban Renewal Plan, as amended, approved with respect to the Storm Lake Industrial Park Urban Renewal Area, described in the preambles hereof.

ARTICLE II. REPRESENTATIONS AND WARRANTIES

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

a. The City is a municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions, or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City only, and not of any governing body member, officer, agent, servant, or employee of the City in the individual capacity thereof.

Section 2.2. Representations and Warranties of Developer. Developer makes the following representations and warranties:

a. Kwik Trip, Inc. is a Wisconsin corporation duly organized and validly existing under the laws of the State of Wisconsin and registered to do business in the State of Iowa, and has or will obtain all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.

b. This Agreement has been duly and validly authorized, executed, and delivered by Developer and, assuming due authorization, execution and delivery by the City, is in full force and effect and is a valid and legally binding instrument of Developer enforceable in accordance with its terms, except as the same may be limited by bankruptcy, insolvency, reorganization, or other laws relating to or affecting creditors' rights generally.

c. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a violation or breach of, the terms, conditions, or provisions of the governing documents of Developer or of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which Developer is now a party or by which it or its property is bound, nor do they constitute a default under any of the foregoing.

d. There are no actions, suits, or proceedings pending or, to Developer's knowledge, threatened against or affecting Developer in any court or before any arbitrator or before or by any governmental body in which there is a reasonable possibility of an adverse decision which could materially adversely affect the business (present or prospective), financial position, or results of operations of Developer or which in any manner raises any questions affecting the validity of the Agreement or Developer's ability to perform its obligations under this Agreement.

e. Developer will cause the Minimum Improvements to be constructed in accordance with the terms of this Agreement and all local, State, and federal laws and regulations.

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

g. The construction of the Minimum Improvements will require a total investment of approximately \$2,600,000 for construction costs including labor, materials, and other related expenditures.

h. Developer has not received any notice from any local, State or federal official that the activities of Developer with respect to the Development Property may or will be in violation of any environmental law or regulation (other than those notices, if any, of which the City has previously been notified in writing). Developer is not currently aware of any State or federal claim filed or planned to be filed by any party relating to any violation of any local, State or federal environmental law, regulation or review procedure applicable to the Development Property, and Developer is not currently aware of any such 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.

i. Developer has firm commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements as contemplated in this Agreement.

j. Developer will cooperate with the City in resolution of any traffic, parking, trash removal, or public safety problems which may arise in connection with the construction and operation of the Minimum Improvements.

k. Developer currently expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by December 31, 2025.

l. Developer would not undertake its obligations under this Agreement without the City's incentives proposed to be provided under the terms and conditions of this Agreement.

ARTICLE III. CONSTRUCTION OF MINIMUM IMPROVEMENTS

Section 3.1. Construction of Minimum Improvements. Developer agrees that it will cause the Minimum Improvements to be constructed on the Development Property in conformance with the Construction Plans submitted to the City. 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 this Agreement. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

Developer agrees that it shall permit designated representatives of the City, upon reasonable notice (which does not have to be written), to enter upon the Development Property during the construction of the Minimum Improvements to inspect such construction and the progress thereof.

Section 3.2. Construction Plans. 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 3.2. The Construction Plans shall be in conformity with this Agreement and all applicable State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iii) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (iv) 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 3.2 shall constitute approval for the purposes of this Agreement only and shall not be deemed to constitute approval or waiver by the City with respect to any building, fire, zoning or other ordinances or regulations of the City, and shall not be deemed to be sufficient plans to serve as the basis for the issuance of a building permit if the Construction Plans are not as detailed or complete as the plans otherwise required for the issuance of a building permit. The site plans submitted to the building official of the City for the Development Property and the surrounding areas where the Minimum Improvements are to be constructed shall be adequate to serve as the Construction Plans, if such site plans are approved by the building official.

Approval of the Construction Plans by the City shall not relieve Developer of any obligation to comply with the terms and provisions of this Agreement, or the provision of applicable federal, State and local laws, ordinances and regulations, nor shall approval of the Construction Plans by the City be deemed to constitute a waiver of any Event of Default.

Approval of Construction Plans hereunder is solely for purposes of this Agreement, and shall not constitute approval for any other City purpose nor subject the City to any liability for the Minimum Improvements as constructed.

Section 3.3. Completion of Construction. Subject to Unavoidable Delays, Developer shall cause construction of the Minimum Improvements to be undertaken and completed: (i) by no later than December 31, 2025; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

Section 3.4. Certificate of Completion. Upon written request of Developer after completion of the Minimum Improvements, the City will furnish Developer with a Certificate of Completion in recordable form, in substantially the form set forth in Exhibit C attached hereto. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement with respect to the obligations of Developer to cause construction of the Minimum Improvements.

Each duly issued Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of this Section 3.4, the City shall, within twenty (20) days after written request by Developer provide a written statement indicating in adequate detail in what respects Developer has failed to complete the Minimum Improvements in accordance with the provisions of this Agreement, or is otherwise in default under the terms of this Agreement, and what measures or acts it will be necessary, in the opinion of the City, for Developer to take or perform in order to obtain such Certificate of Completion.

Issuance by the City of the Certificate of Completion pursuant to this Section 3.4 is solely for the purposes of this Agreement, and shall not constitute approval for any other City purpose shall it subject the City to any liability for the Development Property or the Minimum Improvements as constructed.

Section 3.5. Developer Completion Guarantee. By signing this Agreement, Developer hereby guarantees to the City performance by Developer of all the terms and provisions of this Agreement pertaining to Developer's obligations with respect to the construction of the Minimum Improvements. Without limiting the generality of the foregoing, Developer guarantees that: (a) construction of the Minimum Improvements shall commence and be completed within the time limits set forth herein; (b) the Minimum Improvements shall be constructed and completed in accordance with the Construction Plans; (c) the Minimum Improvements shall be constructed and completed free and clear of any mechanic's liens, materialman's liens and equitable liens (except inchoate liens and liens for which a bond is filed in accord with Iowa law); and (d) all costs of constructing the Minimum Improvements shall be paid when due (except reasonable retention and reasonable amounts in dispute).

Section 3.6. Damage to Memorial Road. If public infrastructure in the Memorial Road right-of-way is damaged due to construction of the Minimum Improvements, Developer shall

promptly repair or replace such public infrastructure to its previous condition per City engineer specifications at its sole cost and expense. In the event Developer fails to repair or replace the public infrastructure in a reasonable time, then the Developer shall pay to the City an amount equal to the City's documented costs incurred for repair or replacement of such infrastructure. The extent of repair or replacement needed for the damaged public infrastructure in the Memorial Road right-of-way shall be determined in the City's sole, but reasonable, discretion. Developer shall pay the amount required by this Section 3.6 to the City within thirty (30) days of the City's submission to Developer of documentation of the costs incurred for such infrastructure repair or replacement.

ARTICLE IV. INSURANCE

Section 4.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of the City, furnish the City with proof of payment of premiums on):

i. Builder's risk insurance, written on the so-called "Builder's Risk-Completed Value Basis," in an amount equal to one hundred percent (100%) of the insurable value of the Minimum Improvements at the date of completion, and with coverage available in non-reporting form on the so-called "all risk" form of policy.

ii. Comprehensive general liability insurance (including operations, contingent liability, operations of subcontractors, completed operations, and contractual liability insurance) with limits against bodily injury and property damage of at least \$1,000,000 for each occurrence. The City shall be named as an additional insured for the City's liability or loss arising out of or in any way associated with the project and arising out of any act, error, or omission of Developer, its directors, officers, shareholders, contractors, and subcontractors or anyone else for whose acts the City may be held responsible (with coverage to the City at least as broad as that which is provided to Developer and not lessened or avoided by endorsement). The policy shall contain a "severability of interests" clause and provide primary insurance over any other insurance maintained by the City.

iii. Workers' compensation insurance with at least statutory coverage.

