

**CITY OF STORM LAKE
REGULAR COUNCIL MEETING, CITY HALL
COUNCIL CHAMBERS
OCTOBER 17, 2016
5:00 PM**



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

AGENDA

1. Unfinished Business
 - A. Resolution No. 29-R-2016-2017 Approving LMI No. 5 Housing Urban Renewal Area
 - B. Ordinance No. 03-O-2016-2017 for the Division of Revenues under Iowa Code Section 403.19 for LMI No. 5 Urban Renewal Plan
 - C. Resolution No. 30-R-2016-2017 Approving Agreement For Private Development With MBL Development Co.
2. Hear the Public
3. Consent Agenda
 - A. **Approve Consent Agenda**
 - B. **Buy Local Information**
 - C. Motion Approving Water Main Easement With Arnold Motor Supply, LLP And The Lange Family
 - D. Motion to Approve Stormwater Management Facilities Maintenance Covenant And Permanent Easement Agreement For Storm Lake Development Group, L.L.C.
 - E. Stormwater Management Facilities Maintenance Covenant And Permanent Easement Agreement For Buena Vista Regional Medical Center.
4. Public Hearing on a Proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan
5. Resolution No. 33-R-2016-2017 Amendment No. 5 To The Storm Lake Industrial Park Urban Renewal Plan.
6. Public Hearing On The Proposal To Enter Into A Sale And Development Agreement With FB Storm Lake II, LLC
7. Resolution No. 34-R-2016-2017 Approving The Proposal To Enter Into A Sale And Development Agreement With FB Storm Lake II, LLC
8. Public Hearing Concerning The Sale And Conveyance Of Real Estate To FB Storm Lake II, LLC
9. Resolution No. 35-R-2016-2017 Approving Sale And Conveyance Of Real Estate To FB Storm Lake II, LLC., And Authorizing The Mayor And Clerk To Execute Contracts, Deeds, And Documents For Such Sale And Conveyance.
10. Resolution No. 36-R-2016-2017 for Workforce Housing Tax Incentive Program
11. Motion to Set a Public Hearing to Approve Plans, Specifications, Form of Contract, and Estimated Costs for the East Richland Street Rehabilitation Project
12. Resolution No. 37-R-2016-2017 Adopting Storm Lake's Airport Capital Improvement Program Submittal

13. Motion to Approve Community Development Block Grant- National Disaster Resilience Grant Agreement
14. Motion to Approve Engineering Services for the Community Development Block Grant-National Resiliency Disaster Competition
15. Motion To Approve The Storm Lake Water Rate Enterprise Fund Water Rate Study Proposal For Professional Services.
16. 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.*



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Staff Summary

10/17/2016

Agenda Item # A.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

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REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 29-R-2016-2017 Approving LMI No. 5 Housing Urban Renewal Area

BACKGROUND: This is unfinished business from the October 3, 2016 City Council Meeting

The LMI No. 5 Housing Urban Renewal Plan for the LMI No. 5 Housing Urban Renewal Area has been developed to help local officials respond to and promote economic development in the City of Storm Lake, Iowa (the "City"). The primary goal of the Plan is to stimulate, through public involvement and commitment, private investment in new low and moderate income (LMI) housing and residential development as defined in the *Code of Iowa* Section 403.17(12).

The City expects to consider providing incentives to assist MBL Development Co. (or a related entity), to construct a new approximately sixty-unit, three-story apartment building. The property being considered is located on 10th street, next to the 10th Street Townhomes.

FISCAL IMPACT: The assessed value of the property is anticipated to be around \$2,000,000 which will generate around \$70,000 a year in taxes.

RECOMMENDATION: Approve Resolution No. 29-R-2016-2017 Approving LMI No. 5 Housing Urban Renewal Area

ATTACHMENTS:

Description	Type
☐ Resolution No. 29-R-2016-2017	Resolution

RESOLUTION NO. 29-R-2016-2017

RESOLUTION DETERMINING AN AREA OF THE CITY TO BE AN ECONOMIC DEVELOPMENT AREA, AND THAT THE REHABILITATION, CONSERVATION, REDEVELOPMENT, DEVELOPMENT, OR A COMBINATION THEREOF, OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY OR WELFARE OF THE RESIDENTS OF THE CITY; DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS; AND ADOPTING THE LMI NO. 5 HOUSING URBAN RENEWAL PLAN

WHEREAS, this Council has reasonable cause to believe that the area described below satisfies the eligibility criteria for designation as an urban renewal area under Iowa law; and

WHEREAS, a proposed LMI No. 5 Housing Urban Renewal Plan ("Plan" or "Urban Renewal Plan") for the LMI No. 5 Housing Urban Renewal Area described below has been prepared, which proposed Plan has been on file in the office of the City Clerk and which is incorporated herein by reference; and

WHEREAS, this proposed LMI No. 5 Housing Urban Renewal Area includes and consists of:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

And

All of the West 10th Street right-of-way in Storm Lake, Iowa lying south of and adjacent to the above-described real estate.

WHEREAS, it is desirable that the Urban Renewal Area be redeveloped as described in the proposed LMI No. 5 Housing Urban Renewal Plan to be known hereafter as the "LMI No. 5 Housing Urban Renewal Plan"; and

WHEREAS, the Iowa statutes require the City Council to submit the proposed LMI No. 5 Housing Urban Renewal Plan to the Planning and Zoning Commission for review and recommendation as to its conformity with the general plan for development of the City as a whole, prior to City Council approval thereof; and

WHEREAS, creation of the LMI No. 5 Housing Urban Renewal Area and adoption of the LMI No. 5 Housing Urban Renewal Plan therefore has been approved by the Planning and Zoning Commission for the City as being in conformity with the general plan for development of the City as a whole, as evidenced by its written report and recommendation filed herewith, which report and recommendation is hereby accepted, approved in all respects and incorporated herein by this reference; and

WHEREAS, by resolution adopted on September 6, 2016, this Council directed that a consultation be held with the designated representatives of all affected taxing entities to discuss the proposed LMI No. 5 Housing Urban Renewal Plan and the division of revenue described therein, and that notice of the consultation and a copy of the proposed LMI No. 5 Housing Urban Renewal Plan be sent to all affected taxing entities; and

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

WHEREAS, by Resolution No. 19-R-2016-2017 adopted September 6, 2016 this Council also set a public hearing on the adoption of the proposed LMI No. 5 Housing Urban Renewal Plan for the October 3, 2016 meeting of the Council, and due and proper notice of the public hearing was given, as provided by law, by timely publication in the Storm Lake Times, which notice set forth the time and place for this hearing and the nature and purpose thereof; and

WHEREAS, the public hearing was held on October 3, 2016 and closed with no action being taken; and

WHEREAS, in accordance with the notice, all persons or organizations desiring to be heard on the proposed LMI No. 5 Housing Urban Renewal Plan, both for and against, have been given an opportunity to be heard with respect thereto and due consideration has been given to all comments and views expressed to this Council in connection therewith and the public hearing has been closed.

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

Section 1. That the findings and conclusions set forth or contained in the proposed "LMI No. 5 Housing Urban Renewal Plan" for the area of the City of Storm Lake, State of Iowa, legally described and depicted in the Plan and incorporated herein by reference (which area shall hereinafter be known as the "LMI No. 5 Housing Urban Renewal Area"), be and the same are hereby adopted and approved as the findings of this Council for this area.

Section 2. This Council further finds:

a) Although relocation is not expected, a feasible method exists for the relocation of any families who will be displaced from the LMI No. 5 Housing Urban Renewal Area into decent, safe and sanitary dwelling accommodations within their means and without undue hardship to such families;

b) The Urban Renewal Plan conforms to the general plan for the development of the City as a whole; and

c) Acquisition by the City is not immediately expected, however, as to any areas of open land to be acquired by the City included within the LMI No. 5 Housing Urban Renewal Area:

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

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

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

c. That the provision of public improvements related to housing and residential development will encourage housing and residential development which is necessary to encourage the retention or relocation of industrial and commercial enterprises in this state and its municipalities.

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

ii. Non-residential use is not expected, however, with reference to any portions thereof which are to be developed for non-residential uses, such non-residential uses are necessary and appropriate to facilitate the proper growth and

development of the City in accordance with sound planning standards and local community objectives.

Section 3. That the LMI No. 5 Housing Urban Renewal Area is an economic development area within the meaning of Iowa Code Chapter 403; that such area is eligible for designation as an urban renewal area and otherwise meets all requisites under the provisions of Chapter 403 of the Code of Iowa; and that the rehabilitation, conservation, redevelopment, development, or a combination thereof, of such area is necessary in the interest of the public health, safety or welfare of the residents of this City.

Section 4. That the LMI No. 5 Housing Urban Renewal Plan, attached hereto as Exhibit 1 and incorporated herein by reference, be and the same is hereby approved and adopted as the "LMI No. 5 Housing Urban Renewal Plan for the LMI No. 5 Housing Urban Renewal Area"; the LMI No. 5 Housing Urban Renewal Plan for such area is hereby in all respects approved; and the City Clerk is hereby directed to file a certified copy of the LMI No. 5 Housing Urban Renewal Plan with the proceedings of this meeting.

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

PASSED AND APPROVED this 17th day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

Exhibit 1

LMI NO. 5 HOUSING URBAN RENEWAL PLAN

for the

LMI NO. 5 HOUSING URBAN RENEWAL AREA

STORM LAKE, IOWA

October 2016

SIMMERING-CORY, INC.

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EXHIBITS

- A. LEGAL DESCRIPTION OF LMI NO. 5 URBAN RENEWAL AREA
- B. LMI NO. 5 URBAN RENEWAL AREA MAPS

Urban Renewal Plan
LMI No. 5 Housing Urban Renewal Area
City of Storm Lake, Iowa

A. INTRODUCTION

The LMI No. 5 Housing Urban Renewal Plan (“Plan” or “Urban Renewal Plan”) for the LMI No. 5 Housing Urban Renewal Area (“Area” or “Urban Renewal Area”) has been developed to help local officials respond to and promote economic development in the City of Storm Lake, Iowa (the “City”). The primary goal of the Plan is to stimulate, through public involvement and commitment, private investment in new low and moderate income (LMI) housing and residential development as defined in the *Code of Iowa* Section 403.17(12).

In order to achieve this objective, the City intends to undertake Urban Renewal activities pursuant to the powers granted to it under Chapter 403 and Chapter 15A of the *Code of Iowa*, as amended.

B. DESCRIPTION OF THE URBAN RENEWAL AREA

The Urban Renewal Area is described in Exhibit “A” and illustrated in Exhibit “B.” The land is currently undeveloped and being used for agricultural purposes, but is not “agricultural land” as that term is defined in *Code of Iowa* Section 403.17(3). This property has never been residential in nature nor part of a residential housing development.

The City reserves the right to modify the boundaries of the Area at some future date.

C. AREA DESIGNATION

With the adoption of this Plan, the City of Storm Lake will designate this Urban Renewal Area as an economic development area that is appropriate for the development of LMI residential housing units.

D. BASE VALUE

If the Urban Renewal Area is legally established, a Tax Increment Financing (TIF) ordinance is adopted, and debt is certified prior to December 1, 2016, the taxable valuation as of January 1, 2015, will be considered the frozen “base valuation.” If a TIF ordinance is not adopted until a later date, or debt is not first certified prior to December 1, 2016, the frozen “base value” will be the assessed value of the taxable property within that area covered by the TIF ordinance as of January 1 of the calendar year preceding the calendar year in which the City first certifies the amount of any debt on the Area.

E. DEVELOPMENT PLAN

Storm Lake has a general plan for the physical development of the City as a whole, outlined in the Comprehensive Plan – Storm Lake 2030, adopted by the City in 2013. The goals and objectives identified in this Plan, and the urban renewal projects described herein, are in conformity with the goals, objectives, and recommendations identified in Comprehensive Plan – Storm Lake 2030.

This Urban Renewal Plan does not in any way replace the City's current land use planning or zoning regulation process. Currently the Area is zoned as R-2, Low Medium Density Residential. Multi-family residential, as proposed, is an allowable use in the R-2 district. The City doesn't anticipate any change in zoning as a result of the proposed development.

The need, if any, for improved traffic, public transportation, public utilities, recreational and community facilities, or other public improvements within the Urban Renewal Area, is set forth in this Plan. As the Area continues to develop, the need for public infrastructure extensions and upgrades will be evaluated and planned for by the City.

F. RESIDENTIAL DEVELOPMENT

The City's objective in the Urban Renewal Area is to promote new LMI housing and residential development.

The City realizes that the availability of affordable housing is an important component of attracting new business and industry as well as in retaining existing businesses.

There are currently a limited number of housing opportunities in the community that are both available and affordable to LMI families.

A number of community-wide forums were held in 2012 as part of the City's comprehensive planning process. In all of the meetings and discussions that occurred at the forums, a lack of housing opportunities emerged as the top issue in the community. The general consensus of those attending the forums included:

- Storm Lake has serious housing issues, including a shortage of supply, high rents, and very little for-sale inventory.
- Due to the extreme housing shortage in Storm Lake, neighboring communities provide housing for Storm Lake's workforce.
- Several local industries wrote letters to the City documenting their difficulties in recruiting employees due to their lack of available housing opportunities in the community.

As noted in the City's adopted Comprehensive Plan, "The availability of housing continues to be a concern for the community. Occupancy rates continue to be high. As with single-family homes, the City's multi-family units are also aging and there are insufficient units to meet demand."

Since 2012, the community has seen the development of two new multi-family housing projects that provided more than 80 residential units for LMI families and/or individuals; however, the demand remains consistent. These complexes have waiting lists of 70-100 people.

In order to help stimulate the development of new affordable housing opportunities, one of the City's overall priorities is to investigate and pursue funding options to provide financial support for new residential development.

G. PLAN OBJECTIVES

Renewal activities are designed to provide opportunities, incentives, and sites for new LMI residential development within the Area. More specific objectives for development within the Urban Renewal Area are as follows:

1. To increase the availability of housing opportunities, which may, in turn, attract and retain local industries and commercial enterprises that will strengthen and revitalize the economy of the State of Iowa and the City of Storm Lake.
2. To stimulate through public action and commitment, private investment in new LMI affordable housing and residential development. The City realizes that the availability of decent, safe, and sanitary housing is important in enhancing the economic viability of the community.
3. To plan for and provide sufficient land for LMI residential development in a manner that is efficient from the standpoint of providing municipal services.
4. To provide for the installation and upgrade of public works, infrastructure, and related facilities in support of new LMI housing development.
5. To encourage residential growth and expansion through governmental policies which make it economically feasible to do business.
6. To provide a more marketable and attractive investment climate.
7. To improve the housing conditions and increase housing opportunities for LMI families and/or individuals.
8. To promote development utilizing any other objectives allowed by Chapter 403 of the *Code of Iowa*.

H. TYPE OF RENEWAL ACTIVITIES

To meet the objectives of this Urban Renewal Plan and to encourage the development of the Area, the City intends to utilize the powers conferred under Chapter 403 and Chapter 15A, *Code of Iowa* including, but not limited to, tax increment financing. Activities may include:

1. To undertake and carry out urban renewal projects through the execution of contracts and other instruments.
2. To arrange for or cause to be provided the construction or repair of public infrastructure, including, but not limited to, streets and sidewalks, traffic lights, pedestrian safety measures, water mains, sanitary sewers, storm sewers, public utilities, or other facilities in connection with urban renewal projects.
3. To provide for the construction of site specific improvements, such as grading and site preparation activities, access roads and parking, fencing, utility connections, and related activities.
4. To finance programs or projects which will directly benefit housing conditions, promote the availability of housing affordable to LMI persons, and/or increase the availability of housing opportunities for residents.
5. To make loans, forgivable loans, tax rebate payments, or other types of grants or incentives to private persons or businesses for economic development purposes or residential projects, on such terms as may be determined by the City Council.
6. To use tax increment financing to facilitate urban renewal projects, including, but not limited to, financing to achieve a more marketable and competitive land offering price and to provide for necessary physical improvements and infrastructure.
7. To use tax increment revenues to help leverage grants, loans, or other assistance from the state and federal governments (such as providing the local match for such assistance) in support of projects or businesses that advance the objectives of this Plan.
8. To borrow money and to provide security therefor.
9. To make or have made surveys and plans necessary for the implementation of the Urban Renewal Program or specific urban renewal projects.
10. To acquire property and to hold, clear, or prepare the property for redevelopment.
11. To dispose of property so acquired.
12. To use any or all other powers granted by the Urban Renewal Act to develop and provide for improved economic conditions for the City of Storm Lake and the State of Iowa.

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

I. ELIGIBLE URBAN RENEWAL PROJECTS

Although certain project activities may occur over a period of years, the Eligible Urban Renewal Projects under this Urban Renewal Plan include:

1. Development Agreements: The City expects to consider requests for Development Agreements for the following projects that are consistent with this Plan, in the City's sole discretion.

A. *MBL Development Co. (or a related entity)*: The City expects to consider providing incentives to assist MBL Development Co. (or a related entity), to construct a new approximately sixty-unit, three-story apartment building. It is anticipated that the development will include a combination of one, two, and three bedroom units, all of which are expected to be available for LMI families and/or individuals. The residential units are expected to be occupied by families whose incomes are at or below 60% of the Buena Vista County median income, in accordance with the eligibility requirement for housing under Section 42 of the Internal Revenue Code. The units will also be affordable for LMI individuals or families according to the rules set forth under Chapter 403 of the *Code of Iowa* as families, including single person households, who earn no more than 80% of the higher of the median family income of Buena Vista County or the State-wide non-metropolitan area as determined by the latest United States Department of Housing and Urban Development, Section 8 income guidelines. In addition, the developer is proposing to construct a basketball court, playground, and pavilion for the recreational use of residents. Overall project costs are expected to be approximately \$7,100,000. MBL Development Co. anticipates construction of the project to occur in 2017-2019. The City expects to provide assistance to the developer in the form of rebates of incremental taxes generated by the project, not to exceed \$445,000. In addition, the City expects to provide MBL Development Co. (or a related entity) a \$90,000 grant at the completion of construction to offset costs of water and sewer connections. The total amount of incentives will not exceed \$535,000.

B. *Future Development Agreements*: The City expects to consider requests for Development Agreements for projects that are consistent with this Plan, in the City's sole discretion. Such Agreements are unknown at this time, but based on past history, and dependent on development opportunities and climate, the City expects to consider a broad range of incentives as authorized by this Plan, including, but not limited to, land, loans, grants, tax rebates, public infrastructure assistance, and other incentives. The costs of such Development Agreements will not exceed \$250,000 - \$500,000.

2. Planning, Engineering Fees (for Urban Renewal Plans), Attorney Fees, Other Related Costs to Support Urban Renewal Projects and Planning:

Project	Estimated Date	Estimated Cost
Fees and Costs	Undetermined	Not to Exceed \$50,000

J. FINANCIAL INFORMATION

1.	July 1, 2016, Constitutional Debt Limit	\$24,083,708
2.	Current Outstanding General Obligation Debt	\$18,102,000
3.	Proposed amount of indebtedness to be incurred: A specific amount of debt to be incurred for the Eligible Urban Renewal Projects has not yet been determined. This document is for planning purposes only. The estimated project costs in this Plan are estimates only and will be incurred and spent over a number of years. In no event will the City's constitutional debt limit be exceeded. The City Council will consider each project proposal on a case-by-case basis to determine if it is in the City's best interest to participate before approving an urban renewal project or expense. It is further expected that such indebtedness, including interest on the same, may be financed in whole or in part with tax increment revenues from the Urban Renewal Area. Subject to the foregoing, it is estimated that the cost of the Eligible Urban Renewal Projects as described above will be approximately as stated in the next column:	\$835,000 – 1,085,000 This does not include financing costs related to debt issuance, which may be incurred over the life of the Area.