b. Upon completion of construction of the Minimum Improvements and at all times prior to the Termination Date, Developer shall maintain or cause to be maintained, at its cost and expense (and from time to time at the request of the City shall furnish proof of the payment of premiums on), insurance as follows:

i. Insurance against loss and/or damage to the Minimum Improvements under a policy or policies covering such risks as are ordinarily insured against by similar businesses, including (without 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 \$750,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of co-insurance provisions or otherwise, without the prior consent thereto in writing by the City. The term "full insurable replacement value" shall mean the actual replacement cost of the Minimum Improvements (excluding foundation and excavation costs and costs of underground flues, pipes, drains, and other uninsurable items) and equipment, and shall be determined from time to time at the request of the City, but not more frequently than once every three years, by an insurance consultant or insurer selected and paid for by Developer and approved by the City.

ii. Comprehensive general public liability insurance, including personal injury liability for injuries to persons and/or property, including any injuries resulting from the operation of automobiles or other motorized vehicles on or about the Development Property, in the minimum amount for each occurrence and for each year of \$1,000,000.

iii. Such other insurance, including workers' compensation insurance respecting all employees of Developer, in such amount as is customarily carried by like organizations engaged in like activities of comparable size and liability exposure; provided that Developer may be self-insured with respect to all or any part of its liability for workers' compensation.

c. All insurance required by this Article IV to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article IV, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to 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, Developer shall furnish the City evidence satisfactory to the City that the policy has been renewed or replaced by another policy conforming to the provisions of this Article IV, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

d. Developer agrees to notify the City immediately in the case of damage exceeding \$25,000 in amount to, or destruction of, the Minimum Improvements or any portion thereof then-owned by Developer resulting from fire or other casualty. Net Proceeds of any such insurance shall be paid directly to Developer, and Developer will forthwith repair, reconstruct, and restore the portion of the Minimum Improvements then-owned by Developer to substantially the same or an improved condition or value as they existed prior to the event causing such damage and, to the extent necessary to accomplish such repair, reconstruction and restoration, Developer will apply the Net Proceeds of any insurance relating to such damage received by Developer to the payment or reimbursement of the costs thereof.

e. Developer shall complete the repair, reconstruction, and restoration of the Minimum Improvements, whether or not the Net Proceeds of insurance received by Developer for such purposes are sufficient.

ARTICLE V. REAL PROPERTY TAXES

Section 5.1. Real Property Taxes. Developer and its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned or leased by them and pursuant to the provisions of this Agreement. Until Developer's obligations have been assumed by any other person or legal title to the property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes on the Development Property.

Developer and their permitted successors and assigns agree that prior to the Termination Date:

a. They will not seek administrative review or judicial review of the applicability or constitutionality of any tax statute relating to the taxation of real property contained on the Development Property determined by any tax official to be applicable to the Development Property, Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; and

b. They will not seek any tax exemption, deferral, or abatement either presently or prospectively authorized under any State, federal, or local law with respect to taxation of real property contained on the Development Property between the date of execution of this Agreement and the Termination Date.

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer will maintain, preserve, and keep its properties within the City (whether owned in fee or a leasehold interest), including but not limited to the Minimum Improvements, in good repair and working order, ordinary wear and tear excepted, and from time to time will make all necessary repairs, replacements, renewals, and additions.

Section 6.2. Maintenance of Records. Developer will keep at all times proper books of record and account of all dealings and transactions of or in relation to the business and affairs of Developer relating to this Project.

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

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer shall not discriminate against any applicant or employee because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial

status. Developer shall ensure that applicants and employees are treated without regard to their age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status.

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

Section 6.6. Employment. Following completion of the Minimum Improvements, but no later than February 1, 2026, Developer shall employ a Monthly Average of at least 35 Employees in its operations at the Minimum Improvements on the Development Property. Developer shall retain a Monthly Average of at least 35 Employees in its operations at the Minimum Improvements on the Development Property until at least the Termination Date. The Annual Certification submitted by Developer pursuant to Section 6.7 shall be evidence compliance with this obligation.

“Monthly Average” means the number of Employees employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in the Annual Certification in Section 6.7, divided by 12. If the Monthly Average of Employees employed by Developer does not meet the requirements of this Section 6.6, then an Event of Default shall have occurred. Developer shall provide information as requested by the City to determine compliance with the foregoing employment obligations.

Section 6.7. Annual Certification. To assist the City in monitoring the Agreement and performance of Developer hereunder, a duly authorized officer of Developer shall annually provide to the City: (i) proof that all ad valorem taxes on the Development Property and Minimum Improvements have been paid for the prior fiscal year and any taxes due and payable for the current fiscal year as of the date of certification; (ii) the date of the first full assessment of the Minimum Improvements; (iii) certification of the number of Employees employed by Developer at the Development Property as of October 1 and as of the first day of each of the preceding eleven (11) months; and (iv) certification that such officer has re-examined the terms and provisions of this Agreement and that at the date of such certificate, and during the preceding twelve (12) months, Developer is not, or was not, in default in the fulfillment of any of the terms and conditions of this Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto. Such statement, proof and certificate shall be provided not later than October 15 of each year, commencing October 15, 2026, and ending on October 15, 2033, both dates inclusive. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit E for form required for the Annual Certification.

Section 6.8. Term of Operation. Developer or its permitted assign shall maintain its operations at the Minimum Improvements on the Development Property, including the employee obligations in Section 6.6, until at least the Termination Date of this Agreement.

ARTICLE VII. PROHIBITION AGAINST ASSIGNMENT AND TRANSFER

Section 7.1. Status of Developer; Transfer of Substantially All Assets; Assignment. As security for the obligations of Developer under this Agreement, Developer represents and agrees that, prior to the Termination Date, Developer will maintain its existence as a company and will not wind up or otherwise dispose of all or substantially all of its assets or transfer, convey, or assign its interests in this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof which consent shall not be unreasonably withheld.

In the event that Developer wishes to assign this Agreement, including its respective rights and duties hereunder, Developer and transferee individual or entity shall request that the City consent to an amendment or assignment of this Agreement to accommodate the transfer and to provide for the assumption of all Developer obligations under this Agreement. Such transfer shall not be effective unless and until the City and Developer consent in writing to an amendment or assignment of this Agreement authorizing the transfer.

Section 7.2. Prohibition Against Use as Non-Taxable or Centrally Assessed Property. During the term of this Agreement, the Developer and its successors or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. STORM SEWER RELOCATION; MARSHALL AVENUE PROPERTY

Section 8.1. Storm Sewer Relocation.

a. The City agrees to complete the relocation of existing public storm sewer currently located on the Marshall Avenue Property and on the Development Property (the "Storm Sewer Relocation"), subject to each of the following conditions precedent:

i. The City shall have completed all applicable public bidding requirements for the Storm Sewer Relocation in the City's sole discretion and shall have awarded a contract for the Storm Sewer Relocation acceptable to the City in its sole discretion; and

ii. The Developer negotiating in good faith with the City to provide and providing all necessary public utility easements, over and through the Development Property, with no compensation to Developer; and

iii. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to approving and appropriating financing or funds sufficient to complete the construction of the Storm Sewer Relocation, in the City's sole discretion; and

iv. There has not been a substantial change for the worse in the financial resources and the ability of Developer, or a substantial decrease in the financing commitment secured by Developer for construction of the Minimum Improvements, which changes make the Developer unable to fulfill its covenants and obligations under this Agreement; and

v. Developer remains in compliance with all of the terms and provisions of this Agreement, including that Developer has paid the City for the Storm Sewer Relocation consistent with Section 8.3; and

vi. The City shall have acquired all easements from property owners other than Developer needed to permit the City to complete the Storm Sewer Relocation.

b. Subject to Unavoidable Delays, the City shall use its best efforts to complete the Storm Sewer Relocation by July 1, 2024. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays.

c. By approval of this Agreement, Developer grants the City access to the Development Property, at no cost to the City, for the purpose of completing the Storm Sewer Relocation. Developer releases the City and the Indemnified Parties from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to hold harmless the Indemnified Parties from any loss or damage to property or any injury to or death of any person occurring at or about the Development Property while the City undertakes the Storm Sewer Relocation.

Section 8.2. Transfer of Marshall Avenue Property. Following execution of this Agreement, the City shall diligently pursue vacation of the Marshall Ave Property (consistent with the procedures required by the Iowa Code for the vacation of public right-of-way). Subject to the prior completion of the vacation of the Marshall Avenue Property, the City shall convey the vacated Marshall Avenue Property to the Developer within forty-five (45) days of Developer closing on the Development Property, subject to Unavoidable Delays and subject to satisfaction of the following conditions prior to conveyance:

a. Developer shall have paid City Sixty-Five Thousand and 00/100 Dollars (\$65,000) by cash, cashier's check, or wire transfer; and

b. Developer shall have delivered to the City a duly executed original copy of the temporary construction easement over the Marshall Avenue Property that is attached hereto as Exhibit F.

The Developer acknowledges and agrees that Developer shall accept the Marshall Avenue Property "as is, where is, with all faults." The Developer has not relied and will not rely on, and the City is not liable for or bound by, any express or implied warranties, guaranties, statements, representations or information pertaining to the Marshall Avenue Property or relating thereto made or furnished by City or any agent representing or purporting to represent City, to whomever made or given, directly or indirectly, orally or in writing.

Section 8.3. Developer Payment for Storm Sewer Relocation. Following the City's receipt of bids for the Storm Sewer Relocation, the City shall provide the bid expected to be accepted to Developer for the Storm Sewer Relocation work. Within thirty (30) business days of the City's completion of the Storm Sewer Relocation and receipt of final invoice for the work, Developer shall pay the City an amount equal to the invoice amount less \$65,000.

ARTICLE IX. PUBLIC IMPROVEMENTS

Section 9.1. Public Improvements. Subject to satisfaction of the conditions precedent set forth in Section 9.2, the City shall complete the necessary steps to bid and construct the Public Improvements as described in this Agreement, including Exhibit B-2 hereof.

Section 9.2. Conditions Precedent to Construction of Public Improvements. It is recognized and agreed that the City's ability to perform the obligations described in this Agreement, with respect to construction of the Public Improvements, is subject to completion and satisfaction of certain separate City Council actions and required legal proceedings. Specifically, all obligations of the City to construct the Public Improvements are subject to each of the following conditions precedent:

- a. The City shall have completed all applicable public bidding requirements for the Public Improvements in the City's sole discretion and shall have awarded a contract for the Public Improvements acceptable to the City in its sole discretion; and
- b. The Developer negotiating in good faith with the City to provide and providing all necessary public utility easements, over and through the Development Property with no compensation to Developer; and
- c. The completion and satisfaction of certain separate City Council actions and all required legal proceedings relating to the issuance of any bonds necessary for the construction of the Public Improvements, if any, (in the sole judgment of bond counsel for the City), including the sale of all or a portion of such bonds on terms and conditions necessary or desirable to the City, in the City's sole discretion; and
- d. There has not been a substantial change for the worse in the financial resources and the ability of Developer, or a substantial decrease in the financing commitment secured by Developer for construction of the Minimum Improvements, which changes make the Developer unable to fulfill its covenants and obligations under this Agreement; and

e. Developer remains in compliance with all of the terms and provisions of this Agreement, including that Developer has paid the City for the Storm Sewer Relocation consistent with Section 8.3.

Section 9.3. Design of the Public Improvements; No Special Rights. The design of the Public Improvements shall be the City's responsibility. Developer recognizes and agrees that the Public Improvements shall be owned and maintained by the City and that nothing in this Agreement grants Developer any special legal entitlements or other rights not held by members of the general public with respect to ownership, maintenance, or use of the Public Improvements. The Parties agree that the City and other Indemnified Parties are not responsible for and will have no liability to Developer associated with the specifications, design, plans, quality of construction, or sufficiency of the Public Improvements for any particular purpose.

Section 9.4. Construction of the Public Improvements. Contingent on the Developer's compliance with the terms of this Agreement and contingent upon satisfaction of the Conditions Precedent in Section 9.2 of this Agreement, the City intends to fund and then construct the Public Improvements. The City's obligation to construct the Public Improvements as described in this Article shall be subject in all respects to Unavoidable Delays, the provisions of this Article, and to the satisfaction of all conditions and procedures required (in the judgment of bond counsel for the City) by Chapter 384 of the Code including the holding of all required public hearings relating to the same.

Section 9.5. Completion of the Public Improvements. Subject to Unavoidable Delays, the City shall cause construction of the Public Improvements to be undertaken and completed by no later than November 30, 2024. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. Construction of the Public Improvements shall not materially interfere with or delay Developer in the construction of the Minimum Improvements. Construction of the Minimum Improvements on the Development Property shall not materially interfere with or delay City in the construction of the Public Improvements.

ARTICLE X. INDEMNIFICATION

Section 10.1. Release and Indemnification Covenants.

a. Developer releases the City and the Indemnified Parties from, covenants and agrees that the Indemnified Parties shall not be liable for, and agrees to indemnify, defend, and hold harmless the Indemnified Parties against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the Minimum Improvements or Development Property.

b. Except for any willful misrepresentation or any willful or wanton misconduct or any unlawful act of the Indemnified Parties, Developer agrees to protect and defend the Indemnified Parties, now or forever, and further agrees to hold the Indemnified Parties harmless from, any claim, demand, suit, action, or other proceedings whatsoever by any person or entity whatsoever arising or purportedly arising from: (i) any violation of any agreement or condition of

this Agreement (except with respect to any suit, action, demand or other proceeding brought by Developer against the City to enforce their rights under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer or its officers, agents, servants, or employees or any other person who may be about the Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants, or employees.

d. All covenants, stipulations, promises, agreements, and obligations of 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.

e. The provisions of this Article X shall survive the termination of this Agreement.

ARTICLE XI. EVENTS OF DEFAULT AND REMEDIES

Section 11.1. Events of Default Defined. The following shall be “Events of Default” under this Agreement and the term “Event of Default” shall mean, whenever it is used in this Agreement, any one or more of the following events during the term of this Agreement:

a. Failure by Developer to cause the construction of the Minimum Improvements to be completed pursuant to the terms and conditions of this Agreement;

b. Transfer of Developer’s interest in this Agreement or the assets of Developer in violation of the provisions of this Agreement;

c. Failure by Developer to timely pay ad valorem taxes for the portions of the Development Property and Minimum Improvements;

d. Failure by Developer to substantially observe or perform any covenant, condition, obligation, or agreement on its part to be observed or performed under this Agreement;

e. The holder of any Mortgage on the Development Property, or any improvements thereon, or any portion thereof, commences foreclosure proceedings as a result of any default under the applicable Mortgage documents;

f. Developer:

i. files 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. makes an assignment for the benefit of its creditors; or
- iii. admits in writing its inability to pay its debts generally as they become due;

or

iv. is adjudicated as bankrupt or insolvent; or if a petition or answer proposing the adjudication of Developer as a bankrupt or its reorganization under any present or future federal bankruptcy act or any similar federal or state law shall be filed in any court and such petition or answer shall not be discharged or denied within ninety (90) days after the filing thereof; or a receiver, trustee or liquidator of Developer or the Minimum Improvements, or part thereof, shall be appointed in any proceedings brought against Developer, and shall not be discharged within ninety (90) days after such appointment, or if Developer shall consent to or acquiesce in such appointment; or

g. Any representation or warranty made by Developer in this Agreement, or in any written statement or certificate furnished by Developer pursuant to this Agreement, shall prove to have been incorrect, incomplete, or misleading in any material respect on or as of the date of the issuance or making thereof.

Section 11.2. Remedies on Default. Whenever any Event of Default referred to in Section 11.1 of this Agreement occurs and is continuing, the City may take any one or more of the following actions after giving thirty (30) days' written notice to Developer of the Event of Default, but only if the Event of Default has not been cured to the satisfaction of the City within said thirty (30) days, or if the Event of Default cannot reasonably be cured within thirty (30) days and Developer does not provide assurances reasonably satisfactory to the City that the Event of Default will be cured as soon as reasonably possible:

a. The City may suspend its performance under this Agreement, including construction of the Public Improvements, until it receives assurances from Developer, deemed adequate by the City, that Developer will cure the default and continue its performance under this Agreement;

b. The City may terminate this Agreement;

c. The City may withhold the Certificate of Completion; or

d. The City may take any action, including legal, equitable or administrative action, which may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of Developer under this Agreement.