K. URBAN RENEWAL FINANCING

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

A. Tax Increment Financing.

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

B. General Obligation Bonds.

Under Division III of Chapter 384 and Chapter 403 of the *Code of Iowa*, the City has the authority to issue and sell general obligation bonds for specified essential and general corporate purposes, including the acquisition and construction of certain public

improvements within the Area and for other urban renewal projects or incentives for development consistent with this Plan. Such bonds are payable from the levy of unlimited ad valorem taxes on all the taxable property within the City of Storm Lake. It may be, the City will elect to abate some or all of the debt service on these bonds with incremental taxes from this Area.

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

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

L. PROPERTY ACQUISITION/DISPOSITION

The City will follow any applicable requirements for the acquisition and disposition of property.

M. RELOCATION

The City does not expect there to be any relocation required of residents or businesses as part of the eligible urban renewal project; however, if any relocation is necessary, the City will follow all applicable relocation requirements.

N. STATE AND LOCAL REQUIREMENTS

All provisions necessary to conform to State and local laws will be complied with by the City in implementing this Urban Renewal Plan and its supporting documents.

O. AGRICULTURAL LAND

Because this Area does not contain land defined as “agricultural land” pursuant to *Code of Iowa* Section 403.17(3), no agricultural landowner consents are required.

P. SEVERABILITY

In the event one or more provisions contained in the Urban Renewal Plan shall be held for any reason to be invalid, illegal, unauthorized, or unenforceable in any respect, such invalidity, illegality, un-authorization, or unenforceability shall not affect any other provision of this Urban

Renewal Plan, and this Urban Renewal Plan shall be construed and implemented as if such provisions had never been contained herein.

Q. PROPERTY WITHIN AN URBAN REVITALIZATION AREA

The Urban Renewal Area may (now or in the future) also be located within an established Urban Revitalization Area. The Storm Lake City Council, at its sole discretion, shall determine which incentives are available through either: (a) this Plan, for urban renewal incentives, if any urban renewal incentives are offered by the City; or (b) tax abatement incentives through Urban Revitalization; or (c) a combination of these incentives.

R. URBAN RENEWAL PLAN AMENDMENTS

This Urban Renewal Plan may be amended from time to time for a number of reasons including, but not limited to, adding or deleting land, adding or amending urban renewal projects, or modifying goals or types of renewal activities.

The City Council may amend this Plan in accordance with applicable State law.

S. EFFECTIVE PERIOD

This Urban Renewal Plan will become effective upon its adoption by the City Council and will remain in effect until it is repealed by the City Council.

With respect to property included within the Area, which is also included in an ordinance which designates that property as a tax increment area and is designated based on an economic development finding to provide or to assist in the provision of a new LMI housing and residential development, the use of incremental property tax revenues or the “division of revenue,” as those words are used in Chapter 403 of the *Code of Iowa*, is limited to twenty (20) years, beginning with the first calendar year following the calendar year in which the City first certifies to the County Auditor the amount of any loans, advances, indebtedness, or bonds which qualify for payment from the incremental property tax revenues attributable to that property within the Urban Renewal Area.

At all times, the use of tax increment financing revenues (including the amount of loans, advances, indebtedness, or bonds which qualify for payment from the division of revenue provided in Section 403.19 of the *Code of Iowa*) by the City for activities carried out under the Urban Renewal Plan shall be limited as deemed appropriate by the City Council and consistent with all applicable provisions of law.

EXHIBIT A

LEGAL DESCRIPTION OF LMI NO. 5 URBAN RENEWAL AREA

LEGAL DESCRIPTION:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

And

All of the West 10th Street right-of-way in Storm Lake, Iowa lying south of and adjacent to the above-described real estate.

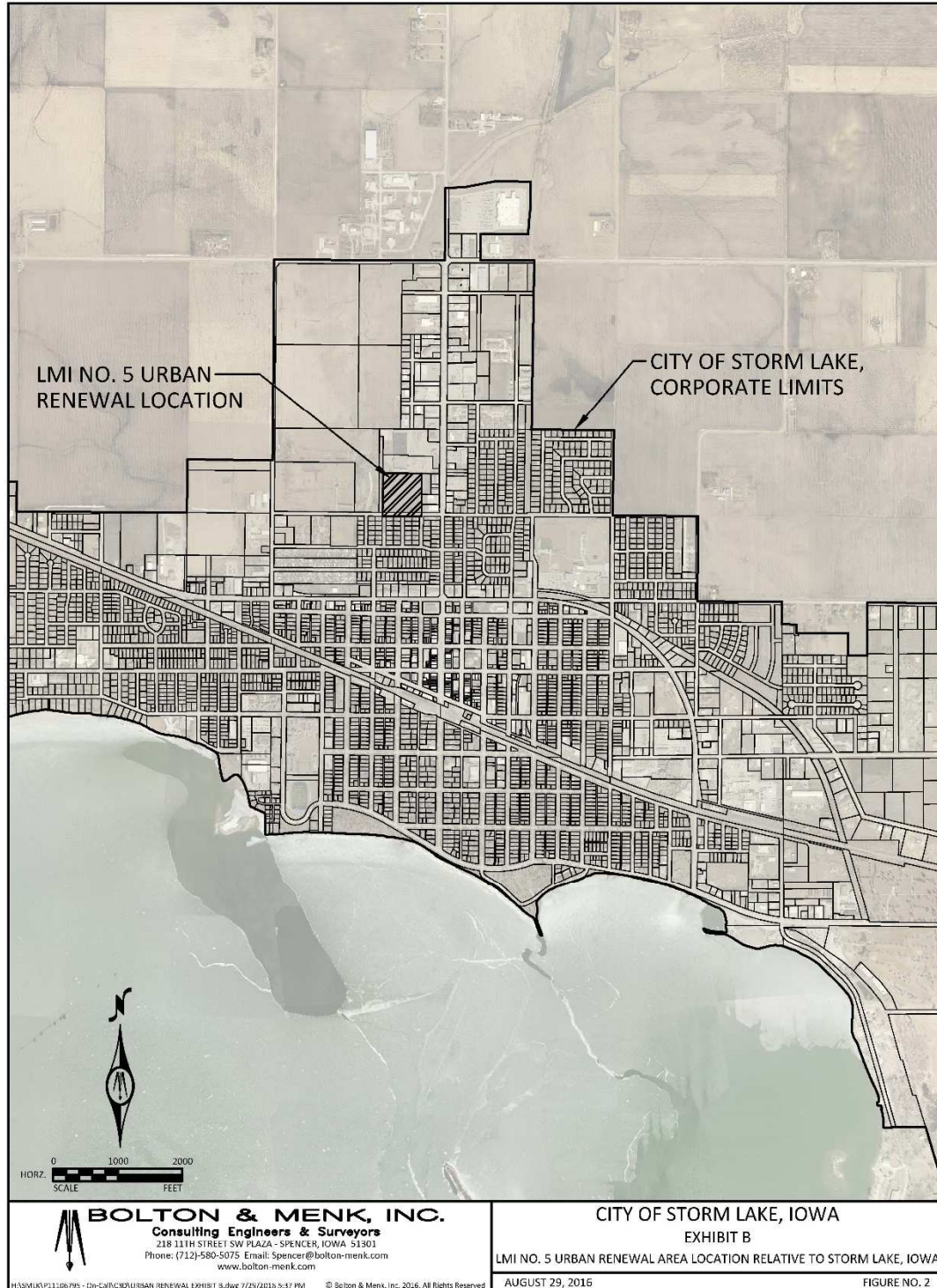
EXHIBIT B

MAP OF LMI NO. 5 URBAN RENEWAL AREA MAPS



EXHIBIT B

MAP OF LMI NO. 5 URBAN RENEWAL AREA MAPS



Staff Summary

10/17/2016

Agenda Item # B.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Ordinance No. 03-O-2016-2017 for the Division of Revenues under Iowa Code Section 403.19 for LMI No. 5 Urban Renewal Plan

BACKGROUND: This item is unfinished business from the October 3, 2016 City Council Meeting.

The City created the LMI No. 5 Urban Renewal Area. This Ordinance allows the taxes collected in the LMI No. 5 Urban Renewal Area be used as economic development grants to assist in the construction for 54 LMI and 6 Market Rate Apartment units.

FISCAL IMPACT: The assessed value of the property is anticipated to be around \$2,000,000 which will generate approximately \$70,000 a year in taxes

RECOMMENDATION: Approve 1st reading - October 17
Approve 2nd reading- November 7
Approve 3rd reading and adopt - November 21

ATTACHMENTS:

Description	Type
Ordinance No. 03-2016-2017	Ordinance

ORDINANCE NO. 03-O-2016-2017

AN ORDINANCE PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE LMI NO. 5 HOUSING URBAN RENEWAL AREA, IN THE CITY OF STORM LAKE, COUNTY OF BUENA VISTA, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF STORM LAKE, COUNTY OF BUENA VISTA, STORM LAKE COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE LMI NO. 5 HOUSING URBAN RENEWAL AREA (THE LMI NO. 5 HOUSING URBAN RENEWAL PLAN)

WHEREAS, the City Council of the City of Storm Lake, State of Iowa, after public notice and hearing as prescribed by law and pursuant to Resolution No. 29-R-2016-2017 passed and approved on the 17th day of October, 2016, adopted an Urban Renewal Plan (the "Urban Renewal Plan") for an urban renewal area known as the LMI No. 5 Housing Urban Renewal Area (the "Urban Renewal Area"), which Urban Renewal Area includes the lots and parcels located within the area legally described as follows:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

And

All of the West 10th Street right-of-way in Storm Lake, Iowa lying south of and adjacent to the above-described real estate.

WHEREAS, expenditures and indebtedness are anticipated to be incurred by the City of Storm Lake, State of Iowa, in the future to finance urban renewal project activities carried out in furtherance of the objectives of the Urban Renewal Plan; and

WHEREAS, the City Council of the City of Storm Lake, State of Iowa, desires to provide for the division of revenue from taxation in the Urban Renewal Area, as above described, in accordance with the provisions of Section 403.19 of the Code of Iowa, as amended.

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

Section 1. That the taxes levied on the taxable property in the Urban Renewal Area legally described in the preamble hereof, by and for the benefit of the State of Iowa, City of Storm Lake, County of Buena Vista, Storm Lake Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 2. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City of Storm Lake, State of Iowa, certifies to the Auditor of Buena Vista County, Iowa the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described herein shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid.

Section 3. That portion of the taxes each year in excess of the base period taxes determined as provided in Section 2 of this Ordinance shall be allocated to and when collected be paid into a special tax increment fund of the City of Storm Lake, State of Iowa, hereby established, to pay the principal of and interest on loans, monies advanced to, indebtedness, whether funded, refunded, assumed or otherwise, including bonds or obligations issued under the authority of Section 403.9 or 403.12 of the Code of Iowa, as amended, incurred by the City of Storm Lake, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Urban Renewal Area pursuant to the Urban Renewal Plan, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19 shall be collected against all taxable property within the Urban Renewal Area without any limitation as hereinabove provided.

Section 4. Unless or until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in the Urban Renewal Area as shown by the assessment roll referred to in Section 2 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the

funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 5. At such time as the loans, advances, indebtedness, bonds and interest thereon of the City of Storm Lake, State of Iowa, referred to in Section 3 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 6. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to fully implement the provisions of Section 403.19 of the Code of Iowa, as amended, with respect to the division of taxes from property within the Urban Renewal Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Urban Renewal Area and the territory contained therein.

Section 7. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this _____ day of _____, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

Staff Summary

10/17/2016

Agenda Item # C.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 30-R-2016-2017 Approving Agreement For Private Development With MBL Development Co.

BACKGROUND: This unfinished business from the October 3, 2016 City Council Meeting

The Developer will construct a new 60 unit three-story apartment building. The building will consist of 54 LMI family housing units and six market rate family housing units. In addition, the developer is proposing to construct a basketball court, playground, and pavilion for the recreational use of residents. The overall project cost is expected to be approximately \$7,100,000.

The city expects to provide MBL Development a one-time grant of \$1,500 per LMI unit to help offset the cost of water and sewer connections and a 60% Tax Rebate for 15 years not to exceed \$415,000.

This will provide much needed housing in Storm Lake.

FISCAL IMPACT: The assessed value of the property is anticipated to be around \$2,000,000 which will generate around \$70,000 a year in taxes.

RECOMMENDATION: Approve Resolution No. 30-R-2016-2017 Approving Agreement for Private Development with MBL Development Co.

ATTACHMENTS:

Description	Type
☐ Resolution No. 30-R-2016-2017	Resolution
☐ MBL Development Agreement	Contract

RESOLUTION NO. 30-R-2016-2017

RESOLUTION APPROVING AND AUTHORIZING
EXECUTION OF A DEVELOPMENT AGREEMENT BY AND
BETWEEN THE CITY OF STORM LAKE AND MBL
DEVELOPMENT CO.

WHEREAS, by Resolution No. 29-R-2016-2017, adopted October 17, 2016, 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 LMI No. 5 Housing Urban Renewal Plan (the "Plan") for the LMI No. 5 Housing Urban Renewal Area (the "Urban Renewal Area" or "Area") described therein, which Plan as amended, is or will be placed on file in the office of the Recorder of Buena Vista County; and

WHEREAS, by Resolution No. 26-R-2016-2017, adopted September 19, 2016, the City Council set the date of the public hearing for October 3, 2016, and

WHEREAS, the public hearing was held on October 3, 2016 and closed with no action being taken; and

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

WHEREAS, the City has received a proposal from MBL Development Co. (the "Developer"), in the form of a proposed Development Agreement (the "Agreement") by and between the City and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) on certain real property located within the LMI No. 5 Housing Urban Renewal Area as defined and legally described in the Agreement and consisting of the construction of a new 3-story 54 unit affordable apartment complex, together with all related site improvements, as outlined in the proposed Development Agreement; and

WHEREAS, the Agreement further proposes that the City will: (i) make up to fifteen (15) consecutive annual payments of Economic Development Grants to Developer consisting of 60% of the Tax Increments pursuant to Iowa Code Section 403.19 and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of \$415,000, or the amount accrued under the formula outlined in the proposed Development Agreement; and (ii) make a one-time LMI Grant not to exceed \$81,000 under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, the Agreement also proposes that Developer and the City will enter into a Minimum Assessment Agreement with the County setting the minimum actual value of the Minimum Improvements for tax purposes at not less than \$2,000,000; and

WHEREAS, one of the obligations of Developer relates to employment retention and/or creation; and

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

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

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

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

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

Section 1. That the performance by the City of its obligations under the Agreement, including but not limited to making of loans and grants to the Developer in connection with the development of the Development Property under the terms set forth in the Agreement, be and is hereby declared to be a public undertaking and purpose and in furtherance of the Plan and the

Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403 of the Iowa Code, taking into account the factors set forth therein.

Section 2. That the form and content of the Agreement, the provisions of which are incorporated herein by reference, be and the same hereby are in all respects authorized, approved and confirmed, and the Mayor and the City Clerk be and they hereby are authorized, empowered and directed to execute, attest, seal and deliver the Agreement for and on behalf of the City in substantially the form and content now before this meeting, but with such changes, modifications, additions or deletions therein as shall be approved by such officers, and that from and after the execution and delivery of the Agreement, the Mayor and the City Clerk are hereby authorized, empowered and directed to do all such acts and things and to execute all such documents as may be necessary to carry out and comply with the provisions of the Agreement as executed.

PASSED AND APPROVED this 17th day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

AGREEMENT FOR PRIVATE DEVELOPMENT

By and between

CITY OF STORM LAKE, IOWA

AND

MBL DEVELOPMENT CO.

_____, 2016

AGREEMENT
FOR
PRIVATE DEVELOPMENT

THIS AGREEMENT FOR PRIVATE DEVELOPMENT ("Agreement"), is made on or as of the ____ day of _____, 2016, 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, 2015, as amended ("Urban Renewal Act") and MBL DEVELOPMENT CO., a Missouri corporation, having offices for the transaction of business at 9201 Ward Parkway, Suite 310, Kansas City, Missouri ("Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the development of an economic development area in the City and, in this connection, is engaged in carrying out urban renewal project activities in an area known as the LMI No. 5 Housing Urban Renewal Area ("Urban Renewal Area"), which is described in the LMI No. 5 Housing Urban Renewal Plan approved for such area by Resolution No. 29-R-2016-2017 dated October 17, 2016 ("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 is, or will be, the owner of certain real property located in the foregoing Urban Renewal Area and as more particularly described in Exhibit A attached hereto and made a part hereof (which property as so described is hereinafter referred to as the "Development Property"); and

WHEREAS, Developer is willing to cause certain Minimum Improvements consisting of an affordable apartment complex to be constructed on the Development Property and Developer will thereafter cause the same to be operated in accordance with this Agreement; and

WHEREAS, the City is willing to provide certain incentives in consideration for Developers obligations all 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. 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:

LMI No. 5 Housing Urban Renewal Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403 or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Urban Renewal Area.

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.

Area or Urban Renewal Area means the area known as the LMI No. 5 Housing Urban Renewal Area (as amended).

Assessor means the assessor for Buena Vista County, Iowa.

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, 2015, 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 MBL Development Co., a Missouri corporation, and its permitted successors and assigns.

Development Property means that portion of the Urban Renewal Area described in Exhibit A.

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

Event of Default means any of the events described in Section 10.1 of this Agreement.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by Developer from a commercial lender or other financial institution to

fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or all such Mortgages as appropriate.

Full-Time Equivalent Employment Unit means the employment by Developer of the equivalent of one person for 2,000 hours per year, assuming eight hours per day for a five-day, forty-hour work week for fifty weeks per year.

LMI Grant means the one-time cash incentive payment payable to Developer in accordance with Article IV of this Agreement.

LMI Housing Unit means a dwelling unit that is reserved for families, including single person households, who earn no more than eighty percent (80%) of the higher of the median family income of Buena Vista County or the state-wide non-metropolitan area as determined by the latest United States Department of Housing and Urban Development, Section 8 income guidelines, and who are eligible for housing under Section 42 of the Internal Revenue Code.

MBL Development Co. TIF Account means a separate account within the LMI No. 5 Housing Urban Renewal Tax Increment Revenue Fund of the City, in which there shall be deposited Tax Increments received by the City with respect to the Minimum Improvements and the Development Property.

Minimum Improvements means the construction of an affordable apartment complex as further described in Exhibit B and depicted in Exhibit B-1 together with all related site improvements. The increased value after construction of the Minimum Improvements for the purpose of this Agreement is expected to be approximately \$2,000,000, but the Assessor will make the final determination as to the value.

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, as the case may be, pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinance(s) of the City, under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided and a portion paid into the LMI No. 5 Housing Urban Renewal Tax Increment Revenue Fund.

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

State means the State of Iowa.

Tax Increments means the property tax revenues on the Minimum Improvements divided and made available to the City for deposit in the MBL Development Co. TIF Account of the LMI No. 5

Housing Urban Renewal Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code, as amended, and the Ordinance.

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

Urban Renewal Area means the LMI No. 5 Housing Urban Renewal Area, as amended, described in the preambles hereof.

Urban Renewal Plan means the LMI No. 5 Housing Urban Renewal Plan, as amended, approved with respect to the 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 municipal corporation and municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.

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

c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City 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. MBL Development Co. is a Missouri corporation duly organized and validly existing under the laws of the State of Missouri, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under this Agreement.

b. This Agreement has been duly and validly authorized, executed and delivered by Developer and, assuming due authorization, execution and delivery by 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 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, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

f. Developer will use its best efforts to obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations 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 \$7,100,000 for construction costs.

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 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 in accordance with the Construction Plans contemplated in this Agreement.

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

k. Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by December 31, 2018.

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

m. Developer will not seek to change the current land assessment category, or the zoning classification, of the Development Property or the Minimum Improvements during the term of this Agreement.

ARTICLE III. CONSTRUCTION

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 shall require a total investment of approximately \$7,100,000 for construction costs.

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 the Urban Renewal Plan, this Agreement, and all applicable federal, State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (v) no Event of Default under the terms of this Agreement has occurred; 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. Commencement and 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, 2018; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend this date by a number of days equal to the number of days lost as a result of Unavoidable Delays. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

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

Section 3.4. Certificate of Completion. Upon written request of the Developer after issuance of an occupancy permit for the Minimum Improvements, the City will furnish the Developer with a Certificate of Completion for the Minimum Improvements in recordable form, in substantially the form set forth in Exhibit C attached hereto. The Project must have an occupancy permit within 18 months of receiving all tax credits. Such Certificate of Completion shall be a conclusive determination of satisfactory termination of the covenants and conditions of this Agreement solely with respect to the obligations of the Developer to construct the Minimum Improvements.

The Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at the Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of Section 3.4, the City shall, within twenty (20) calendar days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the applicable portion of 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 will be necessary, in the reasonable opinion of the City, for the 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.

ARTICLE IV. ONE-TIME LMI GRANT

Section 4.1. LMI Grant. The City will make a one-time LMI Grant not to exceed \$81,000, calculated as \$1,500 per LMI Housing Unit constructed and assuming the construction of 54 LMI Housing Units (if a market-rate unit is constructed in substitute for a LMI Housing Unit, the LMI Grant will be lowered proportionally) payable upon the issuance of the Certificate of Completion of the Minimum Improvements (Exhibit C). For example, if 3 of the 54 units are constructed or occupied as

market-rate units, then the LMI Grant will be reduced by \$4,500 ($3 \times \$1,500 = \$4,500$), so the total LMI Grant after the pro-rata reduction would be \$76,500 ($\$81,000 - \$4,500 = \$76,500$).

ARTICLE V. INSURANCE

Section 5.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of 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, members, 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 \$50,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of 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 V to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to 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 V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

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

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

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer 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 in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of Developer relating to this Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and Developer will provide reasonable protection against loss or damage to such books of record and account.

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

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer shall not discriminate against any applicant, employee or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer shall ensure that applicants, employees, and tenants are considered and 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 so that City can determine compliance with this Agreement.

Section 6.6. Employment. Developer shall employ at least 3 Full-Time Equivalent Employment Units at the Minimum Improvements by no later than January 1, 2019, and thereafter Developer shall retain a Monthly Average of at least 3 Full-Time Equivalent Employment Units until the Termination Date of this Agreement. Developer's Annual Certifications, due beginning on October 15, 2019, shall show that a Monthly Average of at least 3 Full-Time Equivalent Employment Units has been maintained over each twelve (12) month period from November 1 through the next October 1, (or, in the first certification year, an average of at least 3 Full-Time Equivalent Employment Units from January 1, 2019 through October 1, 2019).

"Monthly Average" means the average number of Full-Time Equivalent Employment Units employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in Developer's Annual Certification in Section 6.7. Developer shall not receive any Economic Development Grants if the Monthly Average of Full-Time Equivalent Employment Units employed by Developer does not meet the requirements of this Section 6.6. 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 this Agreement and the 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 (prorated for the first year); (iv) certification of the number of units at the Minimum Improvements that are leased only as LMI Housing Units; and (v) 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, 2019 and ending on October 15, 2034, both dates inclusive. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit E for form required for Developer's Annual Certification.

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

Section 6.9. 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; and (d) all costs of constructing the Minimum Improvements shall be paid when due.

Section 6.10. Use of Minimum Improvements. Construct the Minimum Improvements on the Development Property and operate the same as LMI Housing Units of an affordable apartment complex under the program requirements of Section 42 Internal Revenue Code operated by the United States Department of Housing and Urban Development, and in accordance with the Iowa Finance Authority's Agreement for the Low-Income Housing Tax Credit to be entered into between the Developer and the Iowa Finance Authority ("IFA Agreement"), (attached to this Agreement as Exhibit G).

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 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 interest in the Development Property, Minimum Improvements, or this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof, which consent shall be given or withheld in the sole discretion of the City.

In the event that Developer wishes to assign this Agreement, including its rights and duties hereunder, Developer and transferee individual or entity shall request that the City and Developer consent to an amendment 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 of this Agreement authorizing the transfer, which consent shall be given or withheld in the sole discretion of the City.

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

ARTICLE VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants. For and in consideration of the obligations being assumed by Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal Plan for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make up to fifteen (15) years of consecutive annual payments of Economic Development Grants to Developer up to a total amount not to exceed Four Hundred and Fifteen Thousand Dollars (\$415,000) under the following formula:

Assuming the completion of the Minimum Improvements by December 31, 2018 and full assessment of the Minimum Improvements on January 1, 2019, and debt certification by the City to the Auditor prior to December 1, 2019, the Economic Development Grants shall commence on June 1, 2021 and end on June 1, 2035 pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2021	60% of Tax Increments for Fiscal Year 2020-2021
June 1, 2022	60% of Tax Increments for Fiscal Year 2021-2022
June 1, 2023	60% of Tax Increments for Fiscal Year 2022-2023
June 1, 2024	60% of Tax Increments for Fiscal Year 2023-2024
June 1, 2025	60% of Tax Increments for Fiscal Year 2024-2025
June 1, 2026	60% of Tax Increments for Fiscal Year 2025-2026
June 1, 2027	60% of Tax Increments for Fiscal Year 2026-2027
June 1, 2028	60% of Tax Increments for Fiscal Year 2027-2028
June 1, 2029	60% of Tax Increments for Fiscal Year 2028-2029
June 1, 2030	60% of Tax Increments for Fiscal Year 2029-2030
June 1, 2031	60% of Tax Increments for Fiscal Year 2030-2031
June 1, 2032	60% of Tax Increments for Fiscal Year 2031-2032
June 1, 2033	60% of Tax Increments for Fiscal Year 2032-2033
June 1, 2034	60% of Tax Increments for Fiscal Year 2033-2034
June 1, 2035	60% of Tax Increments for Fiscal Year 2034-2035

Each annual payment shall be equal in amount to the above percentages of the Tax Increments collected by the City with respect to the Minimum Improvements on the Development Property under the terms of the Ordinance and deposited into the MBL Development Co. TIF Account (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding twelve-month period in respect of the Minimum Improvements, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Economic Development Grants"). The Economic Development Grants are only given for the construction and occupancy of LMI Housing Units. If any units constructed as part of the Minimum Improvements are not occupied as LMI Housing Units, then Developer shall receive a pro-rata proportion of the above percentages. For example, if 3 out of the 54 units are not occupied as LMI Housing Units, then the above percentages of grants will be reduced by 5.5%. For example, if 60% of the Tax Increment is \$20,000, the total Economic Development Grant after the reduction would be \$18,900. ($3/54 = .055 \times \$20,000 = \text{reduction of } \$1,100$).

Section 8.2. Payment Schedule. After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if Developer's Annual Certification is timely filed and contains the information required under Section 6.7 and the Council approves of the same, the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on the following June 1. (Example: assuming completion by December 2018 and first full assessment on January 1, 2019, if Developer certifies in October 15, 2019 and the City certifies to the County by December 1, 2019, the first Economic Development Grant would be paid to Developer on June 1, 2021 (for 60% of the Tax Increment for fiscal year 2020-2021)). The schedule of the payments for Economic Development Grants set forth in Section 8.1 is based on the first full assessment of the Minimum Improvements being January 1, 2019. If the completion of the Minimum Improvements is delayed so that the Minimum Improvements are not fully assessed as of January 1, 2019, then the first Economic Development Grant will not begin as scheduled, but will be delayed one year. However, in no event shall the schedule of Economic Development Grants be delayed more than one year, meaning that the latest potential date for Developer's first Economic Development Grant, if eligible, is June 1, 2022.

Section 8.3. Maximum Amount of Grants. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of Tax Increments collected in respect of the assessments imposed on the Minimum Improvements over the specified time period, but in no event shall exceed Four Hundred and Fifteen Thousand Dollars (\$415,000) over fifteen (15) years.

Section 8.4. Limitations. The Economic Development Grants are only for the Minimum Improvements described in this Agreement (building/improvement increase value only) and not any future expansions which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 8.5. Conditions Precedent. Notwithstanding the provisions of Section 8.1 above, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the employment obligations in Section 6.6 of this Agreement, and the payment of property taxes; and
- b. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof; and
- c. an assessed value of the Minimum Improvements (building/improvement increase value only) of at least \$2,000,000.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Economic Development Grant payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto, up to the maximum aggregate amount set forth in Sections 8.1 and 8.3.

Section 8.6. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by amounts deposited and held in the MBL Development Co. TIF Account of the LMI No. 5 Housing Urban Renewal Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force during the term hereof and to apply the appropriate percentage of Tax Increments collected in respect of the Development Property and Minimum Improvements and allocated to the LMI No. 5 Housing TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under chapter 441.21A shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible.

b. Each Economic Development Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future

Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction or by the City's bond counsel to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Tax Increments resulting from the Minimum Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Economic Development Grants would otherwise have been paid to Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

d. The City makes no representation with respect to the amounts that may finally be paid to the Developer as Economic Development Grants, and under no circumstances shall the City, its agents, governing body members, attorneys, employers, successors or assigns, in any manner be liable to the Developer so long as the City timely applies the Tax Increments actually collected and held in the Clinton Central Business District Urban Renewal Tax Increment Revenue Fund (regardless of the amounts thereof) to the payment of the Economic Development Grants to the Developer, as and to the extent described in this Article.

Section 8.7. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the percentages to be given to Developer in this Agreement, or any available Tax Increments resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use thereof.

Section 8.8. Real Property Taxes. Developer, or its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned 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 and shall be solely responsible for all assessments and taxes.

Developer and its 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 IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

- a. Developer releases the City and the governing body members, officers, agents, servants and employees thereof (hereinafter, for purposes of this Article IX, 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 its rights under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.
- c. The Indemnified Parties shall not be liable for any damage or injury to the persons or property of Developer or their officers, agents, servants or employees or any other person who may be about the Minimum Improvements or Development Property due to any act of negligence of any person, other than any act of negligence on the part of any such Indemnified Party or its officers, agents, servants or employees.
- d. 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 IX shall survive the termination of this Agreement.

ARTICLE X. DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined. The following shall be "Events of Default" under this Agreement and the term "Event of Default" shall mean, whenever it is used in this Agreement, any one or more of the following events during the term of this Agreement:

- a. Failure by Developer to cause the construction of the Minimum Improvements to be completed and the operations to continue pursuant to the terms and conditions of this Agreement;
- b. Transfer of Developer's interest in the Development Property, Minimum Improvements, or 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 on the Development Property and Minimum Improvements;
- d. Failure by Developer to substantially observe or perform any covenant, condition, obligation or agreement on its part to be observed or performed under this Agreement, including but not limited to Sections 6.6, 6.7, 6.8, 6.9, and 6.10 of 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 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 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 and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured 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 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;
- 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, as the case may be, under this Agreement; or
- e. The City shall have no obligation to make payment of the LMI Grant or Economic Development Grants to Developer subsequent to an Event of Default and shall be entitled to recover from the Developer, and the Developer shall repay to the City, an amount equal to the full amount of the LMI Grant and Economic Development Grants previously made to Developer under Article VIII hereof, with interest thereon at the highest rate permitted by State law. The City may take any action, including any legal action it deems necessary, to recover such amount from Developer. The City may demand such payment at any time following its determination that Developer is in default under this Agreement.

Section 10.3. 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 10.4. 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 10.5. Agreement to Pay Attorneys' Fees and Expenses.

- a. Each Party shall pay its own attorneys' fees and costs associated with the drafting and execution of this Agreement; and

b. Whenever any Event of Default occurs and the City employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer herein contained, Developer agrees that it shall, on demand therefor, pay to the City the reasonable fees of such attorneys and such other expenses as may be reasonably and appropriately incurred by the City in connection therewith.

ARTICLE XI. MINIMUM ASSESSMENT AGREEMENT

Section 11.1. Minimum Assessment Agreement.

a. As further consideration for this Agreement, Developer, City and the Assessor shall execute an Assessment Agreement pursuant to the provisions of Iowa Code Section 403.6(19) specifying the Assessor's Minimum Actual Value for the Minimum Improvements on the Development Property for calculation of real property taxes in the form attached as Exhibit F ("Assessment Agreement" or "Minimum Assessment Agreement"). Specifically, Developer, City, the Assessor, the holder of any mortgage and all prior lienholders shall agree to a Minimum Actual Value for the Minimum Improvements to be constructed on the Development Property of not less than \$2,000,000 upon completion of the Minimum Improvements until the Assessment Agreement Termination Date (as defined below). Such minimum actual value at the time applicable is herein referred to as the "Assessor's Minimum Actual Value" (building/improvement value).

b. Nothing in the Assessment Agreement shall limit the discretion of the Assessor to assign an actual value to the property in excess of such Assessor's Minimum Actual Value nor prohibit Developer from seeking through the exercise of legal or administrative remedies a reduction in such actual value for property tax purposes; provided, however, that Developer shall not seek a reduction of such actual value below the Assessor's Minimum Actual Value in any year so long as the Assessment Agreement shall remain in effect. The Assessment Agreement shall remain in effect until June 30, 2035 (the "Assessment Agreement Termination Date"). The Assessment Agreement shall be certified by the Assessor as provided in Iowa Code Section 403.6(19) (2015) and shall be filed for record in the office of the Buena Vista County Recorder, and such filing shall constitute notice to any subsequent encumbrancer or purchaser of the Development Property or part thereof, whether voluntary or involuntary. Such Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent purchaser or encumbrancer, as well as all prior lienholders and the holder of the First Mortgage, each of which shall sign a consent to the Minimum Assessment Agreement.

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 MBL Development Co. at 9201 Ward Parkway, Suite 320, Kansas City, MO 64114, Attn: D. Kim Lingle, President;
- b. In the case of the City, is addressed to or delivered personally to the City at P.O. Box 1086, 620 Erie Street, 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, 2035, 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, Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

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

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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]

MBL DEVELOPMENT CO.,
a Missouri corporation

By: _____
D. Kim Lingle, President

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared D. Kim Lingle, to me personally known, who, being by me duly sworn, did say that he is the President of MBL Development Co., a Missouri corporation, and that said instrument was signed on behalf of said corporation; and that the said D. Kim Lingle as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Agreement for Private Development – MBL Development Co.]

EXHIBIT A
DEVELOPMENT PROPERTY

The Development Property is legally described as follows:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

Buena Vista County Parcel Number: 10-34-326-005

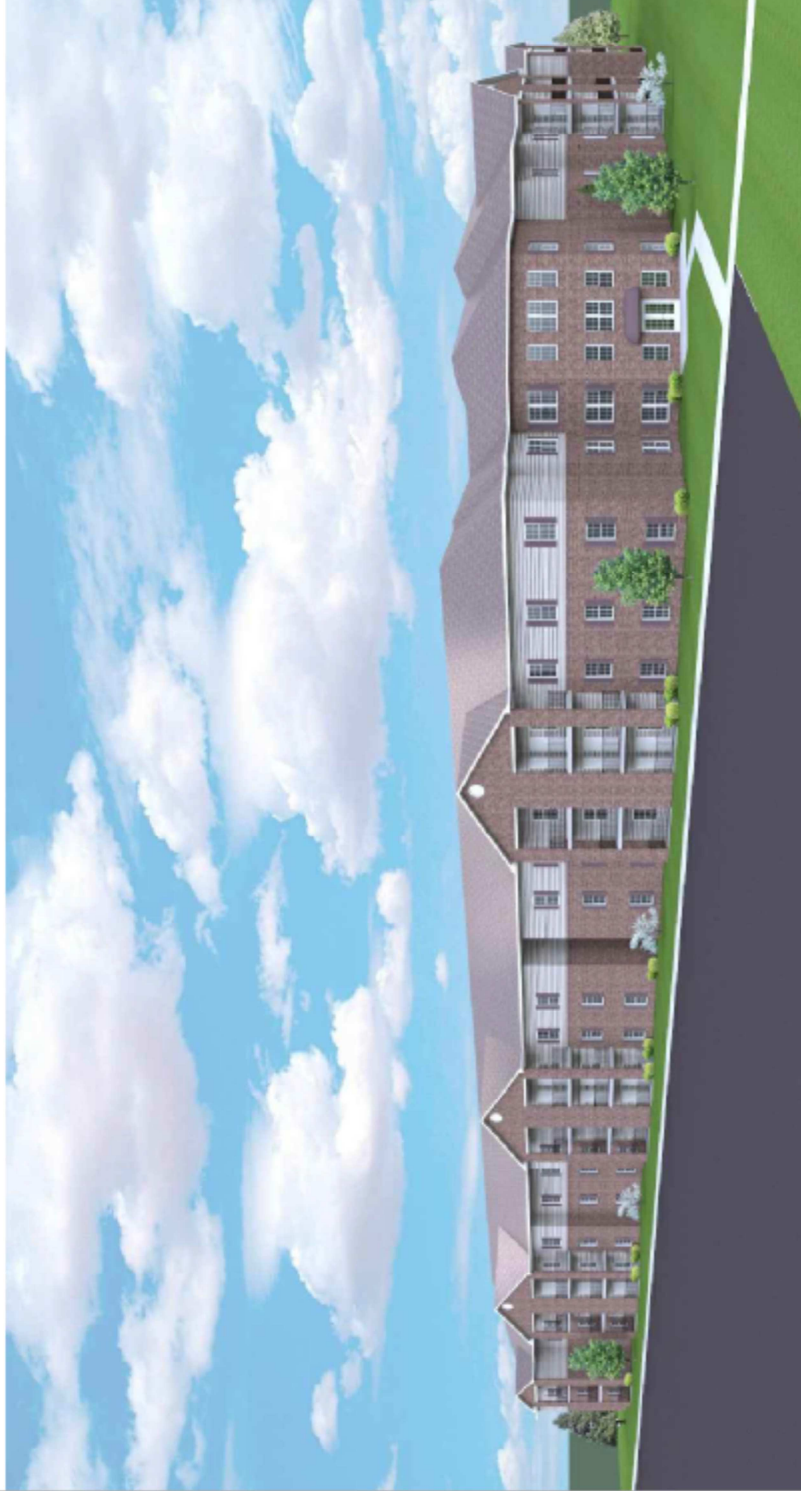
EXHIBIT B
MINIMUM IMPROVEMENTS

Minimum Improvements means the construction of a new 3-story 54 unit affordable apartment complex, of which all 54 units are expected to be Section 42 qualified LMI Housing Units containing approximately 67,600 total square feet (approximately 65,800 square feet for apartments and approximately 1,800 square feet for common area) on the Development Property including, but not limited to: construction of the building, necessary utility connections, site preparations, driveway improvements, parking lot improvements and other related site improvements. The affordable apartment complex will be called “Heritage Apartments.” The construction of the Minimum Improvements will be completed in 2018.

All units leased at the Project will be affordable for LMI individuals or families in accordance with the Iowa Finance Authority’s Land Use Restrictive Covenants Agreement for Low-Income Housing Tax Credit Program (the LURA Agreement), to the extent said LURA Agreement is then applicable.

EXHIBIT B-1
SITE PLANS, RENDERINGS, OR ELEVATIONS OF MINIMUM IMPROVEMENTS





FAMILY DEVELOPMENT BUILDING ELEVATION

JULY 2016

STORM LAKE APARTMENTS

Storm Lake, Iowa

Wellness
ARCHITECTS & PLANS

EXHIBIT C
CERTIFICATE OF COMPLETION FOR MINIMUM IMPROVEMENTS

WHEREAS, the City of Storm Lake, Iowa, (the "City") and MBL Development Co., a Missouri corporation, ("Developer"), did on or about the _____ day of _____, 2016, 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:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

Buena Vista County Parcel Number: 10-34-326-005

(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 in accordance with the Agreement (as defined therein); and

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

NOW, THEREFORE, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Minimum Improvements on the Development Property have been completed and performed by Developer and are hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Buena Vista County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Minimum Improvements on the Development Property.