Section 11.3. No Remedy Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall

be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

Section 11.4. No Implied Waiver. In the event any agreement contained in this Agreement should be breached by any party and thereafter waived by any other party, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other concurrent, previous or subsequent breach hereunder.

Section 11.5. Agreement to Pay Attorneys' Fees and Expenses. Whenever any Event of Default occurs and the City employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer, the Developer agrees that in the event the City prevails in such action, Developer shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XII. MISCELLANEOUS

Section 12.1. Conflict of Interest. Developer represents and warrants that, to its best knowledge and belief after due inquiry, no officer or employee of the City, or their designees or agents, nor any consultant or member of the governing body of the City, and no other public official of the City who exercises or has exercised any functions or responsibilities with respect to the Project during his or her tenure, or who is in a position to participate in a decision-making process or gain insider information with regard to the Project, has had or shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work or services to be performed in connection with the Project, or in any activity, or benefit therefrom, which is part of the Project at any time during or after such person's tenure.

Section 12.2. Notices and Demands. A notice, demand or other communication under this Agreement by any party to the other shall be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid, return receipt requested, or delivered personally, and

- a. In the case of Developer, is addressed or delivered personally to Kwik Trip, Inc., at 1626 Oak Street, La Crosse, WI 54602, Attn: Real Estate Department;
- b. In the case of the City, is addressed to or delivered personally to the City at City Hall, 620 Erie Street, P.O. Box 1086, Storm Lake, IA 50588, Attn: City Manager;

or to such other designated individual or officer or to such other address as any party shall have furnished to the other in writing in accordance herewith.

Section 12.3. Titles of Articles and Sections. Any titles of the several parts, Articles, and Sections of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any of its provisions.

Section 12.4. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall constitute one and the same instrument.

Section 12.5. Governing Law. This Agreement shall be governed and construed in accordance with the laws of the State of Iowa.

Section 12.6. Entire Agreement. This Agreement and the exhibits hereto reflect the entire agreement among the parties regarding the subject matter hereof, and supersedes and replaces all prior agreements, negotiations or discussions, whether oral or written. This Agreement may not be amended except by a subsequent writing signed by all parties hereto.

Section 12.7. Successors and Assigns. This Agreement is intended to and shall inure to the benefit of and be binding upon the parties hereto and their respective permitted successors and assigns.

Section 12.8. Termination Date. This Agreement shall terminate and be of no further force or effect on and after December 31, 2033, unless terminated earlier under the provisions of this Agreement.

Section 12.9. Memorandum of Agreement. The parties agree to execute and record a Memorandum of Agreement for Private Development, in substantially the form attached as Exhibit D, to serve as notice to the public of the existence and provisions of this Agreement, and the rights and interests held by the City by virtue hereof. The City shall pay for all costs of recording.

Section 12.10. No Third-Party Beneficiaries. No rights or privileges of either party hereto shall inure to the benefit of any landowner, contractor, subcontractor, material supplier, or any other person or entity, and no such contractor, landowner, subcontractor, material supplier, or any other person or entity shall be deemed to be a third-party beneficiary of any of the provisions contained in this Agreement.

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

[Remainder of page intentionally left blank; signature pages follow]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
 Michael Porsch, Mayor

ATTEST:

By: _____
 Mayra Martinez, City Clerk

STATE OF IOWA)
) SS
 COUNTY OF BUENA VISTA)

On this _____ day of _____, 2023, before me a Notary Public in and for said State, personally appeared Michael Porsch and Mayra Martinez, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Storm Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

 Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – City of Storm Lake]

KWIK TRIP, INC.,
A Wisconsin corporation

By: 

Print Name: Thomas E. Reinhart

Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.


Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

[Signature page to Agreement for Private Development – Kwik Trip, Inc.]



EXHIBIT A
DEVELOPMENT PROPERTY

The Development Property is described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (1), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six (6), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4 feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning,

EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

The Development Property will also include the Marshall Avenue Property, which is legally described on Exhibit A-1, following conveyance of the Marshall Avenue Property to the Developer, consistent with the terms and conditions of the Agreement.

EXHIBIT A-1
MARSHALL AVENUE PROPERTY

The Marshall Avenue Property is legally described as follows:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

EXHIBIT B-1 MINIMUM IMPROVEMENTS

Minimum Improvements means the construction, by Developer, of an approximately 9,100 square foot convenience store to include gas canopy, side diesel, detached car wash, and all related site improvements on the Development Property. The construction of the Minimum Improvements will be completed by December 31, 2025 and is expected to cost \$2,600,000.

A preliminary site plan of the Minimum Improvements is below:

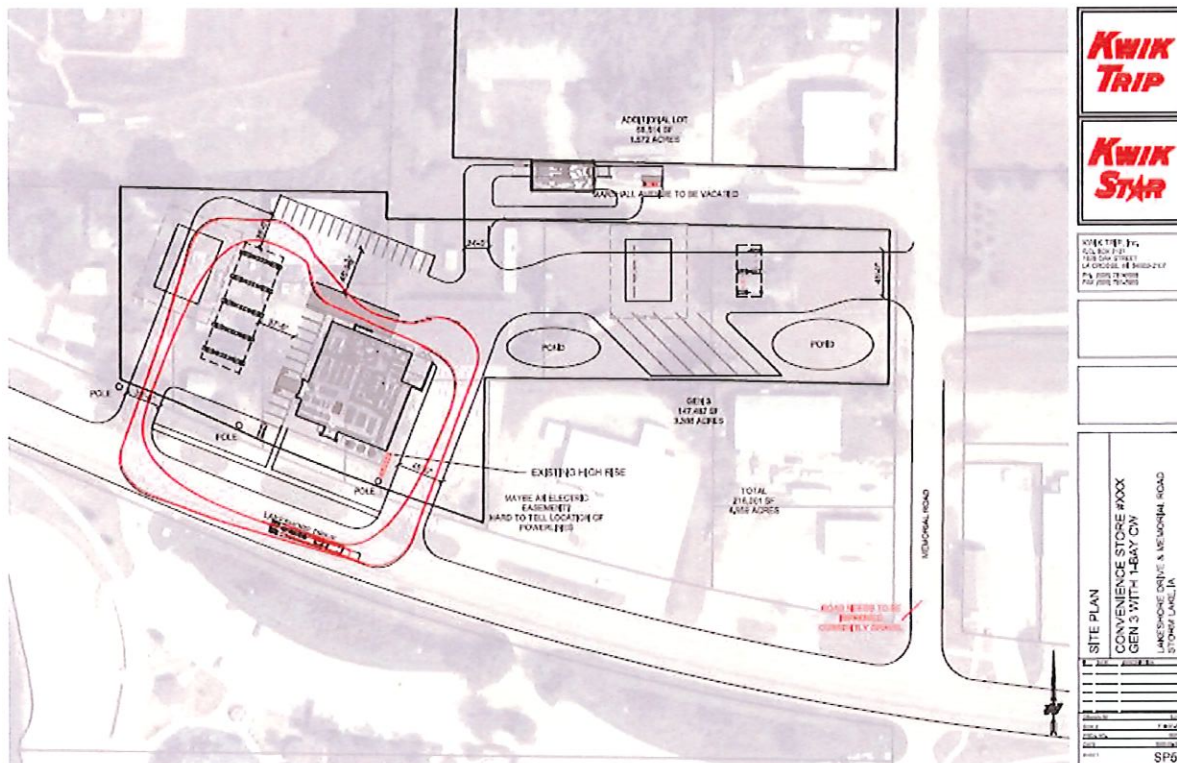


EXHIBIT B-2 PUBLIC IMPROVEMENTS

Public Improvements means the paving and repairs to a segment of Memorial Road adjacent to the Development Property, to be completed by the City. The construction of the Public Improvements is expected to be completed by November 30, 2024.