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

[Remainder of page intentionally left blank; signature page follows]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 Certificate of Completion for Minimum Improvements – City of Storm Lake]

EXHIBIT D
MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

See following pages.

Type of Document: **MEMORANDUM OF AGREEMENT FOR PRIVATE
DEVELOPMENT BETWEEN THE CITY OF STORM LAKE,
IOWA AND MBL DEVELOPMENT CO.**

Return Document to: **Sue Vossberg
City of Storm Lake
620 Erie Street
Storm Lake, IA 50588**

Preparer Information: **Jason L. Comisky
Ahlers & Cooney, P.C.
100 Court Ave., Ste. #600
Des Moines, IA 50309
(515) 243-7611**

Taxpayer Information: **N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: **See the first page of the Memorandum of Agreement for Private
Development.**

MEMORANDUM OF AGREEMENT FOR PRIVATE DEVELOPMENT

WHEREAS, the City of Storm Lake, Iowa ("City") and MBL Development Co., a Missouri corporation, ("Developer"), did on or about the ____ day of _____, 2016, make, execute and deliver, each to the other, an Agreement for Private Development (the "Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement and the LMI No. 5 Housing Urban Renewal Plan ("Plan"), as amended, to develop certain real property located within the City and within the LMI No. 5 Housing Urban Renewal Area, as amended.

The Development Property is described as follows:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

Buena Vista County Parcel Number: 10-34-326-005

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the ____ day of _____, 2016 and terminates on December 31, 2035, unless otherwise terminated as set forth in the Agreement; and

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

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement for Private Development shall serve as notice to the public that the Agreement contains provisions restricting development and use of the Development Property and the improvements located and operated on such Development Property.
2. That all of the provisions of the Agreement and any subsequent amendments thereto, if any, even though not set forth herein, are by the filing of this Memorandum of Agreement for Private Development made a part hereof by reference, and that anyone making any claim against any of said Development Property in any manner whatsoever shall be fully advised as to all of the terms and conditions of the Agreement, and any amendments thereto, as if the same were fully set forth herein.

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

IN WITNESS WHEREOF, the City and Developer have executed this Memorandum of Agreement for Private Development on the _____ day of _____, 2016.

[Remainder of page intentionally left blank; signature page follows]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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]

MBL DEVELOPMENT CO.,
a Missouri corporation

By: _____
D. Kim Lingle, President

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared D. Kim Lingle, to me personally known, who, being by me duly sworn, did say that he is the President of MBL Development Co., a Missouri corporation, and that said instrument was signed on behalf of said corporation; and that the said D. Kim Lingle as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Memorandum of Agreement for Private Development – MBL Development Co.]

EXHIBIT E
DEVELOPER ANNUAL CERTIFICATION
(due before October 15th as required under terms of Development Agreement)

The Developer certifies the following:

During the time period covered by this Certification, the Developer is and was in compliance with Section 6.7 of the Agreement as follows:

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

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

(iii) The number of Full-Time Equivalent 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 (prorated for the first year) 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 total number of units at the Minimum Improvements that are leased only as LMI Housing Units as of October 1, 20__ is _____.

(v) The undersigned officer of Developer has re-examined the terms and provisions of the Agreement and certifies 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.

[Remainder of page intentionally left blank; signature page follows]

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__.

MBL DEVELOPMENT CO.,
a Missouri corporation

By: _____
D. Kim Lingle, President

Attachments: Proof of payment of taxes

[Signature page to Developer Annual Certification –MBL Development Co.]

EXHIBIT F
MINIMUM ASSESSMENT AGREEMENT

See following pages.

Type of Document: **MINIMUM ASSESSMENT AGREEMENT BETWEEN THE CITY
OF STORM LAKE, IOWA AND MBL DEVELOPMENT CO.**

Return Document to: **Sue Vossberg
City of Storm Lake
620 Erie Street
Storm Lake, IA 50588**

Preparer Information: **Jason L. Comisky
Ahlers & Cooney, P.C.
100 Court Ave., Ste. #600
Des Moines, IA 50309
(515) 243-7611**

Taxpayer Information: **N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See first page of the Minimum Assessment Agreement.

MINIMUM ASSESSMENT AGREEMENT

THIS MINIMUM ASSESSMENT AGREEMENT ("Minimum Assessment Agreement" or "Assessment Agreement") is dated as of _____, 2016, by and between the City of Storm Lake, Iowa (the "City"), a municipal corporation established pursuant to the Code of Iowa and acting under the authorization of Chapter 403 of the Code of Iowa, 2015, as amended (the "Urban Renewal Act"), and Chapter 15A, and MBL Development Co., a Missouri corporation, having an office for the transaction of business at 9201 Ward Parkway, Suite 310, Kansas City, Missouri 64114 ("Developer").

WITNESSETH:

WHEREAS, the City and Developer have entered into an Agreement for Private Development dated as of _____, 2016 ("Agreement") regarding certain real property located in the City which is legally described as follows:

A part of Lot 1 of the Auditor's Subdivision of the Northeast Quarter (NE $\frac{1}{4}$) of the Southwest Quarter (SW $\frac{1}{4}$) of Section 34, T91-N, R-37-W of the 5th P.M., Buena Vista County, Iowa, and being more fully described as follows: Commencing at the Northeast (NE) Corner of the Southwest Quarter (SW $\frac{1}{4}$) of said Section 34; thence on an assumed bearing of South 89°44'31" West, along the North line of said Southwest Quarter (SW $\frac{1}{4}$), 53.20 Feet; thence South 00°01'00" East, 692.67 Feet; thence North 89°59'51" West, 274.75 Feet to the point of beginning. Thence continuing North 89°59'51" West, 599.29 Feet to the East line of Proposed Witter Street; thence South 00°01' East, along the East line of Proposed Witter Street, 608.53 Feet to the North line of West 10th Street; thence North 89°55'48" East, along the North line of West 10th Street, 607.76 Feet; thence North 00°48'53" West, 607.82 Feet to the point of beginning. The above-described parcel contains 8.43 acres and is subject to all easements of record.

Buena Vista County Parcel Number: 10-34-326-005

the "Development Property"); and

WHEREAS, it is contemplated that Developer will undertake the construction of the Minimum Improvements (as defined in the Agreement) on the Development Property, as provided in the Agreement; and

WHEREAS, pursuant to Section 403.6(19) of the Code of Iowa, as amended, the City and Developer desire to establish a minimum actual value for the Minimum Improvements to be constructed on the Development Property by Developer pursuant to the Agreement; and

WHEREAS, the City and the Assessor have reviewed the preliminary plans and specifications for the Minimum Improvements that are contemplated to be constructed.

NOW, THEREFORE, the parties to this Minimum Assessment Agreement, in consideration of the promises, covenants and agreements made by each other, do hereby agree as follows:

1. Upon substantial completion of construction of the above-referenced Minimum Improvements, but no later than January 1, 2019, the minimum actual value which shall be fixed for assessment purposes for the Development Property and Minimum Improvements to be constructed on the Development Property shall be not less than Two Million Dollars (\$2,000,000) (hereafter referred to as the "Minimum Actual Value").

The Minimum Actual Value shall continue to be effective until termination of this Minimum Assessment Agreement on June 30, 2035 (the "Assessment Agreement Termination Date"). This means that the Minimum Improvements and Development Property will be required to have a Minimum Actual Value pursuant to this Minimum Assessment Agreement of at least \$2,000,000 until January 1, 2033, which shall govern the taxes collected for the entire fiscal year 2034-2035. The Minimum Actual Value shall be maintained during such period regardless of: (a) any failure to complete the Minimum Improvements; (b) destruction of all or any portion of the Minimum Improvements; (c) diminution in value of the Development Property or the Minimum Improvements; or (d) any other circumstance, whether known or unknown and whether now existing or hereafter occurring.

2. Developer shall pay or cause to be paid when due all real property taxes and assessments payable with respect to all and any parts of the Development Property and the Minimum Improvements pursuant to the provisions of this Minimum Assessment Agreement and the Agreement. Such tax payments shall be made without regard to any loss, complete or partial, to the Development Property or the Minimum Improvements, any interruption in, or discontinuance of, the use, occupancy, ownership or operation of the Development Property or the Minimum Improvements by Developer, or any other matter or thing which for any reason interferes with, prevents or renders burdensome the use or occupancy of the Development Property or the Minimum Improvements.

3. Developer agrees that its obligations to make the tax payments required hereby and to perform and observe its other agreements contained in this Minimum Assessment Agreement shall be absolute and unconditional obligations of Developer (not limited to the statutory remedies for unpaid taxes) and that Developer shall not be entitled to any abatement or diminution thereof, or set off therefrom, nor to any early termination of this Minimum Assessment Agreement for any reason whatsoever.

4. Developer agrees that, prior to the Termination Date, it will not:

a. seek administrative review or judicial review of the applicability or constitutionality of any Iowa tax statute relating to the taxation of property contained as a part of the Development Property or the Minimum Improvements determined by any tax official to be applicable to the Development Property or the Minimum Improvements, or raise the inapplicability or constitutionality of any such tax statute as a defense in any proceedings, including delinquent tax proceedings; or

b. seek any tax deferral or abatement, either presently or prospectively authorized under Iowa Code Chapter 403 or 404, or any other local or State law, of the taxation of real property, including improvements and fixtures thereon, contained in the Development Property or the Minimum Improvements between the date of execution of this Minimum Assessment Agreement and the Termination Date; or

- c. request the Assessor to reduce the Minimum Actual Value; or
- d. appeal to the board of review of the County, State, District Court or to the Director of Revenue of the State to reduce the Minimum Actual Value; or
- e. cause a reduction in the actual value or the Minimum Actual Value through any other proceedings.

5. This Minimum Assessment Agreement shall be promptly recorded by the City with the Recorder of Buena Vista County, Iowa. Such filing shall constitute notice to any subsequent encumbrancer of the Development Property (or any part thereof), whether voluntary or involuntary, and this Minimum Assessment Agreement shall be binding and enforceable in its entirety against any such subsequent encumbrancer, including the holder of any mortgage. The City shall pay all costs of recording.

6. Neither the preambles nor provisions of this Minimum Assessment Agreement are intended to, or shall be construed as, modifying the terms of the Agreement.

7. This Minimum Assessment Agreement shall not be assignable without the consent of the City and shall be binding upon and inure to the benefit of and be enforceable by the parties hereto and their respective successors and permitted assigns.

8. Nothing herein shall be deemed to waive the rights of Developer under Iowa Code Section 403.6(19) to contest that portion of any actual value assignment made by the Assessor in excess of the Minimum Actual Value established herein. In no event, however, shall Developer seek to reduce the actual value to an amount below the Minimum Actual Value established herein during the term of this Minimum Assessment Agreement. This Minimum Assessment Agreement may be amended or modified and any of its terms, covenants, representations, warranties or conditions waived, only by a written instrument executed by the parties hereto, or in the case of a waiver, by the party waiving compliance.

9. If any term, condition or provision of this Minimum Assessment Agreement is for any reason held to be illegal, invalid or inoperable, such illegality, invalidity or inoperability shall not affect the remainder hereof, which shall at the time be construed and enforced as if such illegal or invalid or inoperable portion were not contained herein.

10. The Minimum Actual Value herein established shall be of no further force and effect and this Minimum Assessment Agreement shall terminate on the Termination Date set forth in Section 1 above.

11. Developer shall provide a title opinion or title search to the City listing all lienholders of record as of the date of this Assessment Agreement and all such lienholders shall have signed consents to this Assessment Agreement, which consents are attached hereto and made a part hereof.

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

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 Minimum Assessment Agreement – City of Storm Lake]

MBL DEVELOPMENT CO.,
a Missouri corporation

By: _____
D. Kim Lingle, President

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared D. Kim Lingle, to me personally known, who, being by me duly sworn, did say that he is the President of MBL Development Co., a Missouri corporation, and that said instrument was signed on behalf of said corporation; and that the said D. Kim Lingle as such officer, acknowledged the execution of said instrument to be the voluntary act and deed of said corporation, by him voluntarily executed.

Notary Public in and for the State of Iowa

[Signature page to Minimum Assessment Agreement – MBL Development Co.]

LIENHOLDER'S CONSENT, IF ANY

In consideration of one dollar and other valuable consideration, the receipt of which is hereby acknowledged, and notwithstanding anything in any loan or security agreement to the contrary, the undersigned ratifies, approves, consents to and confirms the Minimum Assessment Agreement entered into between the parties, and agrees to be bound by its terms. This provision shall be binding on the parties and their respective successors and assigns.

[NAME OF LIENHOLDER]

By: _____
Signature of Lienholder's
Authorized Representative

Date: _____

By: _____
Signature of Lienholder's
Authorized Representative

Date: _____

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said County, in said State, personally appeared _____ and _____, to me personally known, who, being by me duly sworn, did say that they are the _____ and _____, respectively, of _____ and that said instrument was signed on behalf of said company, and that the said _____, and _____ acknowledged the execution of said instrument to be the voluntary act and deed of said domestic company, by them voluntarily executed.

Notary Public in and for said State

[Add additional pages for each Lienholder]

CERTIFICATION OF ASSESSOR

The undersigned, having reviewed the plans and specifications for the Minimum Improvements to be constructed, and being of the opinion that the minimum market value contained in the foregoing Minimum Assessment Agreement appears reasonable, hereby certifies as follows: The undersigned Assessor, being legally responsible for the assessment of the Development Property described in the foregoing Minimum Assessment Agreement, certifies that upon completion of the Minimum Improvements the actual value assigned to the Development Property and Minimum Improvements shall not be less than Two Million Dollars (\$2,000,000) (including taxable equipment value) all until the Assessment Agreement Termination Date of this Minimum Assessment Agreement.

Assessor for Buena Vista County, Iowa.

Date

STATE OF IOWA)
) ss
COUNTY OF BUENA VISTA)

Subscribed and sworn to before me by _____, Assessor for Buena Vista
County, Iowa.

Notary Public in and for the State of Iowa

Consistent with Iowa Code §403.6(19)(b), filed with this assessor certification is a copy of subsection 19 as follows:

19. a. A municipality, upon entering into a development or redevelopment agreement pursuant to section 403.8, subsection 1, or as otherwise permitted in this chapter, may enter into a written assessment agreement with the developer of taxable property in the urban renewal area which establishes a minimum actual value of the land and completed improvements to be made on the land until a specified termination date which shall not be later than the date after which the tax increment will no longer be remitted to the municipality pursuant to section 403.19, subsection 2. The assessment agreement shall be presented to the appropriate assessor. The assessor shall review the plans and specifications for the improvements to be made and if the minimum actual value contained in the assessment agreement appears to be reasonable, the assessor shall execute the following certification upon the agreement:

The undersigned assessor, being legally responsible for the assessment of the above described property upon completion of the improvements to be made on it, certifies that the actual value assigned to that land and improvements upon completion shall not be less than \$

b. This assessment agreement with the certification of the assessor and a copy of this subsection shall be filed in the office of the county recorder of the county where the property is located. Upon completion of the improvements, the assessor shall value the property as required by law, except that the actual value shall not be less than the minimum actual value contained in the assessment agreement. This subsection does not prohibit the assessor from assigning a higher actual value to the property or prohibit the owner from seeking administrative or legal remedies to reduce the actual value assigned except that the actual value shall not be reduced below the minimum actual value contained in the assessment agreement. An assessor, county auditor, board of review, director of revenue, or court of this state shall not reduce or order the reduction of the actual value below the minimum actual value in the agreement during the term of the agreement regardless of the actual value which may result from the incomplete construction of improvements, destruction or diminution by any cause, insured or uninsured, except in the case of acquisition or reacquisition of the property by a public entity. Recording of an assessment agreement complying with this subsection constitutes notice of the assessment agreement to a subsequent purchaser or encumbrancer of the land or any part of it, whether voluntary or involuntary, and is binding upon a subsequent purchaser or encumbrancer.

EXHIBIT G
IFA AGREEMENT

01284586-1\11149-094

Staff Summary

10/17/2016

Agenda Item # A.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Mayra Martinez, Deputy City Clerk

SUBJECT: **Approve Consent Agenda**

BACKGROUND: The Consent Agenda Includes:

- List of bills for approval
- King's Pointe disbursements for approval
- Sunrise Pointe bills for approval
- Approve the October 3, 2016 City Council Minutes
- Approve new liquor license for La Perla
- Approve easement with Arnold Motor Supply and The Lange Family for a waterline (see attached staff summary)
- Approve Stormwater Management Facilities Maintenance Covenant and Easement Agreements (see attached staff summaries)
 - Storm Lake Development Group, LLC
 - Buena Vista Regional Medical Center

FISCAL IMPACT: The City will pay the following expenditures:

- List of Bills - \$319,219.04
- King's Pointe Bills - \$215,468.78
- Sunrise Pointe Golf Course Bills - \$450.40

The City will receive the following revenues:

- Liquor license renewal - \$845.00

RECOMMENDATION: Approve Consent Agenda

ATTACHMENTS:

Description	Type
☐ Minutes - October 3, 2016	Minutes
☐ List of Bills	List of Bills
☐ King's Pointe & Sunrise List of Bill	List of Bills

**REGULAR COUNCIL MEETING, CITY OF STORM LAKE, IOWA, CITY HALL,
OCTOBER 3, 2016 5:00 P.M.**

Present: Mayor Jon Kruse, Council Members Bruce Carlson, Mike Porsch, Dan Anderson, and Tyson Rice. Absent: Bruce Engelmann. Staff present: City Manager Jim Patrick, Asst. City Manager Keri Navratil, City Attorney Phil Havens, Public Safety Director Mark Prosser, Fire Chief Mike Jones, Building Official Scott Olesen, Public Works Director Jason Etnyre, Library Director Elizabeth Huff, Water Plant Superintendent Mike Davis, Finance Director Brian Oakleaf, and Sue Vossberg City Clerk.

Mayor Kruse called the meeting to order at 5:03pm.

Hear the Public – None

Consent Agenda – Moved by Council Member Anderson to approve the consent agenda which included checks #533449 through #53571, minutes from the September 19, 2016 City Council meeting, liquor license renewal for Fareway, native wine permit renewal for Elements, new liquor license and cigarette permit for Al's Liquor change of ownership. Seconded by Council Member Carlson. Vote: All ayes with Council Member Engelmann absent. Motion carried.

LMI No. 5 Housing Urban Renewal Area - Mayor Kruse opened the public hearing on the proposed LMI No. 5 Housing Urban Renewal Area stating that this is the time and place for any comments.

Kim Lingle with MBL Development presented his project to the Council.

Tom McClinton (529 College) presented to the council questions they should address on the housing development before acting on the housing development.

Hearing no further comments the Mayor then closed the public hearing.

The Mayor then stated that the matter would be tabled to be discussed at the next council meeting.

MBL Development Agreement – Mayor Kruse opened the public hearing on the proposal to enter into a Development Agreement with MBL Development Co. stating that this is the time and place for any comments. Hearing no comments the Mayor then closed the public hearing.

The Mayor then stated that the matter would be tabled to be discussed at the next council meeting.

South School Urban Renewal Plan – Moved by Council Member Rice to pass on 3rd reading Ordinance No. 02-O-2016-2017 for the division of revenues under Iowa Code Section 403.19 for South School Urban Renewal Plan. Seconded by Council Member Porsch. Vote: All ayes with Council Member Engelmann absent. Motion carried.