The segment of Memorial Road included in the Public Improvements is depicted below:

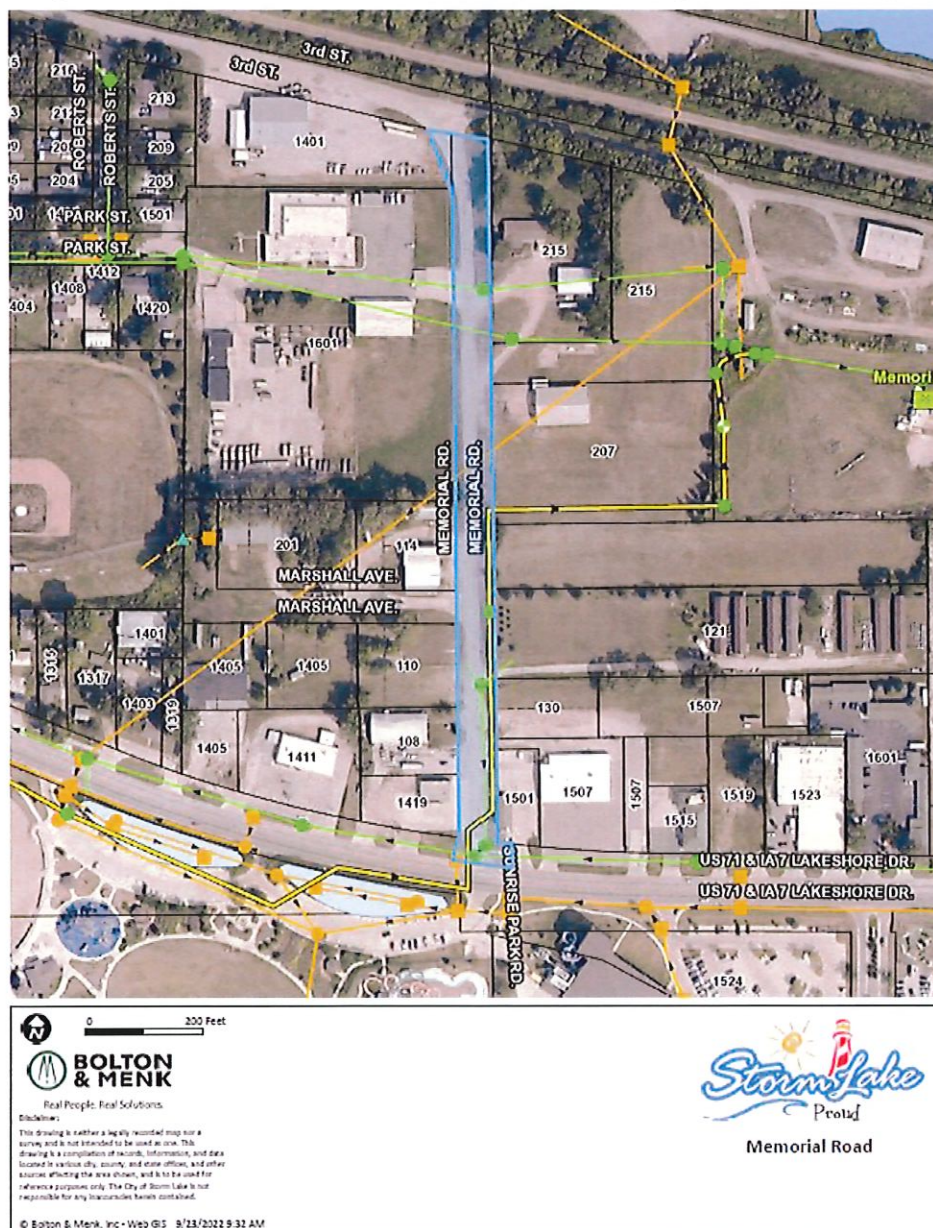


EXHIBIT C
CERTIFICATE OF COMPLETION

WHEREAS, the City of Storm Lake, Iowa, ("City") and Kwik Trip, Inc., a Wisconsin corporation ("Developer") did on or about the _____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement, to develop and maintain certain real property located within the City and as more particularly described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (I), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11'W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six (6), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4

feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows: Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows: Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows: Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

AND

Marshall Avenue Property:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

(the "Development Property"); and

WHEREAS, the Agreement incorporated and contained certain covenants and restrictions with respect to the development of the Development Property, and obligated the Developer to construct certain Minimum Improvements (as defined therein) in accordance with the Agreement; and

EXHIBIT D
MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Storm Lake, Iowa ("City") and Kwik Trip, Inc., a Wisconsin corporation ("Developer") did on or about the ____ day of _____, 2023, make, execute, and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement to develop certain real property located within the City, which real property is legally described as follows:

Record Description (1619665 - B. Hadenfeldt):

LOTS ONE, TWO, THREE, FOUR, FIVE, SIX, AND SEVEN (1-7), BLOCK ONE (I), MEIER'S SECOND SUBDIVISION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA

Record Description (1619664 -A, Hadenfeldt):

All of Lots Seven (7) and Eight (8), and the West Thirty (30) feet of Lot Six (6), all in Block Two (2), of Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa; and Lots One (1) and Two (2) and the East Forty-eight (48) feet of Lot Three (3), Block Two (2), in Meier's Second Subdivision to the City of Storm Lake, Iowa; and The West One Hundred (100) feet of Lot Four (4), of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa.

AND

The West Twelve (12) feet of Lot Three (3), and the East Thirty (30) feet of Lot Six (6), and all of Lots Four and Five (4 and 5), Block Two (2), Meier's Second Subdivision to the City of Storm Lake, Buena Vista County, Iowa.

Record Description (1619669- Samsel):

Beginning at the Southwest corner of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

and

The West 52 of Lot Six (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, except that part described as follows:

Beginning at the Southwest corner of Lot (6) Huber's Addition to Storm Lake, Buena Vista County, Iowa, thence N 0°11' W for 140 feet thence N 89°69' East for 52 feet thence S 0°11' East for 161.4 feet, thence N 67°36' West for 56.2' to the point of beginning.

A Portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows: Beginning at a point 52.0 feet North 89°39' East from the Northwest Corner of the said Lot Six 96), thence North 89°39' East along the North line of the said Lot Six (6) for 85.7 feet, thence South 0°15' West for 243.0 feet, thence Northwesterly along the North Right of Way line of Federal Highway No. 71 for 89.6 feet, thence North 0°11' West to the point of beginning.

A portion of Lots Five and Six (5 and 6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at a point 137.7 feet N 89°39' E from Northwest Corner of the said Lot Six (6), thence N 89°39' E along the North Line of the said Lot Six (6) for 85.7 feet; thence S 0°42' W for 274.4 feet, thence Northwesterly along the North Right of Way Line of Federal Highway No. 71 for 89.6 feet; thence N 0°15' E for 243.0 feet to the Point of beginning, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East along the North line of said Lot 6, 118.10 feet to the point of beginning.

The East Thirty-seven and 4/10ths (37.4) feet of Lots Five (5) and Six (6) of Huber's Addition to the City of Storm Lake, Buena Vista County, Iowa, EXCEPT a part of Lots Five (5) and Six (6) of Huber's Extension of Storm Lake, Iowa and being more fully described as follows:

Beginning at the (NE) corner of said Lot 6, thence South 00°42' West along the East line of said Lots 5 and 6, 85.25 feet; thence North 89°29' West, 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6, thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

A part of Lots Five and Six (6) of Huber's Extension of Storm Lake, Buena Vista County, Iowa and being more fully described as follows:

Beginning at the Northeast (NE) Corner of said Lot 6; thence South 00°42' West, along the East line of said Lots 5 and 6 85.25 feet; thence North 89°29' West 119.05 feet; thence North 01°41' East 85.00 feet to the North line of said Lot 6; thence North 89°39' East, along the North line of said Lot 6, 118.10 feet to the point of beginning.

AND

Marshall Avenue Property:

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the date first written above and terminates on December 31, 2033, unless otherwise terminated as set forth in the Agreement; and

WHEREAS, the City and Developer desire to record a Memorandum of the Agreement for Private Development referring to the Development Property and their respective interests therein.

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.

2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

3. That a copy of the Agreement and any subsequent amendments thereto, if any, shall be maintained on file for public inspection during ordinary business hours in the office of the City Clerk, Storm Lake, Iowa.

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2023.

[Remainder of page intentionally left blank; signature pages follow]

CITY OF STORM LAKE, IOWA

By: _____
Michael Porsch, Mayor

ATTEST:

By: Mayra Martinez, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2023, before me a Notary Public in and for said State, personally appeared Michael Porsch and Mayra Martinez, to me personally known, who being duly sworn, did say that they are the Mayor and City Clerk, respectively, of the City of Storm Lake, Iowa, a Municipality created and existing under the laws of the State of Iowa, and that the seal affixed to the foregoing instrument is the seal of said Municipality, and that said instrument was signed and sealed on behalf of said Municipality by authority and resolution of its City Council, and said Mayor and City Clerk acknowledged said instrument to be the free act and deed of said Municipality by it voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Memorandum of Agreement for Private Development – City of Storm Lake]

KWIK TRIP, INC.,
A Wisconsin corporation

By: 

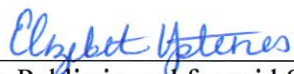
Print Name: Thomas E. Reinhart

Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LACROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.




Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

[Signature page to Memorandum of Agreement for Private Development – Kwik Trip, Inc.]

EXHIBIT E
ANNUAL CERTIFICATION

(due before each October 15th as required under terms of Development Agreement)

Developer certifies that, during the time period covered by this Certification, the Developer is and was in compliance with the terms of the Agreement as follows:

(i) All ad valorem taxes on the Development Property have been timely paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

(ii) The Minimum Improvements (building only) were first fully assessed on January 1, 20__, at a full assessment value of \$_____;

(iii) The total number of Employees employed by Developer in its operations at the Development Property as of October 1, 20__ and as of the first day of each of the preceding eleven (11) months were as follows:

October 1, 20__ : _____	April 1, 20__ : _____
September 1, 20__ : _____	March 1, 20__ : _____
August 1, 20__ : _____	February 1, 20__ : _____
July 1, 20__ : _____	January 1, 20__ : _____
June 1, 20__ : _____	December 1, 20__ : _____
May 1, 20__ : _____	November 1, 20__ : _____

(iv) The undersigned officer has re-examined the terms and provisions of the Agreement and certify that at the date of such certificate, and during the preceding twelve (12) months, the Developer is not, or was not, in default in the fulfillment of any of the terms and conditions of the Agreement and that no Event of Default (or event which, with the lapse of time or the giving of notice, or both, would become an Event of Default) is occurring or has occurred as of the date of such certificate or during such period, or if the signer is aware of any such default, event or Event of Default, said officer shall disclose in such statement the nature thereof, its period of existence and what action, if any, has been taken or is proposed to be taken with respect thereto.

I certify under penalty of perjury and pursuant to the laws of the State of Iowa that the preceding is true and correct to the best of my knowledge and belief.

Signed this _____ day of _____, 20__.

KWIK TRIP, INC., a Wisconsin corporation

By: _____

Name: _____

Its: _____

Attachments: Proof of payment of taxes

EXHIBIT F
TEMPORARY CONSTRUCTION EASEMENT

KNOW TO ALL PERSONS BY THESE PRESENTS that Kwik Trip, Inc., a Wisconsin corporation (hereinafter referred to as the "Grantor"), in consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, does hereby grant and convey to the City of Storm Lake, Iowa (hereinafter referred to as "City"), a Temporary Construction Easement upon, over, through and across the real property legally described as follows (hereinafter referred to as the "Easement Area"):

That part of Marshall Avenue, Meier's Second Subdivision, City of Storm Lake, Buena Vista County, Iowa, more particularly described as follows:

Beginning at the Northeast corner of Block 2, Meier's Second Subdivision; thence S89°55'58"W on the North line of said Block 2, a distance of 486.46 feet to the Northwest corner of said Block 2; thence N00°37'22"E on the West Right-of-Way line of said Marshall Avenue, a distance of 213.49 feet to the North Right-of-Way line of said Marshall Avenue; thence N89°12'40"E on said North Right-of-Way line, a distance of 60.02 feet to the Northwest corner of Block 1, said Meier's Second Subdivision; thence S00°37'22"W on the West line of said Block 1, a distance of 154.50 feet to the Southwest corner of said Block 1; thence N89°55'58"E on the South line of said Block 1, a distance of 425.14 feet to the Southeast corner of said Block 1; thence S00°38'07"E on the East Right-of-way line of said Marshall Avenue, a distance of 60.00 feet to the point of beginning, containing 0.88 Acres and is further subject to any and all Easements.

For this Survey, the East line of Meier's Second Subdivision is assumed to bear S 00°38'07" E.

This Temporary Construction Easement is granted for the sole purposes of permitting the City and its contractors, agents, and assigns to enter upon and into said Easement Area and to use as much of the surface and subsurface thereof as necessary to complete the relocation of existing storm sewer infrastructure within the Easement Area. The rights granted under this easement agreement shall automatically terminate upon completion of such construction, which shall be no later than July 1, 2024.

Upon completion of the construction as provided for hereunder, the City shall restore the Easement Area in a good and workmanlike manner to a condition comparable to its condition before construction, including the removal of all debris and equipment used by the City in connection with the work performed in the Easement Area.

Until the City's construction work is completed and this easement is terminated, Grantor shall not use the Easement Area in any manner that would inhibit the City's use of the Easement Area as permitted by this easement agreement and Grantor shall ensure that no barricades, signs, fences, structures, or equipment impede the City's free and uninterrupted access over and across the Easement Area.

Grantor does hereby defend, indemnify, and hold harmless the City from and against all damages, liabilities, actions, claims, expenses (including, but not limited to, court costs and reasonable attorneys' fees), losses, judgments, liens and causes of action incurred by the City from loss of life, bodily injury, and property damage arising from or out of Grantor's use of the rights granted by this easement; this paragraph shall survive the termination of this easement agreement due to completion of the construction work.

Grantor does hereby covenant with City that Grantor has good and lawful authority to convey this easement; that said premises are free and clear of all liens and encumbrances whatsoever except as may be hereinabove stated; and that Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever, except as may be above stated.

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

Signed this 18th day of August, 2023.

KWIK TRIP, INC.,
A Wisconsin corporation

By: 

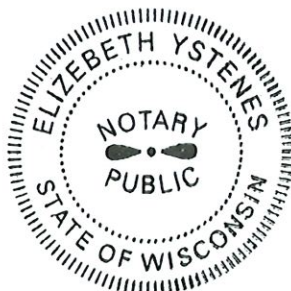
Print Name: Thomas E. Reinhart

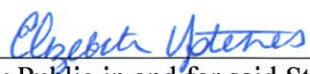
Its: COO & Secretary

STATE OF WISCONSIN)
) SS
COUNTY OF LA CROSSE)

On this 18th day of August, 2023, before me the undersigned, a Notary Public in and for said State, personally appeared Thomas E. Reinhart, to me personally known, who, being by me duly sworn, did say that they are the COO & Secretary of Kwik Trip, Inc., and that said instrument was signed on behalf of said corporation; and that the said COO & Secretary as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by them voluntarily executed.

02174417-1V11149-133




Notary Public in and for said State of Wisconsin
My commission expires: 3/30/24

Staff Summary

10/02/2023

Agenda Item # F.4.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council

FROM: Glenn Schlessner Fire Chief

SUBJECT: **Resolution No. 09-R-2023-2024 To Add Fire Department Safety Trailer Use Fee**

BACKGROUND: The fire department has received requests from other fire service entities to use the fire safety trailer for public education events. Currently there is not a set fee for the use of the unit. Setting a fee will allow staff to accommodate these events when possible and to cover the costs to the city for the use of the unit. The fee will be 150.00 per event.