ORDINANCE NO. 02-O-2016-2017

AN ORDINANCE PROVIDING THAT GENERAL PROPERTY TAXES LEVIED AND COLLECTED EACH YEAR ON ALL PROPERTY LOCATED WITHIN THE SOUTH SCHOOL URBAN RENEWAL AREA, IN THE CITY OF STORM LAKE, COUNTY OF BUENA VISTA, STATE OF IOWA, BY AND FOR THE BENEFIT OF THE STATE OF IOWA, CITY OF STORM LAKE, COUNTY OF BUENA VISTA, STORM LAKE COMMUNITY SCHOOL DISTRICT, AND OTHER TAXING DISTRICTS, BE PAID TO A SPECIAL FUND FOR PAYMENT OF PRINCIPAL AND INTEREST ON LOANS, MONIES ADVANCED TO AND INDEBTEDNESS, INCLUDING BONDS ISSUED OR TO BE ISSUED, INCURRED BY THE CITY IN CONNECTION WITH THE SOUTH SCHOOL URBAN RENEWAL AREA (THE SOUTH SCHOOL URBAN RENEWAL PLAN)

WHEREAS, the City Council of the City of Storm Lake, State of Iowa, after public notice and hearing as prescribed by law and pursuant to Resolution No. 16-R-2016-2017 passed and approved on the 6th day of September, 2016, adopted an Urban Renewal Plan (the "Urban Renewal Plan") for an urban renewal area known as the South School Urban Renewal Area (the "Urban Renewal Area"), which Urban Renewal Area includes the lots and parcels located within the area legally described as follows:

ORIGINAL AREA

LOTS ONE (1), TWO (2), THREE (3), FOUR (4), AND FIVE (5), BLOCK FORTY (40) ORIGINAL TOWN OF STORM LAKE, IOWA **EXCEPT** THE EAST ONE HUNDRED SEVENTY-TWO FEET (E. 172') OF THE NORTH SIXTY-FIVE FEET (N. 65') OF LOT ONE (1), BLOCK FORTY (40), ORIGINAL TOWN OF STORM LAKE, IOWA;

Together with the following-described parts of street rights-of-way abutting the above-described property:

The Third Street right-of-way commencing at its intersection with the western boundary of the Irving Street right-of-way on the West and extending one hundred twenty-eight feet (128') eastward;

And

The Irving Street right-of-way commencing at its intersection with the northern boundary of the Third Street Right-of-way on the North and extending five hundred feet (500') southward;

And

The Cayuga Street right-of-way commencing one hundred sixty feet (160') north of its intersection with the southern boundary of the Second Street right-of-way on the South and extending three hundred thirty-five feet (335') northward.

WHEREAS, expenditures and indebtedness are anticipated to be incurred by the City of Storm Lake, State of Iowa, in the future to finance urban renewal project activities carried out in furtherance of the objectives of the Urban Renewal Plan; and

WHEREAS, the City Council of the City of Storm Lake, State of Iowa, desires to provide for the division of revenue from taxation in the Urban Renewal Area, as above described, in accordance with the provisions of Section 403.19 of the Code of Iowa, as amended.

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

Section 1. That the taxes levied on the taxable property in the Urban Renewal Area legally described in the preamble hereof, by and for the benefit of the State of Iowa, City of Storm Lake, County of Buena Vista, Storm Lake Community School District, and all other taxing districts from and after the effective date of this Ordinance shall be divided as hereinafter in this Ordinance provided.

Section 2. That portion of the taxes which would be produced by the rate at which the tax is levied each year by or for each of the taxing districts upon the total sum of the assessed value of the taxable property in the Urban Renewal Area, as shown on the assessment roll as of January 1 of the calendar year preceding the first calendar year in which the City of Storm Lake, State of Iowa, certifies to the Auditor of Buena Vista County, Iowa the amount of loans, advances, indebtedness, or bonds payable from the division of property tax revenue described herein (which certification is directed to be made during the 2016 calendar year), shall be allocated to and when collected be paid into the fund for the respective taxing district as taxes by or for the taxing district into which all other property taxes are paid.

Section 3. That portion of the taxes each year in excess of the base period taxes determined as provided in Section 2 of this Ordinance shall be allocated to and when collected be paid into a special tax increment fund of the City of Storm Lake, State of Iowa, hereby established, to pay the principal of and interest on loans, monies advanced to, indebtedness, whether funded, refunded, assumed or otherwise, including bonds or obligations issued under the authority of Section 403.9 or 403.12 of the Code of Iowa, as amended, incurred by the City of Storm Lake, State of Iowa, to finance or refinance, in whole or in part, urban renewal projects undertaken within the Urban Renewal Area pursuant to the Urban Renewal Plan, except that (i) taxes for the regular and voter-approved physical plant and equipment levy of a school district imposed pursuant to Iowa Code Section 298.2 and taxes for the instructional support program of a school district imposed pursuant to Iowa Code Section 257.19 (but in each case only to the extent required under Iowa Code Section 403.19(2)); (ii) taxes for the payment of bonds and interest of each taxing district; (iii) taxes imposed under Iowa Code Section 346.27(22) related to joint county-city buildings; and (iv) any other exceptions under Iowa Code Section 403.19

shall be collected against all taxable property within the Urban Renewal Area without any limitation as hereinabove provided.

Section 4. Unless or until the total assessed valuation of the taxable property in the Urban Renewal Area exceeds the total assessed value of the taxable property in the Urban Renewal Area as shown by the assessment roll referred to in Section 2 of this Ordinance, all of the taxes levied and collected upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts as taxes by or for the taxing districts in the same manner as all other property taxes.

Section 5. At such time as the loans, advances, indebtedness, bonds and interest thereon of the City of Storm Lake, State of Iowa, referred to in Section 3 hereof have been paid, all monies thereafter received from taxes upon the taxable property in the Urban Renewal Area shall be paid into the funds for the respective taxing districts in the same manner as taxes on all other property.

Section 6. All ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed. The provisions of this Ordinance are intended and shall be construed so as to fully implement the provisions of Section 403.19 of the Code of Iowa, as amended, with respect to the division of taxes from property within the Urban Renewal Area as described above. In the event that any provision of this Ordinance shall be determined to be contrary to law, it shall not affect other provisions or application of this Ordinance which shall at all times be construed to fully invoke the provisions of Section 403.19 of the Code of Iowa with reference to the Urban Renewal Area and the territory contained therein.

Section 7. This Ordinance shall be in effect after its final passage, approval and publication as provided by law.

PASSED AND APPROVED this 3rd day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

Storm Lake Whitecaps – Moved by Council Member Anderson to approve the request from the Storm Lake Whitecaps baseball league to use Memorial Ball Field for league games from May through August and approve alcohol sales during games. Whitecaps to work around St. Mary's schedule. Seconded by Council Member Carlson. Vote: All ayes with Council Member Engelmann absent. Motion carried.

Living Roadways Project Grant - Moved by Council Member Rice to adopt Resolutuion No. 31-R-2016-2017 accepting and supporting the Living Roadways Project Grant. Grant amount awarded is \$11,455.00. Seconded by Council Member Porsch. Vote: All ayes with Council Member Engelmann absent. Motion carried.

RESOLUTION NO. 31-R-2016-2017

A RESOLUTION ACCEPTING AND SUPPORTING THE IOWA'S LIVING ROADWAYS PROJECT

WHEREAS the City of Storm Lake, Iowa recognizes the importance of diversifying the tree inventory on the city right of ways in Storm Lake, and

WHEREAS the Iowa's Living Roadways Project (ILR) is a State of Iowa program that invests in the funding for improvements to transportation-related corridors, and

WHEREAS the City of Storm Lake has been awarded a Living Roadways Projects Grant in the amount of \$11,455.00, and

WHEREAS the City of Storm Lake will provide volunteer labor to plant the trees.

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

The Storm Lake City Council is in support of the Iowa's Living Roadways Project Grant and accepts the grant.

PASSED AND APPROVED this 3rd day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

FY 2017 Budget Amendment - Mayor Kruse opened the public hearing on the FY 2017 Budget Amendment stating that this is the time and place for any comments.

Patricia Hampton, President of the Witter Gallery Board, informed the Council that the additional funding would be used as the 50% match for their application to the Buena Vista Community Foundation for new flooring.

Council requested that Witter Gallery get bids on the flooring from Storm Lake vendors.

Hearing no additional comments the Mayor then closed the public hearing.

Moved by Council Member Rice to adopt Resolution No. 32-R-2016-2017 approving the FY 2017 budget amendment. Seconded by Council Member Porsch. Vote: All ayes with Council Member Engelmann absent. Motion carried.

RESOLUTION NO. 32-R-2016-2017

A RESOLUTION AMENDING THE CURRENT BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2017

Be it Resolved by the Council of the City of Storm Lake:

Section 1. Following notice published September 21, 2016 and the public hearing held, October 3, 2016 the current budget is amended as set out herein and in the detail by fund type and activity that supports this resolution which was considered at that hearing:

Section 2. Whereas, there is a need to transfer resources between funds to provide for capital projects, debt service, and fund future reserves according to the certified budget for fiscal year 2016-2017 as follows:

		Total Budget as certified or last amended	Current Amendment	Total Budget after Current Amendment
Revenues & Other Financing Sources				
Taxes Levied on Property	1	4,192,977		4,192,977
Less: Uncollected Property Taxes-Levy Year	2	0		0
Net Current Property Taxes	3	4,192,977	0	4,192,977
Delinquent Property Taxes	4	0		0
TIF Revenues	5	837,731		837,731
Other City Taxes	6	2,041,119		2,041,119
Licenses & Permits	7	239,671		239,671
Use of Money and Property	8	560,760		560,760
Intergovernmental	9	5,807,051		5,807,051
Charges for Services	10	13,075,358		13,075,358
Special Assessments	11	0		0
Miscellaneous	12	189,018		189,018
Other Financing Sources	13	0		0
Transfers In	14	4,786,768		4,786,768
Total Revenues and Other Sources	15	31,730,453	0	31,730,453
Expenditures & Other Financing Uses				
Public Safety	16	3,134,088		3,134,088
Public Works	17	1,818,048		1,818,048
Health and Social Services	18	9,500		9,500
Culture and Recreation	19	2,163,688	3,000	2,166,688
Community and Economic Development	20	99,217		99,217
General Government	21	382,071		382,071
Debt Service	22	1,746,415		1,746,415
Capital Projects	23	2,357,430		2,357,430
Total Government Activities Expenditures	24	11,710,457	3,000	11,713,457
Business Type / Enterprises	25	12,675,136		12,675,136
Total Gov Activities & Business Expenditures	26	24,385,593	3,000	24,388,593
Transfers Out	27	7,334,860		7,334,860
Total Expenditures/Transfers Out	28	31,720,453	3,000	31,723,453
Excess Revenues & Other Sources Over (Under) Expenditures/Transfers Out Fiscal Year	29	10,000	-3,000	7,000
Beginning Fund Balance July 1	30	12,387,797		12,387,797
Ending Fund Balance June 30	31	12,397,797	-3,000	12,394,797

NOW THEREFORE be it resolved by the City Council of the City of Storm Lake, Iowa, to approve the above said budget amendment for the 2016-2017 Fiscal Year.

PASSED AND APPROVED this 3rd day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

Housing Study Session – Assistant City Manager Keri Navratil gave the Council an update on the Housing Committee meeting held at SLU.

Council Member Anderson left at 6:19pm.

Adjournment – Moved by Council Member Porsch to adjourn the meeting at 6:49 pm. Seconded by Council Member Rice. Vote: All ayes with Council Member Engelmann and Anderson absent. Motion carried.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

UNAVAILABLE

AFLAC	PR Batch 00552.10.2016 Aflac Pretax	444.98
AFLAC	PR Batch 00552.10.2016 Aflac After tax	93.38
AFLAC	PR Batch 00551.10.2016 Aflac Pretax	88.59
AFLAC	PR Batch 00551.10.2016 Aflac After tax	56.44
City of Storm Lake	PR Batch 00551.10.2016 Dental insurance employee c	1.13
City of Storm Lake	PR Batch 00551.10.2016 Dental employee/spouse	16.17
City of Storm Lake	PR Batch 00551.10.2016 Dental insurance family	24.45
City of Storm Lake	PR Batch 00551.10.2016 125 Flexible Benefits	265.21
City of Storm Lake	PR Batch 00551.10.2016 Flex- Child Care	62.50
City of Storm Lake	PR Batch 00551.10.2016 Health Insurance Family	716.64
City of Storm Lake	PR Batch 00552.10.2016 Dental employee/child	6.00
City of Storm Lake	PR Batch 00552.10.2016 Dental insurance employee c	22.88
City of Storm Lake	PR Batch 00552.10.2016 Dental employee/spouse	12.78
City of Storm Lake	PR Batch 00552.10.2016 Dental insurance family	81.18
City of Storm Lake	PR Batch 00552.10.2016 125 Flexible Benefits	532.97
City of Storm Lake	PR Batch 00552.10.2016 Flex- Child Care	91.00
City of Storm Lake	PR Batch 00552.10.2016 Health Insurance Family	1,598.77
City of Storm Lake	PR Batch 00552.10.2016 Health Insurance Single	487.30
Collection Services Center	PR Batch 00552.10.2016 Child Support Payments to I	222.00
Collection Services Center	PR Batch 00551.10.2016 Child Support Payments to I	406.00
Conseco Health Insurance Co	PR Batch 00552.10.2016 Cancer Pre Tax Insurance	41.04
EFTPS	PR Batch 00552.10.2016 Federal Income Tax	11,379.57
EFTPS	PR Batch 00552.10.2016 FICA Employee Portion	3,546.25
EFTPS	PR Batch 00552.10.2016 FICA Employer Portion	3,546.25
EFTPS	PR Batch 00552.10.2016 Medicare Employee Portion	1,454.09
EFTPS	PR Batch 00552.10.2016 Medicare Employer Portion	1,454.09
EFTPS	PR Batch 00551.10.2016 Federal Income Tax	4,500.69
EFTPS	PR Batch 00551.10.2016 FICA Employee Portion	1,822.02
EFTPS	PR Batch 00551.10.2016 FICA Employer Portion	1,822.02
EFTPS	PR Batch 00551.10.2016 Medicare Employee Portion	521.07
EFTPS	PR Batch 00551.10.2016 Medicare Employer Portion	521.07
ICMA Retirement Trust 457	PR Batch 00551.10.2016 ICMA	675.00
ICMA Retirement Trust 457	PR Batch 00551.10.2016 ICMA City Paid	550.01
ICMA Retirement Trust 457	PR Batch 00551.10.2016 ICMA City paid for Police	451.85
ICMA Retirement Trust 457	PR Batch 00552.10.2016 ICMA	1,605.00
Iowa Department of Revenue Administrative Wage L	PR Batch 00552.10.2016 State Garnishment	500.39
Iowa Public Employees	PR Batch 00552.10.2016 IPERS	3,529.25
Iowa Public Employees	PR Batch 00552.10.2016 IPERS City Share	5,296.72
Iowa Public Employees	PR Batch 00551.10.2016 IPERS	1,475.04
Iowa Public Employees	PR Batch 00551.10.2016 IPERS City Share	2,213.77
ITT Hartford AMS RPVA	PR Batch 00551.10.2016 457 Hartford	125.00
ITT Hartford AMS RPVA	PR Batch 00552.10.2016 457 Hartford	200.00
Muni Fire/Police Retire	PR Batch 00552.10.2016 Muni Police/Fire Pension	3,380.59
Muni Fire/Police Retire	PR Batch 00552.10.2016 Muni Police/Fire Pension Ci	9,321.76
Muni Fire/Police Retire	PR Batch 00551.10.2016 Muni Police/Fire Pension	568.15
Muni Fire/Police Retire	PR Batch 00551.10.2016 Muni Police/Fire Pension Ci	1,566.64
Teamsters Local Union 554	PR Batch 00552.10.2016 Union Dues	184.50
Treasurer State Of Iowa	PR Batch 00552.10.2016 State Income Tax	4,073.69
Treasurer State Of Iowa	PR Batch 00551.10.2016 State Income Tax	1,810.45

UNAVAILABLE

Department Total = 73,366.34

Police Department

Alta Body Shop	September 2016 Towing Services	1,500.00
BJH Construction LLC	Roof Repairs at PD	642.00
Buena Vista County Sheriff's Reserve	SLHS Homecoming Parade Services	160.00

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Diekman Patrick L	LEIN Training- Des Moines- Diekman	249.92
Edwards Storm Lake	Red Tahoe- Brakes, Transmission, Differential Repairs	1,378.31
Erskine Todd	10/4/2016 Postage	162.56
Genesis Development	September 2016 Janitorial Services	600.00
Intl Public Management	Overpayment of Invoice 09585-B5X7L6	-62.50
Iowa Office Supply Inc	Deposit Tickets	95.32
Med-Tech Resource Inc	Defibrillator Batteries	595.58
Neuroth Kevin	Garbage Service September 2016	24.50
Prime Media Acquisition Corp	Paper	157.04
Prosser Mark	Public Forum- Law Enforcement Info Release- Des M	87.50
Prosser Mark	LEIN Awards & Threat Training- Des Moines- Prosser	168.64
Reserve Account	Postage Sept 27, 2016	191.86
Secretary of State	Notary Renwal- Eickholt	30.00
Taser International	Tasers, Batteries, & Supplies	11,531.80
UPS Store The	Shipping- Overpayment	-3.90
Vast Broadband	Phone Service October 2016	285.30
Verizon Wireless Inc	Phone Service- September 2016	766.64

Police Department

Department Total = 18,560.57

Fire Department

Cintas First Aid & Safety	First Aid Supplies	64.37
Consolidated Fleet Services, Inc	Inspection Services- Aerial 71	1,356.00
Iowa Assn of Pro Fire Chiefs	FY2017 Membership Dues- Jones	50.00
Julius Dennis R.	September 2016 Laundry Services	46.12
Mangold Environmental Testing	Shipping	6.76
Neuroth Kevin	Garbage Service September 2016	54.25
Vast Broadband	Phone Service October 2016	49.54
Verizon Wireless Inc	Phone Service- September 2016	164.28

Fire Department

Department Total = 1,791.32

Building Official

Havens & Havens	Legal Services- September 2016	138.75
Reserve Account	Postage Sept 27, 2016	30.15
Storm Lake Times The	September 2016 Publications	20.00
Vast Broadband	Phone Service October 2016	74.30
Verizon Wireless Inc	Phone Service- September 2016	109.52

Building Official

Department Total = 372.72

Animal Care

Johnson Dianne	Bd & Disp of Cats & Dogs	1,260.00
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Animal Care

Department Total = 1,260.00

Roadway Maintenance

Bolton & Menk, Inc	Prelim & Final Design Services through 9/30/2016	1,784.00
Bolton & Menk, Inc	Construction Services through 9/30/2016	3,114.50
Bolton & Menk, Inc	Engineering Services through 9/30/2016	82.50
Certified Testing Services, Inc	Soil Testing Services	178.00
Cintas First Aid & Safety	First Aid Supplies- Less Tax	58.43
Crescent Electric Supply Co	Supplies	20.37
Crescent Electric Supply Co	Supplies	13.33
Etnyre Jason	Rain Garden Visit- Arnolds Park- Etnyre	61.56

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Etnyre Jason	Fall APWA Conference- Council Bluffs- Etnyre	414.20
Fastenal Company	Gloves	40.68
Ferguson Enterprises Inc	Plug & Supplies	5.76
Gempler's	Earplugs	44.93
General Traffic Controls Inc	Traffic Light Repairs - Flindt & Lakeshore Drive	613.20
I&S Group, Inc.	Project Closeout Engineering Svc through 9/17/2016	143.50
JNB Acquisition Corporation	Copier Maintenance Agreement	12.62
Neuroth Kevin	Garbage Service September 2016	127.00
Smith Concrete Service Inc	Pay Estimate #1 of 13th Street Paving	45,386.25
Vast Broadband	Phone Service October 2016	58.17
Verizon Wireless Inc	Phone Service- September 2016	109.52

Roadway Maintenance	Department Total =	52,268.52
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Snow Removal

Iowa Dept of Transportation	Snow Fence	326.70
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Snow Removal	Department Total =	326.70
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Airport

Amerigas	Propane Tank Rental- Acct#21323103	71.00
MS Door Service Ltd	August 2016 Pest Control	45.00
Reserve Account	Postage Sept 27, 2016	29.72
Seneca Companies LLC	Veeder Root Repairs	145.25

Airport	Department Total =	290.97
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Transit

DeWall Jeff	1st Qtr FY2017 Rides	263.00
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Transit	Department Total =	263.00
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Library

Genesis Development	September 2016 Janitorial Services	600.00
Iowa Office Supply Inc	Deposit Tickets	95.32
Neuroth Kevin	Garbage Service September 2016	38.25
Reserve Account	Postage Sept 27, 2016	15.09
Stieneke Helen	Refund Check	35.95
Vast Broadband	Phone Service October 2016	113.14

Library	Department Total =	897.75
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Band

Drenth Susan R	2016 Band Participation	90.00
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Band	Department Total =	90.00
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Agencies

Witter Gallery Inc	2nd Quarter FY2017 Agreement	2,000.00
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Agencies	Department Total =	2,000.00
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Parks Department

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Bucheli Harley	Advertising Job Opening	75.00
CNH Industrial America LLC	Seal Kit	277.00
CNH Industrial America LLC	Oil	20.50
Crescent Electric Supply Co	Supplies	115.34
Crescent Electric Supply Co	Supplies	262.98
Crescent Electric Supply Co	Supplies for Tree Museum	116.47
Emmons & Olivier Resources Inc	Design of Raingardens at Circle Park through 8/31/20	1,361.75
Fastenal Company	Supplies	1.46
Graham Tire	Tire Tube #201	28.15
Koenig Jeff	Pot Cleaning & Rent	262.00
L & G Products, Inc	Grass	232.50
La Prensa LLC	Advertising Job Opening	66.00
Neuroth Kevin	Garbage Service September 2016	205.50
Petersen Manufacturing	Concrete Bench & Plaque	468.90
Pilot Tribune	September 2016 Publications	216.24
ProBuild	Plywood	59.04
Storm Lake Hydraulics Co Inc	Solnoid	41.03
Storm Lake Times The	September 2016 Publications	165.41
Vast Broadband	Phone Service October 2016	35.64
Verizon Wireless Inc	Phone Service- September 2016	164.28

Parks Department

Department Total = 4,175.19

Golf Course

Gempler's	Tree Guards (25)	231.48
Hallett Materials	Sand	200.59
ProElect/Professional Electronics	Batteries	124.00
Rent-All	Auger Rental	60.00
Turfwerks	Implement Parts	1,428.52
Turfwerks	Cable, Filters, & Couplings	400.24
Zimco Supply Co	Case Returned	-95.00
Zimco Supply Co	Herbicide	62.25
Zimco Supply Co	Seed	235.00
Zimco Supply Co	Chemicals	227.40

Golf Course

Department Total = 2,874.48

Campgrounds

Brown Supply Company	Hydrants (48)	5,940.00
Color-ize Inc	Signs	147.24
Crescent Electric Supply Co	Tape & Vinyl	85.71
Genesis Development	September 2016 Janitorial Services	60.00
Iowa Office Supply Inc	Deposit Tickets	95.32
Melander's	New Switch for Wash Machine- Less Tax	120.30
Neuroth Kevin	Garbage Service September 2016	832.04
Vast Broadband	Phone Service October 2016	102.00
Workamper	Advertising	149.00

Campgrounds

Department Total = 7,531.61

UNAVAILABLE

King's Pointe Resort	September 2016 Housekeeping Services	750.00
King's Pointe Resort	September 2016 Maintenance Expense	67.00
King's Pointe Resort	September 2016 Supplies	250.00
King's Pointe Resort	September 2016 Sewer Repairs	50.00

City of Storm Lake
620 Erie Street PO Box 1086
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Checks for Approval Report

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King's Pointe Resort	September 2016 Supplies	219.92
King's Pointe Resort	September 2016 Waterpark Add On Packages	157.50
Kinseth Hospitality Corporation	September 2016 Cottage Management Fee	386.18

UNAVAILABLE	Department Total =	1,880.60
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Community Ed

Community Education Dept	1st Qtr FY2017 Services	19,843.40
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Community Ed	Department Total =	19,843.40
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UNAVAILABLE

Neuroth Kevin	Extra Garbage Svc Sept 2016	18.00
Neuroth Kevin	Garbage Service September 2016	93.00
Storm Lake Times The	September 2016 Publications	26.40
Storm Lake Times The	September 2016 Publications	35.20
Storm Lake Times The	September 2016 Publications	15.20

UNAVAILABLE	Department Total =	187.80
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Economic Develop

Havens & Havens	Legal Services- September 2016	940.42
Havens & Havens	Legal Services- September 2016	30.83
Vast Broadband	Phone Service October 2016	24.77

Economic Develop	Department Total =	996.02
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TIF

MidAmerican Energy Company	September 2016 Electrical Services	180.17
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TIF	Department Total =	180.17
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UNAVAILABLE

Buena Vista Co Recorder	Recording Fees- South School URA	92.00
Storm Lake Times The	September 2016 Publications	19.60

UNAVAILABLE	Department Total =	111.60
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Housing Program

Storm Lake Times The	September 2016 Publications	69.50
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Housing Program	Department Total =	69.50
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Legal Services

Ahlers & Cooney, P.C.	September 2016 Labor Legal Services	323.00
Havens & Havens	Legal Services- September 2016	160.33
Havens & Havens	Legal Services 3rd Quarter 2016	500.00

Legal Services	Department Total =	983.33
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City Hall Building

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

MS Door Service Ltd	August 2016 Pest Control	23.00
Neuroth Kevin	Garbage Service September 2016	28.50
Reinert Michael P	Welding Services	50.00
Schumacher Elevator Company	Elevator Inspection	189.01
Vast Broadband	Phone Service October 2016	88.87
Verizon Wireless Inc	Phone Service- September 2016	54.21
Verizon Wireless Inc	Phone Rebate Services	-6.40
City Hall Building	Department Total =	427.19

Other Policy & Administration

Color-ize Inc	City Tidbits	46.75
Genesis Development	September 2016 Janitorial Services	200.00
Genesis Development	September 2016 Shredding Services	3.88
IMFOA	IMFOA Conference Registration- Gibbins	41.66
IMFOA	IMFOA Conference Registration- Oakleaf	41.66
Intl Public Management	Membersip Dues FY2017- Hill	50.00
Iowa League of Cities	2016 Budget Workshop Registration- Oakleaf	13.34
Iowa League of Cities	2016 Budget Workshop Registration- Gibbins	13.33
Iowa Office Supply Inc	Paper	7.32
Iowa Office Supply Inc	Name Plate- Oakleaf	15.95
JNB Acquisition Corporation	Copier Maintenance Agreement	12.63
Navratil Keri	ICMA Conference- KC, MO- Navratil	342.38
NW IA League of Cities	League of Cities Meeting- Alta- 4 Attendees	60.00
Patrick James H	ICMA Conference- KC, MO- Patrick	138.13
Pilot Tribune	September 2016 Publications	126.68
Reserve Account	Postage Sept 27, 2016	206.90
Storm Lake Times The	September 2016 Publications	4.40
Storm Lake Times The	September 2016 Publications	67.20
Storm Lake Times The	September 2016 Publications	29.00
Storm Lake Times The	September 2016 Publications	212.00
Storm Lake Times The	September 2016 Publications	69.60
Storm Lake Times The	September 2016 Publications	22.80
Storm Lake Times The	September 2016 Publications	21.20
Storm Lake Times The	September 2016 Publications	18.60
Storm Lake Times The	September 2016 Publications	55.20
Storm Lake Times The	September 2016 Publications	36.60
Storm Lake Times The	September 2016 Publications	26.80

Other Policy & Administration	Department Total =	1,884.01
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Water Administration

Accela, Inc #774375	September 2016 Web Payments	147.75
Genesis Development	September 2016 Janitorial Services	200.00
IMFOA	IMFOA Conference Registration- Gibbins	41.67
IMFOA	IMFOA Conference Registration- Oakleaf	41.67
Inquirehire	Background Checks- Fianance Assistant	64.67
Intl Public Management	Membersip Dues FY2017- Hill	49.00
Iowa League of Cities	2016 Budget Workshop Registration- Oakleaf	13.33
Iowa League of Cities	2016 Budget Workshop Registration- Gibbins	13.34
Iowa Office Supply Inc	Paper	7.33
Iowa Office Supply Inc	Name Plate- Jean	7.98
Iowa Office Supply Inc	Office Supplies	8.48
Iowa Office Supply Inc	Deposit Tickets	95.32
JNB Acquisition Corporation	Copier Maintenance Agreement	12.63
Navratil Keri	ICMA Conference- KC, MO- Navratil	342.37
Patrick James H	ICMA Conference- KC, MO- Patrick	138.14

City of Storm Lake
620 Erie Street PO Box 1086
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Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Qualified Presort Service, LLC	Monthly Statement	388.31
Qualified Presort Service, LLC	Past Due Notices	91.73
Reserve Account	Postage Sept 27, 2016	23.57
Vast Broadband	Phone Service October 2016	74.09
Verizon Wireless Inc	Phone Service- September 2016	54.21

Water Administration

Department Total = 1,815.59

Water Plant

Electric Pump Inc	Pumps	954.47
Emmons & Olivier Resources Inc	Construction Admin through 8/31/2016	575.60
Fastenal Company	Distilled Water & Utility Knives	54.49
FL Smidth, Inc	Rotary Cutoff Valve- Less Tax	3,739.00
Foundation Analytical Laboratory Inc	Testing Services	71.00
Foundation Analytical Laboratory Inc	Testing Services	176.00
Foundation Analytical Laboratory Inc	Testing Services	120.00
Graham Tire	Tire Repairs F-250	23.00
Iowa Central Comm College	Basic Water Treatment Class- Jensen	625.00
Iowa Dept of Natural Resources	FY2017 Water Use Fee- Permit #1356	66.00
Iowa Rural Water Assn	2016 Fall Conference- Debuque- Davis	140.00
JNB Acquisition Corporation	Copier Maintenance Agreement	22.14
Mangold Environmental Testing	Testing	200.00
Mike's Electronics Inc	Service Call- Well 20	69.55
Mike's Electronics Inc	Service Call- Wells	151.25
Mike's Electronics Inc	Service Call- Wells & Generators	422.50
Mike's Electronics Inc	Service Call- Compressor	81.25
Mike's Electronics Inc	Service Call- Lime Press	65.00
Mike's Electronics Inc	Service Call- Well 14 Rewire a New Motor	728.62
Mississippi Lime Company	Lime	4,687.30
Mississippi Lime Company	Lime	4,508.70
Mississippi Lime Company	Lime	4,738.60
Neuroth Kevin	Garbage Service September 2016	82.75
PraxAir inc	Carbon Dioxide	922.50
Sargent Drilling	Well 15 Gate & Check Valve Installment	4,477.65
Sargent Drilling	Test Well Abandonment	4,744.50
Sargent Drilling	Well 6 Abandonment	7,194.60
Schumacher Elevator Company	Annual Elevator Inspection	3,466.04
Seiler Plumbing & Heating Inc	Gas Piping- Lime Press	511.07
Seiler Plumbing & Heating Inc	Slaker 2 Insulation	1,935.02
Seiler Plumbing & Heating Inc	Sewer Line Pipe Gallery	2,195.49
Utility Equipment Co	Altitude Valve Seal	177.73
Utility Equipment Co	Altitude Valve Supplies	1,554.08
Vast Broadband	Phone Service October 2016	169.10
Verizon Wireless Inc	Phone Service- September 2016	219.04

Water Plant

Department Total = 49,869.04

Water Distribution

A & A Automotive	Air Compressor Choke Repairs	27.54
Alliant Energy	Gas Main Repairs at 305 E 10th Street- Acct#4840094	4,329.78
Bolton & Menk, Inc	Design Services for Water Main Improvements throug	5,262.00
Havens & Havens	Legal Services- September 2016	1,156.25
USA Blue Book	Ratchet Set	183.71
Utility Equipment Co	Mueller Hydrant	2,020.67
Utility Equipment Co	Lakeside Meter Pit Supplies	2,602.05
Vast Broadband	Phone Service October 2016	76.82
Verizon Wireless Inc	Phone Service- September 2016	164.28

Water Distribution

Department Total = 15,823.10

Water Meters

Ferguson Enterprises Inc	Pipe Dope & Tape	15.74
UPS Store The	Shipping	15.43
Verizon Wireless Inc	Phone Service- September 2016	54.76

Water Meters

Department Total = 85.93

Wastewater Administration

Accela, Inc #774375	September 2016 Web Payments	147.75
Genesis Development	September 2016 Janitorial Services	200.00
IMFOA	IMFOA Conference Registration- Oakleaf	41.67
IMFOA	IMFOA Conference Registration- Gibbins	41.67
Inquirehire	Background Checks- Fianance Assistant	64.67
Intl Public Management	Membershp Dues FY2017- Hill	50.00
Iowa League of Cities	2016 Budget Workshop Registration- Gibbins	13.33
Iowa League of Cities	2016 Budget Workshop Registration- Oakleaf	13.33
Iowa Office Supply Inc	Paper	7.33
Iowa Office Supply Inc	Name Plate- Jean	7.97
Iowa Office Supply Inc	Office Supplies	8.47
Iowa Office Supply Inc	Deposit Tickets	95.33
JNB Acquisition Corporation	Copier Maintenance Agreement	12.62
Navratil Keri	ICMA Conference- KC, MO- Navratil	342.37
Patrick James H	ICMA Conference- KC, MO- Patrick	138.13
Qualified Presort Service, LLC	Past Due Notices	91.73
Qualified Presort Service, LLC	Monthly Statement	388.31
Reserve Account	Postage Sept 27, 2016	23.57
Vast Broadband	Phone Service October 2016	86.46
Verizon Wireless Inc	Phone Service- September 2016	55.86

Wastewater Administration

Department Total = 1,830.57

Wastewater Treatment Plant

Cintas First Aid & Safety	First Aid Supplies- Less Tax	75.40
Electric Pump Inc	Memorial LS Seal Water Pump	1,009.96
Fastenal Company	Stake Flags	10.40
Ferguson Enterprises Inc	Supplies	3.54
Foundation Analytical Laboratory Inc	Testing Services	344.00
Foundation Analytical Laboratory Inc	Testing Services	1,105.00
JNB Acquisition Corporation	Copier Maintenance Agreement	29.28
Neuroth Kevin	Garbage Service September 2016	67.00
ProBuild	Grit System Supplies	49.30
Recycle Center Harold Rowley	Recycling	39.52
Recycle Center Harold Rowley	Recycling	29.12
Recycle Center Harold Rowley	Recycling	51.48
Rent-All	Trailer Dump	83.00
Rent-All	Trailer Dump	83.00
Reserve Account	Postage Sept 27, 2016	1.35
Rohr Manufacturing Services, Ltd	Fire Extinguisher	39.25
Storm Lake Times The	September 2016 Publications	131.37
US Peroxide, LLC	Facility & Maintenace Service	750.00
Vander Woude Troy	Ice	1.99
Verizon Wireless Inc	Phone Service- September 2016	273.80

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Wastewater Treatment Plant

Department Total = 4,177.76

Landfill

Accela, Inc #774375	September 2016 Web Payments	147.75
Genesis Development	September 2016 Janitorial Services	200.00
Inquirehire	Background Checks- Fianance Assistant	64.66
Iowa Office Supply Inc	Deposit Tickets	95.32
JNB Acquisition Corporation	Copier Maintenance Agreement	12.62
Qualified Presort Service, LLC	Monthly Statement	388.30
Qualified Presort Service, LLC	Past Due Notices	91.72
Reserve Account	Postage Sept 27, 2016	11.79

Landfill

Department Total = 1,012.16

Storm Water Administration

Accela, Inc #774375	September 2016 Web Payments	147.75
Bolton & Menk, Inc	SW Improvement Plan Review- Hillshire Facility thro	180.00
Iowa Office Supply Inc	Deposit Tickets	95.32
JNB Acquisition Corporation	Copier Maintenance Agreement	12.62
Qualified Presort Service, LLC	Past Due Notices	91.72
Qualified Presort Service, LLC	Monthly Statement	388.30

Storm Water Administration

Department Total = 915.71

Storm Water Collection

Certified Testing Services, Inc	Concrete Testing Services	1,634.00
Ferguson Enterprises Inc	Coupling	48.72
Foundation Analytical Laboratory Inc	Testing Services	480.00
Gempler's	Rechargable Spotlight	163.94
Healy John J.	Pay Estimate #11 of Expansion Blvd SW Project	16,260.01
ProBuild	Concrete & Supplies	69.94
Reding Gravel & Excavating Co., Inc	Rock	459.42
Storm Lake Times The	September 2016 Publications	19.15

Storm Water Collection

Department Total = 19,135.18

Insurance

Auxiant - Claims Account	10/10/2016 Claims	19,382.20
Auxiant - Claims Account	10/3/2016 Claims	5,490.06
Auxiant - Flex Account	10/5/2016 Flex Claims	65.82
Auxiant - Flex Account	9/28/2016 Flex Claims	827.12

Insurance

Department Total = 25,765.20

UNAVAILABLE

Salus LLC	September 2016 Memberships	240.00
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UNAVAILABLE

Department Total = 240.00

Vehicle Maintenance

Fastenal Company	Hole Saws for Shop	93.30
Reinert Michael P	Sheetmetal & Supplies	16.10
Schmit John	Tools	374.25

City of Storm Lake
620 Erie Street PO Box 1086
Storm Lake IA, 505881086

Checks for Approval Report

From: 10/04/16 To 10/17/16
User: tyler.gibbins

Sears	Tools	99.97
Storm Lake Hydraulics Co Inc	Hyd Hose & Ends	462.44

Vehicle Maintenance	Department Total =	1,046.06
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Technology		
Rebnord Technologies Inc	2 Factor Auth	375.00
Rebnord Technologies Inc	My AntiSpam	75.00
Rebnord Technologies Inc	IT Service Agreement	3,325.00
Rebnord Technologies Inc	IT Service Agreement- Fiber Network	200.00
Vast Broadband	Internet Service October 2016	894.95

Technology	Department Total =	4,869.95
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Grand Total =	319,219.04
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King's Pointe Resort
Disbursements 9/28/2016 to 10/11/2016

Vendor Name	Description	Amount
Ace Hardware (2)	supplies	175.93
American Red Cross National	services	70.00
Ameripride Services (2)	supplies	1,852.27
Mediacomm Communication Corp	utilities	459.90
Bomgaars Supply Inc	supplies	37.91
Cedar Valley Bank & Trust	services	1,056.86
City of Storm Lake (2)	utilities	43,573.66
Color-ize (2)	supplies	584.60
Convergence LLC	supplies	200.00
Crescent Electric Supply Co	supplies	1,021.27
Elissa Doebel	reimbursement	153.50
Ed M Feld Equipment Co Inc	supplies	2,312.93
Edward Don & Company (2)	services	1,210.97
Nick Edwards	reimbursement	146.16
Ferguson Enterprises Inc	supplies	124.41
First National Bank- Omaha CC	payment	2,012.91
Frigitec	services	310.99
Garbage Hauling Service	services	134.00
Grainger - Palatine	supplies	48.83
Graham Tire	services	36.95
Heaven's Best Carpet	services	493.25
Hy-Vee Food Store (2)	food	267.33
Iowa Office Supply	supplies	224.60
Kineth Hotel Corporation (2)	payroll, work comp	90,659.12
The Lifeguard Store Inc	supplies	1,543.87
Centerpoint Energy Services	services	7,098.13
Oracle America Inc	services	750.00
Pasquales' Food Services Inc (2)	food	495.00
Pepsi-Cola Bottling Co. (2)	beverages	2,506.91
Probuild Company LLC	services	16.18
Revinant Inc	services	390.00
Sceptre Hospitality Resources	services	15,821.72
Shoes for Crews	supplies	127.85
The Storm Lake Times	publication	258.54
Sysco Guest Supply LLC	services	894.21
Treasurer - State of Iowa	sales tax	14,200.00
United Parcel Service- Carl STM	services	80.12
US Foods (2)	food	20,231.16
Vast Broadband	utilities	2,808.89
Al's Liquor	beverages	328.16
Buena Vista Stationary	supplies	171.44
Doll Distributing	beverages	14.40
Johnson Brothers/Iowa Wine & Bev	beverages	287.60
King's Pointe Resort	services	125.18
Wal-Mart (for POA use)	supplies	151.07

Total 215,468.78

Sunrise Pointe Golf Course
Disbursements 9/28/2016 to 10/11/2016

Doll Distributing	beverages	382.10
Central Iowa Distributing	supplies	68.30
Totals		450.40

Total	376,351.26
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Staff Summary

10/17/2016
Agenda Item # B.