FISCAL IMPACT: The fee will cover the cost of transport, set up and personnel if applicable to the event.

RECOMMENDATION: Approve the fee resolution for the use of the Storm Lake Fire Department Fire Safety Trailer.

ATTACHMENTS:
[Resolution No. 09-R-20232024 - Fee Resolution Update - Fire](#)

RESOLUTION NO. 09 R-2023-2024

RESOLUTION SETTING FINES AND FEES

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF STORM LAKE, IOWA that the following schedule of fees are approved and effective as of July 1, 2023.

<u>Administration</u>	<u>Fee</u>	<u>Code Section</u>
Administrative Fee	\$30.00	
Dock Fee	\$25.00	
Dock Per Hoist	\$10.00	
Garbage Truck Permits (per business)	\$100.00	3-1-5
Insufficient Check Fee	\$30.00	
Mobile Food & Beverage, Peddlers, Solicitor Or Transient Merchant Permit (1 Day)	\$25.00	4-3-4, 4-3-6, 4-10-4
Mobile Food & Beverage, Peddlers, Solicitor or Transient Merchant Permit (7 Day)	\$75.00	
Mobile Food & Beverage, Peddlers, Solicitor or Transient Merchant Permit (28 Day)	\$150.00	
Investigation Fee (main contact)	\$25.00	
Investigation Fee (each additional Person)	\$5.00	
Taxi Permit (Business)	\$100.00	4-5-3
Taxi Permit (per vehicle)	\$10.00	4-5-3
Cancel Permit Fee	\$25.00	
Freedom of Information Requests (FOIA Request)		
Single Sided Copy 8.5x11	\$.30/page	
Duplex copy 8.5x11	\$.40/page	
Single Sided Legal	\$.35/page	
Duplex Legal copy	\$.45/page	
Single Sided Ledger (11x17)	\$.70/page	
Single Sided Ledger with Color Print	\$.90/page	
Duplex Ledger (11x17)	\$.80/page	
Duplex Ledger with Color Print	\$1.00/page	
Large Format Prints (one side only and in color)	\$8.00/page	
USB Storage Device	\$15/64gb storage	
Research Hourly Rate – per hour/per person	\$25.00	
Mailing Costs – 3 pages	\$2.00 Plus Current Postage Cost	
Mailing Costs – 50 pages	\$6.00 Plus Current Postage Cost	
Mailing Costs – 100 pages	\$11.00 Plus Current Postage Cost	
Special City Council Meeting	\$250.00	

Airport Hangar Rent (monthly fees)

Hangar A	\$75.00
12 Month Lease Discount Rate	\$65.00
Hangar B	\$75.00
12 Month Lease Discount Rate	\$65.00
Hangar C (VT)	\$400.00

Hangar D	\$92.00
12 Month Lease Discount Rate	\$80.00
Hangar E	\$110.00
12 Month Lease Discount Rate	\$95.00
Hangar F	\$156.00
12 Month Lease Discount Rate	\$135.00
FBO Stall	\$173.00
12 Month Lease Discount Rate	\$150.00
Daily Inside Storage/per night	\$30.00

Building Official

Public sidewalk right away cafés, retail sales, or benches	\$0	
Driveway (Curb) Cut, Inspection & Marking Residential	\$150.00	
Driveway (Curb) Cut, Inspection & Marking Commercial	\$200.00	
ROW Temp Closure Permit	\$25.00	
Building Moving Permit (Per Bldg)	\$100.00	5-1-1
Demolition Permit	\$50.00	
Pool Inspection	\$20.00	8-8-11
Re-inspection Fee (after 1 per inspection)	\$35.00	
No Show Fee (per event)	\$50.00	
Rental Registration Fee – Yearly (July 1st – June 30th)		
Base Registration Fee (per parcel and 1 unit)	\$10.00	5-8-9
Additional unit in excess of 1 (per unit)	\$5.00	5-8-9
Late Registration Fee - Per Landlord License	\$50.00	5-8-9
Additional unit in excess of 1 (up to 6 units)	\$50.00	
Property Maintenance Ordinance Appeal	\$150.00	Zoning Ord.
Variance Request	\$150.00	Zoning Ord.
Zoning Request	\$200.00	Zoning Ord.
Conditional Use	\$300.00	Zoning Ord.
Sub-Division Application Fee	\$300.00	
Sidewalk Repair Permit Fee	\$0	
New Construction Incentive		
Single Family Attached and Single Family Detached Dwelling Building Permit		
100% Water Meter Current Cost		
\$300 for homes that have construction costs under \$199,999		
\$600 for homes that have construction costs for \$200,000 and above		

Incentive

Rebate all the permit fee with the exception of the water meter if 50% of all costs related to construction, including flooring and appliances if purchased within City limits of Storm Lake. Itemized proof of receipts would be required to be submitted to City Hall.

Building & Sign Permit Fees

Building & Sign Permit <\$1,200	\$22.02	5-2-2
Building & Sign Permit \$1,200-2,000		5-2-2
\$22.02 + \$2.88 for each additional \$100.00 over \$1,200		
Building & Sign Permit \$2,001-25,000		5-2-2

\$45.06+ \$9.16 for each additional \$1,000.00 over \$2,000		
Building & Sign Permit \$25,001-50,000		5-2-2
\$255.74 + \$6.22 for each additional \$1,000.00 over \$25,000		
Building & Sign Permit \$50,001-100,000		5-2-2
\$411.24+ \$4.15 for each additional \$1,000.00 over \$50,000		
Building & Sign Permit \$100,001 or more		5-2-2
\$618.74+ \$3.61 for each additional \$1,000.00 over \$100,000		
Portable Sign Permit (14 days)	\$30.00	Zoning Ord.

Electrical Fees

For New Residences		5-4-9
Single Dwelling	\$38.00	
Duplex Dwelling	\$56.75	
Triplex Dwelling	\$75.50	
4-Plex Dwelling	\$113.00	
Multi Units Between 5 and 12	\$156.75	
Over 12 Units	\$156.75 plus \$38.00 each over 12	

For New Commercial or Industrial Buildings	
First \$5,000.00 at \$8.00 per/\$1,000.00 of cost	
Second \$5,000.00 at \$6.75 per /\$1,000.00 of cost	
Third \$5,000.00 at \$5.50 per/\$1,000.00 of cost	
Fourth \$5,000.00 at \$4.25 per/\$1,000.00 of cost	
Fifth \$5,000.00 at \$3.00 per/\$1,000.00 of cost	
All over \$25,000.00 at \$1.50 per/\$1,000.00 of cost	

For Rewiring, Repairs or Alterations on Residence, Commercial and Industrial Buildings	
\$100.00 to \$150.00 electric contract \$6.75	
\$151.00 to \$200.00 electric contract \$8.00	
\$201.00 to \$250.00 electric contract \$9.25	
\$251.00 to \$300.00 electric contract \$10.50	
\$301.00 to \$350.00 electric contract \$11.75	
\$351.00 to \$400.00 electric contract \$13.00	
\$401.00 to \$450.00 electric contract \$14.25	
\$451.00 to \$500.00 electric contract \$15.50	
\$501.00 to \$1,000.00 electric contract \$23.00	
\$1,001.00 to \$2,000.00 electric contract \$28.00	
All over \$2,001.00 \$28.00 plus \$1.50 per \$100.00	

Plumbing Fees

For New Residences		5-3-10
Single Dwelling	\$38.00	
Duplex Dwelling	\$56.75	
Triplex Dwelling	\$75.50	
4-Plex Dwelling	\$113.00	
Multi Units Between 5 and 12	\$156.75	
Over 12 Units	\$156.75 plus	

\$38.00 each over 12

For New Commercial or Industrial Buildings

First \$5,000.00 at \$8.00 per/\$1,000.00 of cost
 Second \$5,000.00 at \$6.75 per /\$1,000.00 of cost
 Third \$5,000.00 at \$5.50 per/\$1,000.00 of cost
 Fourth \$5,000.00 at \$4.25 per/\$1,000.00 of cost
 Fifth \$5,000.00 at \$3.00 per/\$1,000.00 of cost
 All over \$25,000.00 at \$1.75 per/\$1,000.00 of cost