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

REPORT TO: Honorable Mayor and City Council

FROM: Mayra Martinez, Deputy City Clerk

SUBJECT: Buy Local Information

BACKGROUND: Early 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 Buena Vista County, and outside of Buena Vista County are presented here for Council's review. This information is presented for for both the City and 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 Buena Vista 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:

	Total Expenses	Calculated Expenses	Local	%	BV Co	%	Non Local	%
City	\$319,219.04	\$155,819.39	\$56,933.23	36.54	\$3,514.29	2.26	\$95,371.87	61.20
King's Pointe	\$215,468.78	\$110,310.00	\$49,790.53	45.14			\$60,519.47	54.86
Golf Course	\$450.40	\$450.40					\$450.40	100.00

RECOMMENDATION: Review Buy Local Information

Staff Summary

10/17/2016

Agenda Item # C.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: James H. Patrick, City Manager

SUBJECT: Motion Approving Water Main Easement With Arnold Motor Supply, LLP And The Lange Family

BACKGROUND: The City has a capital project to replace the water main along Flindt Dr. The new water main will go under the property owned by Arnold Motor Supply and The Villager (Lange Family). Before the project starts, this easement is required. The main will increase from an existing 4 inch main to a eight inch main. The water service will improve in this area.

FISCAL IMPACT: The easement will cost a dollar each.

RECOMMENDATION: Council Approve Water Main Easement With Arnold Motor Supply and The Lange Family

ATTACHMENTS:

Description	Type
□ Easement- Arnold Motor Supply LLP	Backup Material
□ Easement - Lange Family	Backup Material

Return To: Havens and Havens, P.O. Box 426, Storm Lake, IA 50588

Preparer: Philip E. Havens, Havens and Havens, P.O. Box 426, Storm Lake, IA 50588

EASEMENT AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2016, by and between Arnold Motor Supply, LLP, also known as Arnold Motor Supply, herein referred to as Grantor, and the City of Storm Lake, Iowa, a municipal corporation, herein referred to as Grantee.

SECTION I.

PERMANENT EASEMENT

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, sells and conveys to Grantee, its successors and assigns a permanent easement for the purposes of laying, constructing, operating, inspecting, repairing, maintaining, replacing, substituting, relocating and removing a water main and appurtenances, for the transportation of water, in, over, under, across, and through the following described real estate in Buena Vista County, Iowa, to-wit:

The West 30 feet of the following described real estate:

A portion of Lot One (1) of the Auditor's Subdivision of the East Half of the Northwest Quarter (E½ NW¼) of Section Two (2), Township Ninety (90) North, Range Thirty-seven (37) West of the 5th P.M., South of the Chicago, Milwaukee, St. Paul and Pacific Railroad, more particularly describe as follows: Beginning at the Southwest Corner of the SE ¼ NW ¼ of Section 2-90-37, thence North 88° 45' East for 345.3 feet, thence North 465.9 feet, thence South 88° 45' West, 150 feet to the point of beginning; thence South 88° 45' West for 162.3 feet, thence North 106 feet, thence North 88° 45' East for 162.3 feet, thence South 106 feet to the point of

beginning.

See attached US71 & IA7 (Flindt Drive) Easement Exhibit for a description of the permanent easement by reference to an Assessor's Parcel Number and a graphic depiction of such easement;

(the "Easement Area").

SECTION II.

TERM

The rights granted herein shall be possessed and enjoyed by Grantee, its successors and assigns so long as the water main constructed pursuant hereto shall be maintained and operated by Grantee, its successors or assigns.

SECTION III.

ADDITIONAL RIGHTS OF GRANTEE

Grantee shall have the right of ingress and egress to and from Easement Area for any and all purposes necessary or convenient to the exercise by Grantee of the rights granted herein.

SECTION IV.

RIGHTS OF GRANTOR

Grantor reserves the right to use and enjoy the Easement Area to the fullest possible extent without unreasonable interference with the exercise by Grantee of the rights granted herein. In this regard, neither Grantor nor Grantee shall have the right to locate any building or any surface installation on the Easement Area or to fence the whole or any part thereof.

SECTION V.

WATER MAIN DEPTH; TREATMENT AND RESTORATION OF SURFACE

Grantee agrees to bury the water main to a depth sufficient to avoid any interference with the

normal uses which Grantor might make of Grantor's property. In the construction of the water main or the exercise of its other rights under this agreement, Grantee shall remove the topsoil from the Easement Area separately from the other materials removed by Grantee in such construction or in the exercise of other rights under this agreement, and shall replace said topsoil in the right of way upon completion of the water main or other work thereon. Following completion of the construction or other exercise of its rights under this agreement, Grantee shall restore the Easement Area as near to its condition before the construction or other work as possible. Grantee further agrees that, after any restoration, the Easement Area shall be left free of any large stones, holes or piles of dirt, and the Easement Area shall be reseeded to grass, if necessary. With regard to such restoration following construction or other work permitted by this agreement, Grantee shall accomplish it so that the affected easement area is in as near as possible to the condition it was in before the construction or other work within a reasonable time after the completion of the construction of the water main or other work thereon.

SECTION VI.

WARRANTY OF TITLE

Grantor covenants that it is the owner of the real estate described herein that is subject to the easement and has the right, title and capacity to grant said premises.

SECTION VII.

EFFECT OF AGREEMENT

This Agreement shall be binding upon the heirs, legal representatives, successors or assigns of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in Storm Lake, Iowa,

on the day and year first above written.

GRANTEE:

CITY OF STORM LAKE, IOWA

GRANTOR:

ARNOLD MOTOR SUPPLY, LLP

By: _____
Jon F. Kruse, Mayor

By: *Dennis Spooner*
Dennis Spooner,
Its *Managing Partner*

ATTEST:

Sue Vossberg, City Clerk

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged before me on _____, 2016, by Jon F. Kruse and Sue Vossberg, as Mayor and City Clerk of the City of Storm Lake, Iowa.

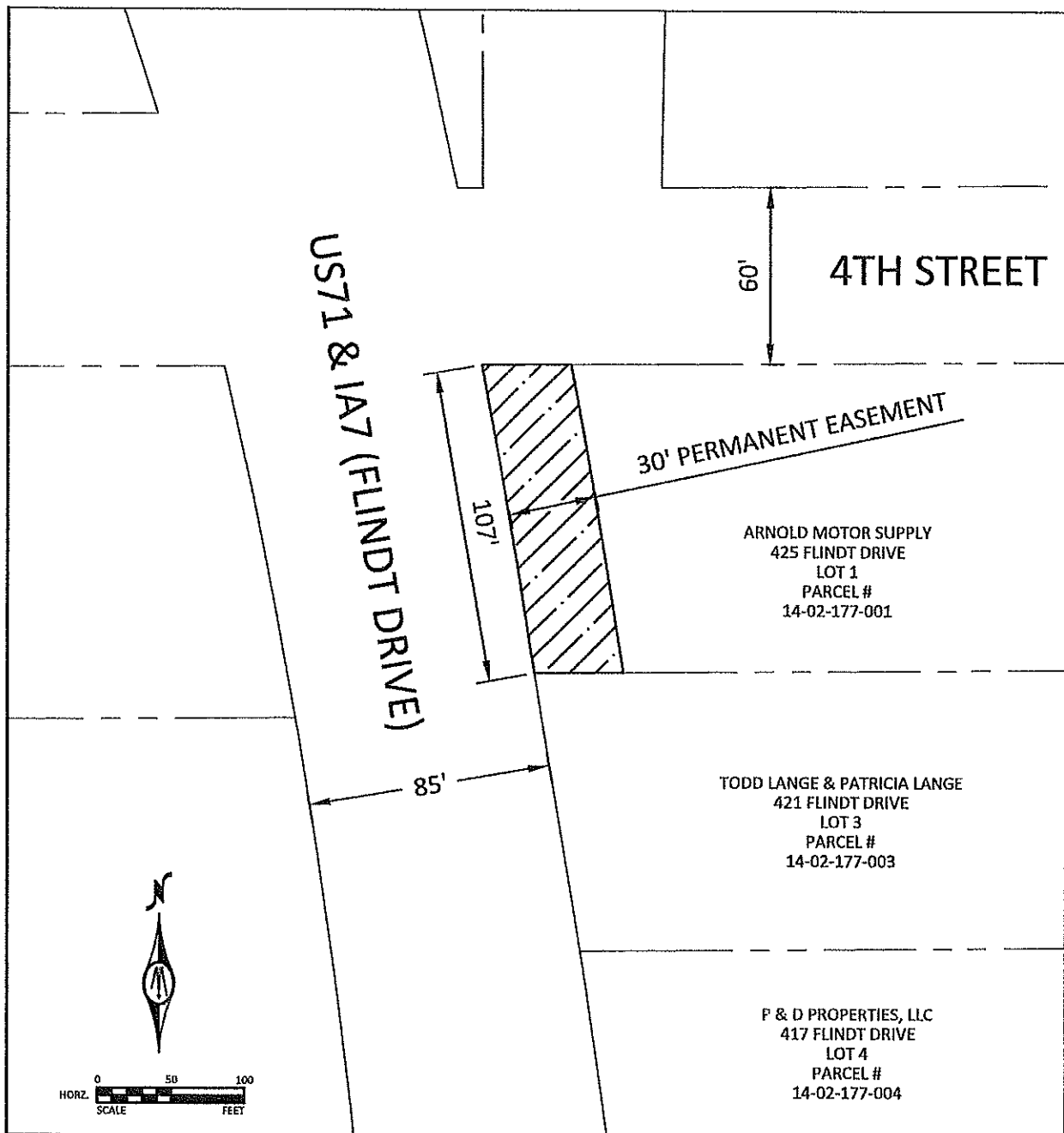
Notary Public for the State of Iowa

STATE OF IOWA, COUNTY OF ~~BUENA VISTA~~ CLAY

This record was acknowledged before me on October 3, 2016, by Dennis Spooner, as General Partner of Arnold Motor Supply, LLP, a/k/a Arnold Motor Supply.



Gayle M. Johnson
Notary Public for the State of Iowa



PERMANENT WATERMAIN EASEMENT
THE WEST 30 FEET OF PARCEL 1402177001 LYING DIRECTLY EAST OF US71 & IA7 FLINDT DRIVE RIGHT OF WAY AND LYING SOUTH OF THE 4TH STREET RIGHT OF WAY. 425 FLINDT DRIVE, STORM LAKE, BUENA VISTA COUNTY, IOWA.



BOLTON & MENK, INC.

Consulting Engineers & Surveyors
218 11TH STREET SW PLAZA - SPENCER, IOWA 51301
Phone: (712) 580-5075 Email: Spencer@bolton-menk.com
www.bolton-menk.com

CITY OF STORM LAKE, IOWA

2016 WATERMAIN IMPROVEMENTS
US71 & IA7 (FLINDT DRIVE) EASEMENT EXHIBIT

Return To: Havens and Havens, P.O. Box 426, Storm Lake, IA 50588

Preparer: Philip E. Havens, Havens and Havens, P.O. Box 426, Storm Lake, IA 50588

EASEMENT AGREEMENT

This Agreement, made and entered into this _____ day of _____, 2016, by and between Patricia A. Lange and David Lange, wife and husband, and Todd Lange and Barbara Lange, husband and wife, all four of the foregoing named persons being herein referred to as Grantor, and the City of Storm Lake, Iowa, a municipal corporation, herein referred to as Grantee.

SECTION I.

PERMANENT EASEMENT

In consideration of the sum of One Dollar (\$1.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Grantor hereby grants, sells and conveys to Grantee, its successors and assigns a permanent easement for the purposes of laying, constructing, operating, inspecting, repairing, maintaining, replacing, substituting, relocating and removing a water main and appurtenances, for the transportation of water, in, over, under, across, and through the following described real estate in Buena Vista County, Iowa, to-wit:

The West 30 feet of the following described real estate:

A portion of Lot One (1) of the Auditor's Subdivision of the East Half of the Northwest Quarter (E½NW¼) of Section Two (2), Township Ninety (90) North, Range Thirty-Seven (37) West of the Fifth P.M., south of the Chicago, Milwaukee, St. Paul and Pacific Railroad, more particularly described as follows: Beginning at the Southwest Corner of the SE¼NW¼ of Section 2-90-37, thence North 88°45' East

a distance of 345.3 Feet; thence North 370 Feet; thence South 88°45' West a distance of 150.0 Feet to the Point of Beginning; thence South 88°45' West a distance of 162.3 Feet; thence North 95.9 Feet; thence North 88°45' East a distance of 162.3 Feet; thence South a distance of 95.9 Feet to the point of beginning;

See attached US71 & IA7 (Flindt Drive) Easement Exhibit for a description of the permanent easement by reference to an Assessor's Parcel Number and a graphic depiction of such easement;

(the "Easement Area").

SECTION II.

TERM

The rights granted herein shall be possessed and enjoyed by Grantee, its successors and assigns so long as the water main constructed pursuant hereto shall be maintained and operated by Grantee, its successors or assigns.

SECTION III.

ADDITIONAL RIGHTS OF GRANTEE

Grantee shall have the right of ingress and egress to and from Easement Area for any and all purposes necessary or convenient to the exercise by Grantee of the rights granted herein.

SECTION IV.

RIGHTS OF GRANTOR

Grantor reserves the right to use and enjoy the Easement Area to the fullest possible extent without unreasonable interference with the exercise by Grantee of the rights granted herein. In this regard, neither Grantor nor Grantee shall have the right to locate any building or any surface installation on the Easement Area or to fence the whole or any part thereof.

SECTION V.

WATER MAIN DEPTH; TREATMENT AND RESTORATION OF SURFACE

Grantee agrees to bury the water main to a depth sufficient to avoid any interference with the normal uses which Grantor might make of Grantor's property. In the construction of the water main or the exercise of its other rights under this agreement, Grantee shall remove the topsoil from the Easement Area separately from the other materials removed by Grantee in such construction or in the exercise of other rights under this agreement, and shall replace said topsoil in the right of way upon completion of the water main or other work thereon. Following completion of the construction or other exercise of its rights under this agreement, Grantee shall restore the Easement Area as near to its condition before the construction or other work as possible. Grantee further agrees that, after any restoration, the Easement Area shall be left free of any large stones, holes or piles of dirt, and the Easement Area shall be reseeded to grass, if necessary. With regard to such restoration following construction or other work permitted by this agreement, Grantee shall accomplish it so that the affected easement area is in as near as possible to the condition it was in before the construction or other work within a reasonable time after the completion of the construction of the water main or other work thereon.

SECTION VI.

WARRANTY OF TITLE

Grantor covenants that it is the owner of the real estate described herein that is subject to the easement and has the right, title and capacity to grant said premises.

SECTION VII.

EFFECT OF AGREEMENT

This Agreement shall be binding upon the heirs, legal representatives, successors or assigns

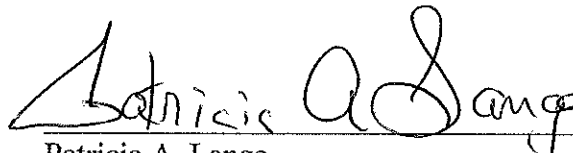
of the parties hereto.

IN WITNESS WHEREOF, the parties have executed this Agreement in Storm Lake, Iowa,
on the day and year first above written.

GRANTEE:

GRANTOR:

CITY OF STORM LAKE, IOWA


Patricia A. Lange

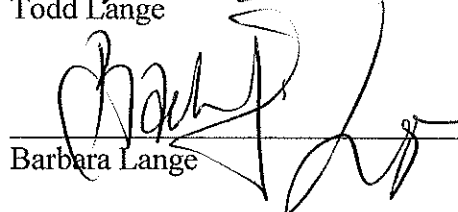
By: _____
Jon F. Kruse, Mayor


David Lange

ATTEST:


Todd Lange

Sue Vossberg, City Clerk


Barbara Lange

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged before me on _____, 2016, by Jon F. Kruse and
Sue Vossberg, as Mayor and City Clerk of the City of Storm Lake, Iowa.

Notary Public for the State of Iowa

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged before me on October 13, 2016, by
Patricia A. Lange and David Lange, wife and husband.



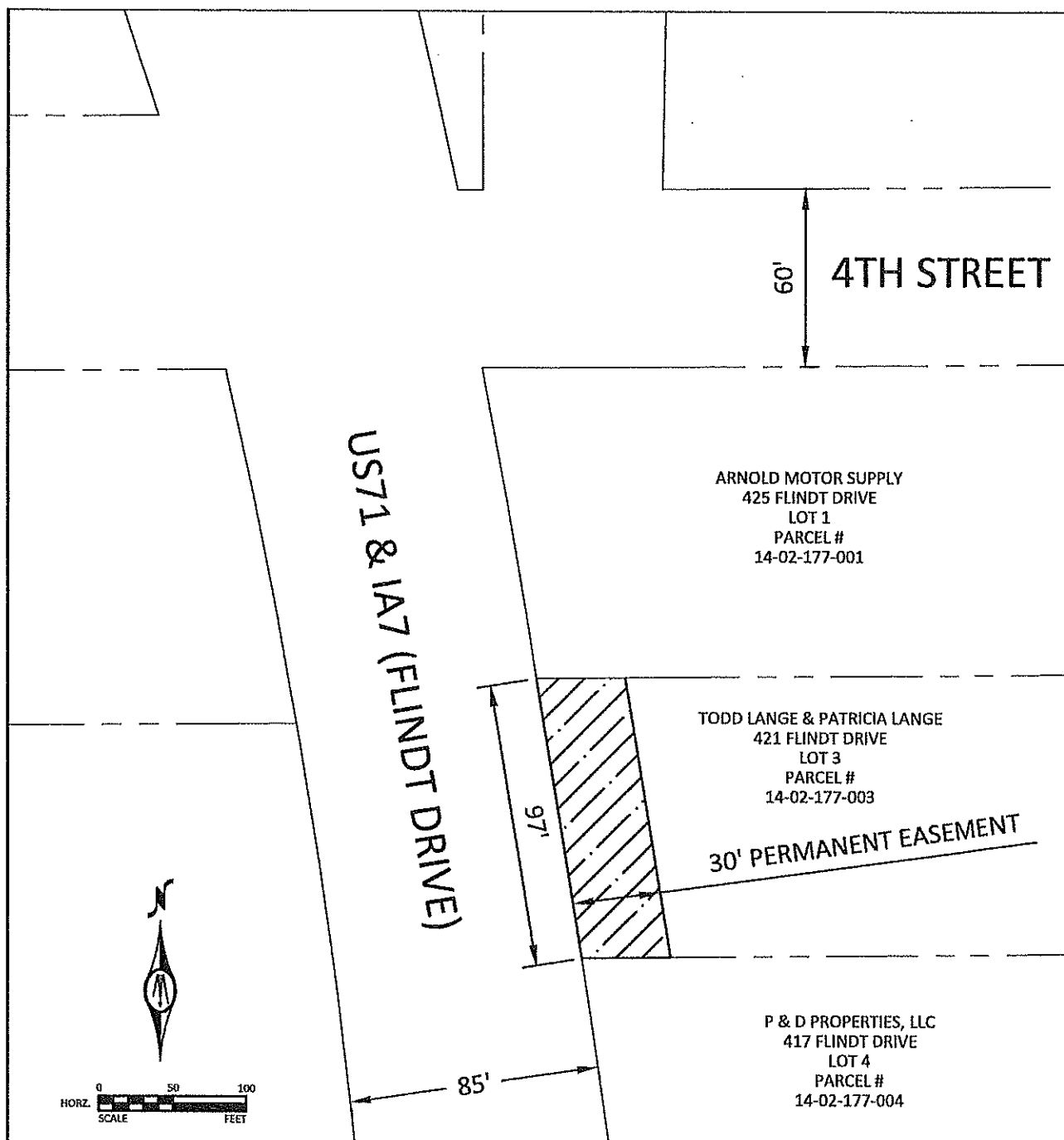
Susan Vossberg
Notary Public for the State of Iowa

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged before me on October 13, 2016, by Todd
Lange and Barbara Lange, husband and wife.



Susan Vossberg
Notary Public for the State of Iowa



PERMANENT WATERMAIN EASEMENT

THE WEST 30 FEET OF PARCEL 1402177003 LYING DIRECTLY EAST OF US71 & IA7 FLINDT DRIVE RIGHT OF WAY AND LYING SOUTH OF PARCEL 1402177001, 421 FLINDT DRIVE, STORM LAKE, BUENA VISTA COUNTY, IOWA.



BOLTON & MENK, INC.

Consulting Engineers & Surveyors
218 11TH STREET SW PLAZA - SPENCER, IOWA 51301
Phone: (712)-580-5075 Email: Spencer@bolton-menk.com
www.bolton-menk.com

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CITY OF STORM LAKE, IOWA
2016 WATERMAIN IMPROVEMENTS
US71 & IA7 (FLINDT DRIVE) EASEMENT EXHIBIT

SEPTEMBER, 2016

FIGURE NO. 3

Staff Summary

10/17/2016

Agenda Item # D.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Scott Olesen, Building Official

SUBJECT: Motion to Approve Stormwater Management Facilities
Maintenance Covenant And Permanent Easement Agreement For
Storm Lake Development Group, L.L.C.

BACKGROUND: Storm Lake Development Group, L.L.C. has constructed a new
commercial/retail facility located at 1515 Lake Avenue in Storm
Lake.

As a part of this new project, they are required to comply with our Post Construction Stormwater Control Ordinance. This Ordinance requires projects to control stormwater run off from the site.

The basic premise is that the post development rate of stormwater runoff should not exceed the pre-development rate. Since new projects involve the addition of buildings and other hard surfaces such as parking lots, it is usually required to install features such as storm water detention basins or rain gardens which both control the rate of stormwater run off and clean the water leaving the site.

As a part of this project, Storm Lake development Group, L.L.C. has constructed two infiltration basins, one on the west side of the parking lot and one on the east.

These facilities require a certain amount of maintenance, depending on their complexity. The attached agreement accomplishes two things. First, it provides for a recorded easement to allow the City of Storm Lake access to to the stormwater features for inspection and if necessary, repairs in the future. And second, provides a covenant that is binding on successive owners of the property to maintain the stormwater controls if the property is sold in the future.

Once approved by the Storm Lake City Council, Storm Lake Development Group, L.L.C. will record the executed document.
City of Storm Lake Attorney's fees estimated at \$500.00.

FISCAL IMPACT:

RECOMMENDATION: Approve the attached Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement submitted by Storm Lake Development Group, L.L.C.

ATTACHMENTS:

Description		Type
	Easement	Backup Material

Prepared by and return to: John M. Murray, Murray & Murray, PLC, 530 Erie, PO Box 27, Storm lake, IA 50588, 712-732-8181

**STORMWATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND
PERMANENT EASEMENT AGREEMENT**

THIS STORMWATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT is entered into by and between **Storm Lake Development Group, L.L.C.** (the "**Grantor**") and the **City of Storm Lake, Iowa** ("**City**"), in consideration of the approval by the City of the Grantor's Stormwater Management Final Plan for real estate described as:

A Parcel of Land located in the West Half of the Northeast Quarter (W1/2 NE1/4) of Section Thirty-four (34), Township Ninety-one (91) North, Range Thirty-seven (37) West of the 5th P.M., more particularly described as follows: Commencing at the Southwest Corner of the Northeast Quarter (NE1/4) of Section 34, Township 91 North, Range 37 West of the 5th P.M.; Thence due North along the West line of said Northeast Quarter a distance of 1312.0 feet to the Point of Beginning; Thence due North a distance of 180 feet; Thence due East a distance of 250 feet; Thence due South a distance 180 feet; Thence due West a distance 250 feet to the Point of Binning, and containing an are of 1.03 Acres of which 0.23 Acres of which 0.23 Acres are existing highway right of way;

AND

Lot (3), Block one (1), Geisingers Commercial First Addition to the City of Storm Lake, Iowa;

AND

LOT FIVE C (5C) OF BRASHEARS FIRST ADDITION A SUBDIVISION OF LOT FIVE (5), BLOCK ONE (1), GEISINGER'S COMMERCIAL SECOND ADDITION TO THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA.

(the “*Benefited Property*”). Grantor is obligated by the City Code of the City of Storm Lake to control stormwater runoff and provide water quality improvements for the proposed improvements to the Benefited Property as a part of the Stormwater Management Final Plan approval process. In consideration for the City’s approval of the Grantor’s Stormwater Management Final Plan for the Benefited Property (the “*Plan*”), the parties have entered into this Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement (the “*Agreement*”) to control and address stormwater runoff and water quality for the Benefited Property.

The following provisions are covenants running with the land to the benefit of the City of Storm Lake, Iowa, binding on Grantor and Grantor’s heirs, successors and assigns in interest to the Benefited Property, and shall only be amended or released with the written permission of the City.

PART I – COVENANTS ON THE BENEFITED PROPERTY

1. Description of Easement Areas. Grantor hereby agrees that the stormwater runoff and water quality for the Benefited Property shall be controlled through installation, construction and maintenance of one or more Bio-retention Cells (hereinafter referred to as the Stormwater Management Facilities), more specifically described in the Plan on file with the City, upon, over, under, through and across the following described real estate:

Reference is made to Exhibit “A”, being two Plats of Survey dtd April 22, 2016, and being fully incorporated herein

(the “*Easement Areas*”).

2. Stormwater Management Plan.

A. The Stormwater Management Facilities required to serve the Benefited Property shall be designed, constructed and maintained to meet the requirements of the City Code of the City of Storm Lake, Iowa, as of the date of this Agreement. Grantor covenants and agrees to design, construct and maintain the Stormwater Management Facilities in compliance with the plans and specifications for the Bio-retention Cells, being part of the Plan now on file and available for public inspection in the office of the Building Official of the City of Storm Lake.

B. Subject to the prior written approval by the City, the Plan may be amended by Grantor. Subject to the prior written approval by the City, the portion of the Plan for facilities located upon a parcel or group of parcels may be amended by the owners of all such parcels.

3. Transfer of Grantor’s Obligations. It is hereby agreed that Grantor shall construct and install the Stormwater Management Facilities in substantial compliance with the Plan. Grantor’s obligations under this Agreement may not and shall not be transferred to the Grantor’s successors and assigns in ownership of the Benefited Property until the City provides written

acknowledgment to Grantor that the Stormwater Management Facilities have been completed by Grantor in substantial compliance with the Plan. To be in substantial compliance the Stormwater Management Facilities must satisfy the requirements of the City Code of the City of Storm Lake, Iowa.

4. Annual Inspections. The Grantor shall inspect the Stormwater Management Facilities on an annual basis. The inspection shall include inspecting the Easement Areas and Stormwater Management Facilities, including but not limited to all pipes, inlets, outlets and basins, for defects, obstructions and changes from the Stormwater Management Plan. The Grantor shall document such inspection by completing the Inspection Report Form available from the City Building Inspector and attaching thereto date stamped photographs of the Stormwater Management Facilities. Any deficiencies or defects noted by the inspection shall be corrected by the Grantor as provided in Section 9, below. The Inspection Report Form and photographs shall be made available to the City for review upon request and shall be kept and maintained for a period of 5 years. Failure to comply with the requirements of this paragraph may constitute a violation of the City's City Code subject to punishment as a municipal infraction.

5. Failure to Maintain.

A. Grantor acknowledges and agrees, on behalf of Grantor, the Association, and Grantor's successors and assigns in ownership of the Benefited Property, that if the Stormwater Management Facilities are not maintained in substantial compliance with the Plan, the Stormwater Management Facilities will not serve their intended purpose of controlling the quantity and quality of stormwater runoff from the Benefited Property, and will constitute a nuisance detrimental to the public health and safety.

B. The Grantor and its successors and assigns of any portion of the Easement Areas identified above shall abate any nuisance arising from any failure by such owners to maintain the portion of the Easement Areas owned by such owners as provided in Section 8, below. If the owners fail to abate any such nuisance upon their property by performing those obligations imposed upon the property owner by Section 7, below, within a reasonable time after receipt of notice from the City, the City may cause such work to be done to abate the nuisance, and assess the reasonable and necessary costs of such work, including the cost of materials and equipment, as a special assessment upon the lot, parcel or condominium units owned by such owners.

C. The Grantor and its successors and assigns of any portion of the Easement Areas identified above shall abate any nuisance arising from any failure by the Grantor to maintain and repair the Stormwater Management Facilities as provided in Section 8, below. If the owners fail to abate any such nuisance by repairing, reconstructing, grading, dredging and replanting the Stormwater Management Facilities as necessary to restore such facilities into substantial compliance with the Plan within a reasonable time after receipt of notice from the City, the City may cause such work to be done to abate the nuisance, and assess the reasonable and necessary costs of such work, including the cost of materials and equipment, as a special assessment upon the Benefited Property. The cost to abate or correct said deficiencies shall be

assessed against the Benefited Property as a special assessment and shall be a lien on the property, billed and collected as ordinary taxes.

D. Grantor hereby agrees and consents on behalf of itself, and all successors and assigns of the Benefited Property to assessment of the costs of maintaining, reconstructing, repairing, grading, dredging and replanting the Easement Areas and Stormwater Management Facilities in the manner set forth in this Section, and further waives any right of notice, benefit or value as it pertains to the amount of the special assessments and waives its rights to appeal such assessment, excepting the correction of any errors in the calculation of the reasonable and necessary costs incurred by the City to maintain and restore the Stormwater Management Facilities into substantial compliance with the Plan.

PART II – Easement for Stormwater Management Facilities

6. Grant of Easement. Grantor hereby grants to the City a Permanent Stormwater Management Facilities Maintenance Easement under, over, through and across the Easement Areas, the Benefited Property, and the Stormwater Management Facilities for the purpose of inspecting each at reasonable times, and for the purpose of constructing, reconstructing, repairing, grading and maintaining the Stormwater Management Facilities and the surface of the Easement Areas in substantial compliance with the Plan.

7. Duties of Individual Owners of Easement Areas. Grantor and all subsequent owners of the Benefited Property or Easement Areas shall be responsible for the following for the Easement Areas within their property:

Affirmative Covenants:

- a. Removal all trash, litter, debris or obstructions to the flow of water in the Easement Area and any inlets or outlets located within the Easement Area.

Negative Covenants:

- b. No chemicals or substances shall be applied to the Easement Area that shall harm or impair the effectiveness of the Stormwater Management Facilities or Water Quality measures.
- c. No trees and shrubs shall be planted or allowed to grow within the Easement Area, other than plantings required by the Stormwater Management Plan.
- d. No portion of the Stormwater Management Facilities shall be altered or removed without the prior written approval of the City Engineer.
- e. No structure shall be erected on, over or within an Easement Area without the prior written approval of the City Engineer.
- f. No change shall be made to the grade, elevation or contour of any part of the Easement Area without obtaining the prior written approval of the City Engineer.
- g. No structure, material, device, thing or matter which could reasonably be expected to obstruct or impede the normal flow of surface water over the Easement Area shall be

erected or caused to be placed on the Easement Area without obtaining the prior written approval of the City Engineer.

- h. No Easement Area shall be used as a compost site, or for the disposal of yard wastes or other materials.

8. Duties of the Grantor. From and after completion of the Stormwater Management Facilities in substantial compliance with the Plan, the Grantor and all subsequent owners of the Benefited Property and Easement Areas shall maintain the Easement Areas and the Stormwater Management Facilities as follows:

A. Inspections. The Grantor or subsequent owners of the Easement Areas shall annually inspect all Easement Areas and Stormwater Management Facilities serving the Benefited Property as more specifically provided in Section 4, above.

B. General. The Grantor shall not take any action prohibited by the Negative Covenants in paragraphs b through h of Section 7, above.

C. Storm Sewer Easement Area: The Grantor or the owner of any of the Easement Areas shall be responsible to repair and replace the Stormwater Management Facilities in any Easement Area owned by such Grantor or owner as necessary to maintain the Stormwater Management Facilities in substantial compliance with the Plan.

9. Access to Easement Areas. The Grantor, the City and their agents, contractors, employees and assigns shall have the right of access to the Easement Areas and Benefited Property and have all rights of ingress and egress reasonably necessary for the use and benefit of the Easement Areas as herein described, including, but not limited to, the right to remove any unauthorized plantings or structures placed or erected on the Easement Areas and the right to do maintenance, repair, reconstruction, grading and dredging as determined by the City to be necessary to restore the Stormwater Management Facilities to substantial compliance with the Plan.

10. Application to City. Nothing in this Agreement shall be construed to impose an obligation upon the City to maintain the Easement Areas or the Stormwater Management Facilities.

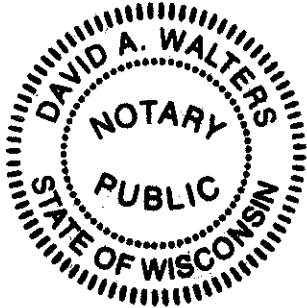
11. Successor's and Assigns. This Agreement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

12. Grantor's Representations and Covenants. Grantor does hereby covenant with the City that Grantor holds said real estate described in this Agreement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever.

13. Relinquishment of Rights of Dower, Homestead and Distributive Share. Each of the undersigned Grantors hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Agreement.

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

IN WITNESS WHEREOF, the Grantors hereto have executed this Agreement this _____ day of _____, 2016.



STORM LAKE DEVELOPMENT GROUP, L.L.C.

By: Richard W. Johnson
Name: RICHARD W. JOHNSON

Capacity: Manager

ACCEPTED AND APPROVED by the City of Storm Lake, Iowa, on the _____ day of _____, 2016.

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

STATE OF WISCONSIN, COUNTY OF BROWN

This record was acknowledged this 5TH day of OCTOBER, 2016, by RICHARD W. JOHNSON as Manager of Storm Lake Development Group, L.L.C.

David A. Walters
Notary Public in and for the State of ~~Iowa~~ WISCONSIN
Expiring: 4-20-18

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged this _____ day of _____, 2016, by Jon F. Kruse and Sue Vossberg, as Mayor and City Clerk of the City of Storm Lake, Iowa.

Notary Public in and for the State of Iowa

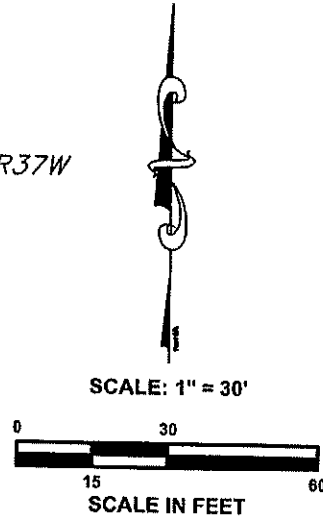
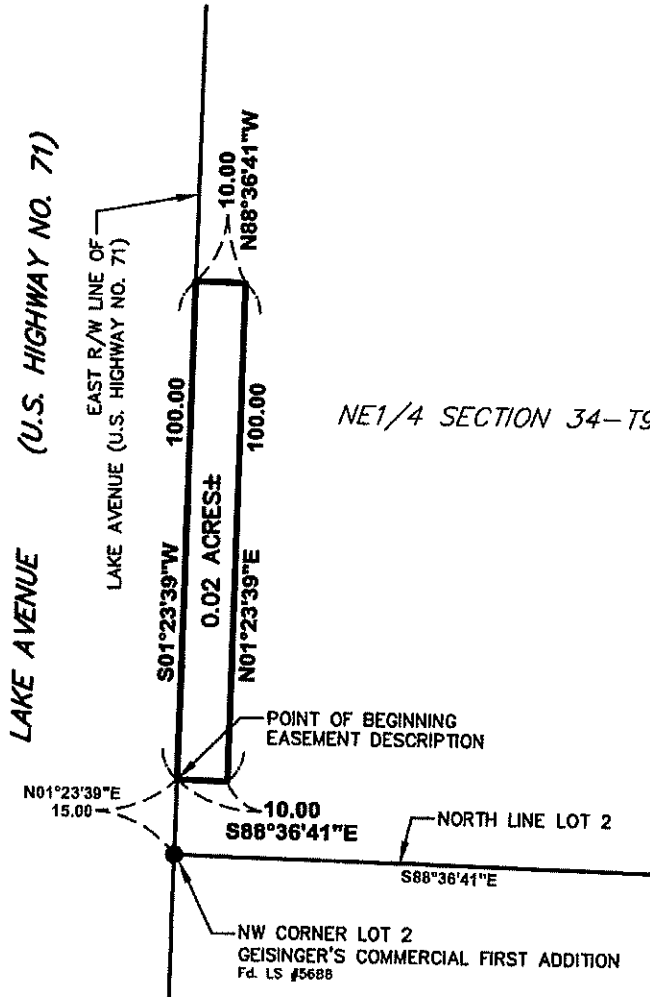
EXHIBIT “A”

PLATS OF SURVEY

DATED APRIL 22, 2016

PLAT OF SURVEY

IN NE1/4 SECTION 34-T91N-R37W
STORM LAKE, BUENA VISTA COUNTY, IOWA



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Copyright and all rights are reserved. The use of
this drawing and format is strictly prohibited
without the written consent and permission of
Jones, Haugh & Smith Inc.

PREPARED EASEMENT DESCRIPTION

An easement for construction and maintenance of drainage facilities over, under and across all that part of the NE1/4 Section 34-T91N-R37W, Buena Vista County, Iowa; said easement described as follows;

Commencing at the northwest corner of Lot 2, Geisinger's Commercial First Addition, as the same is platted and recorded in the office of the County Recorder of Buena Vista County, Iowa; thence North 01°23'39" East a distance of 15.00 feet, on an assumed bearing on the east right-of-way line of U.S. Highway No. 71, to the point of beginning;

thence South 88°36'41" East a distance of 10.00 feet, parallel with the north line of said Lot 2;

thence North 01°23'39" East a distance of 100.00 feet, parallel with said east right-of-way line;