For Repairs or Alterations on Residence, Commercial and Industrial Buildings

\$100.00 to \$150.00 plumbing contract \$6.75
 \$151.00 to \$200.00 plumbing contract \$8.00
 \$201.00 to \$250.00 plumbing contract \$9.25
 \$251.00 to \$300.00 plumbing contract \$10.50
 \$301.00 to \$350.00 plumbing contract \$11.75
 \$351.00 to \$400.00 plumbing contract \$13.00
 \$401.00 to \$450.00 plumbing contract \$14.25
 \$451.00 to \$500.00 plumbing contract \$15.50
 \$501.00 to \$1,000.00 plumbing contract \$23.00
 \$1,001.00 to \$2,000.00 plumbing contract \$28.00
 All over \$2,001.00 \$28.00 plus \$1.50 per \$100.00

Campground

Class A Site	\$30.00
(Lake View, Patio, Water, Sewer, Electric, Cable TV, Fire Pit)	
Class C Site	\$28.00
(Lake View, Patio, Water, Sewer, Electric, Fire Pit)	
Class E Site	\$25.00
(Water, Sewer, Electric)	
Class F Site	\$20.00
(Electric)	
Glass G Site	\$12.00
(Tent)	
Long Term Stay Rate	
Limited to Long Term Stay slots which include Water, Sewer, Electric	
Minimum 30 day stay paid in advance – 10% off	
Extra Vehicle Parking (if space available)	\$5.00
Non-Campers Dump Station (per event)	\$5.00
Non-Camper Shower (per shower)	\$5.00

Fire Department

False Alarm Fee (after 1)	\$150.00	4-7-16
Liquor License Inspection Fee	\$50.00	
Fireworks Display (Mortar sizes from 1-3 inches)	\$150.00	
Fireworks Display (Mortar size larger than 3 inches)	\$300.00	
Emergency Response and/or Cleanup of Material	See Chart	
Rate set by the Iowa Fire Service Annual Hazardous material response fee structure for the current calendar year.		
Safety Trailer Use Fee	\$150.00	

Golf Course

Single Season Pass	\$325.00	
New Member- First Year Single Season Pass	\$150.00	
Family Season Pass - Family: Two or more persons (one of whom is the householder) related by birth, marriage, or adoption, living together and sharing common living, sleeping, cooking, and eating facilities within and individual housing unit as defined by the Storm Lake Zoning Code.)	\$600.00	
Junior Season Pass (17 and Under)	\$50.00	
Electric Cart Storage	\$300.00	
Gas Cart Storage	\$285.00	
Locker Rent/yr	\$20.00	
Golf Club Rental	\$10.00	
Trail Fee (per day)	\$10.00	
Pull Cart Rental	\$3.00	
Pull Cart (year)	\$65.00	
Trail Fee (year)	\$170.00	
10 Round Punch Card	\$125.00	
Discount Tickets – per 9 holes (sold in advance with minimum quantity of 50)	\$10.00	
Weekday 9 Holes	\$15.00	
Weekday 18 Holes	\$20.00	
Weekend 9 Holes	\$20.00	
Weekend 18 Holes	\$25.00	
Cart Rental 9 Holes	\$15.00	
Cart Rental 18 Holes	\$25.00	
Yearly Cart Rental	\$325.00	
Hall Rental	\$250.00	
Hall Rental - Friday Setup Fee (Valid only after 5:00 pm Friday with following Sat. rental)	\$100.00	
Hall Rental (weekday 4hrs or less)	\$100.00	
Bar Setup Fee (Event Center Only)	\$100.00	
9-Hole Course Rental Fee (Minimum 25 participants)	\$250.00	
18-Hole Course Rental Fee (Minimum 25 participants)	\$400.00	
*Course Rental Fees are due at the time of booking.		
*Cancellations require a 72 hour advanced notice.		
*If cancelled inside the 72 hour period, only 50% of the rental Fee will be refunded.		
Group Cart Rental Fee (25 Carts)	\$350.00	

Police

Administrative Fee	\$30.00	
Alarm Business Permit Application	\$75.00	4-7-6
Alarm Business Permit Renewal	\$75.00	4-7-9
False Alarm Equip Malfunction (after 3)	\$75.00	4-7-16
False Alarm	\$75.00	4-7-16
Building Escorts (per car)	\$75.00	5-1-3

Cat License – Not Neutered/Spayed (per year)	\$20.00	8-4-2
Neutered/Spayed (per year)	\$10.00	
Dog License – Not Neutered/Spayed (per year)	\$20.00	8-3-2
Neutered/Spayed (per year)	\$10.00	
Fingerprinting	\$10.00	
Impound/Storage Fee (per day)	\$30.00	8-6-5
Impound Storage Fee – felony related (per day)	\$50.00	
Parking Fine	\$15.00	9-11-4
Report Copies	\$5.00	
Police Escort Fee – per hour, per unit	\$75.00	5-1-3
Emergency Response and/or Cleanup of Material (per hour)		
Police Vehicle (per vehicle)	\$75.00	

King's Pointe Outdoor Aquatic Center

Family Season Pass	\$275.00	
(up to 5 family members can be included on Pass, Children 4 and under need not be on pass, as they are free.)		
Up to 4 additions of children 5-12 years old @ \$55 each		
Single Season Pass (children and adults)	\$150.00	
Adult BV Resident Daily Pass (Age 12+)	\$8.00	
Child BV Resident Daily Pass (Age 5-11)	\$5.00	
Children (Age 5-11) Standard Pricing	\$12.00	
Adults (Age 12+) Standard Pricing	\$15.00	
4 and under	free	
Twilight Pricing (after 3:00)		
Age 12+	\$7.50	
Age 5-11	\$6.00	
Age 0-4	free	
Land Lovers	\$5.00	
Swim Lessons	\$40.00	
Lap Swimming (per time)	\$4.00	
Lap Swimming Punch Card (10-times)	\$30.00	

Roadway Maintenance

Street Cuts & Replacement - Half Street	\$800.00	
Street Cuts & Replacement Full Street	\$1600.00	

Sewer

Sewer Svc Permit & Connection Fee	\$150.00	3-2-4
Private Wastewater System Permit	\$50.00	3-2-3

Shelter House

Rental Fee - per side	\$110.00	
Damage Deposit – per side	\$200.00	

AWAYSIS Pavilions – per time slot (3 times available)	\$25.00
Frank Starr Park Open Shelter – per time slot (2 times available)	\$50.00
Campground Open Shelter – per time slot (2 time slots available)	\$50.00
AWAYSIS Great Lawn – per day	\$200.00
Band Shell – per day	\$50.00

Water

Door Tag Fee	\$20.00	3-5-3
Meter Testing Fee (within 2%)	\$50.00	3-4-20
Shut Off – 8 AM to 3 PM	\$50.00	3-4-19 & 3-5-3
Shut Off – After 3 PM	\$75.00	3-4-19 & 3-5-3
Water Svc Permit & Connect Fee	\$150.00	3-4-5
Water Tapping Fee (per inch)	\$65.00	3-4-5
Outside City Limits Hook-up Fee	\$1,500.00	3-4-6
Combined Utility Deposit	\$160.00	

PASSED AND APPROVED this 2nd day of October, 2023.

Michael Porsch, Mayor

ATTEST:

Mayra A. Martinez, City Clerk

Staff Summary

10/02/2023

Agenda Item # F.5.



City of Storm Lake
PO Box 1086
Storm Lake, IA 50588
p (712) 732-8000
f (712) 732-4114

REPORT TO: Honorable Mayor & Council
FROM: Mayra Martinez City Clerk
SUBJECT: City Council Requested Items

BACKGROUND:

FISCAL IMPACT:

RECOMMENDATION: Future work session or presentations:

1. Kings Pointe Water Park family pass review - During Budget Review
2. EV Charging Station - During Budget Review
3. Recreational Vehicles/Trailers Parking on City Street - Date Pending

ATTACHMENTS: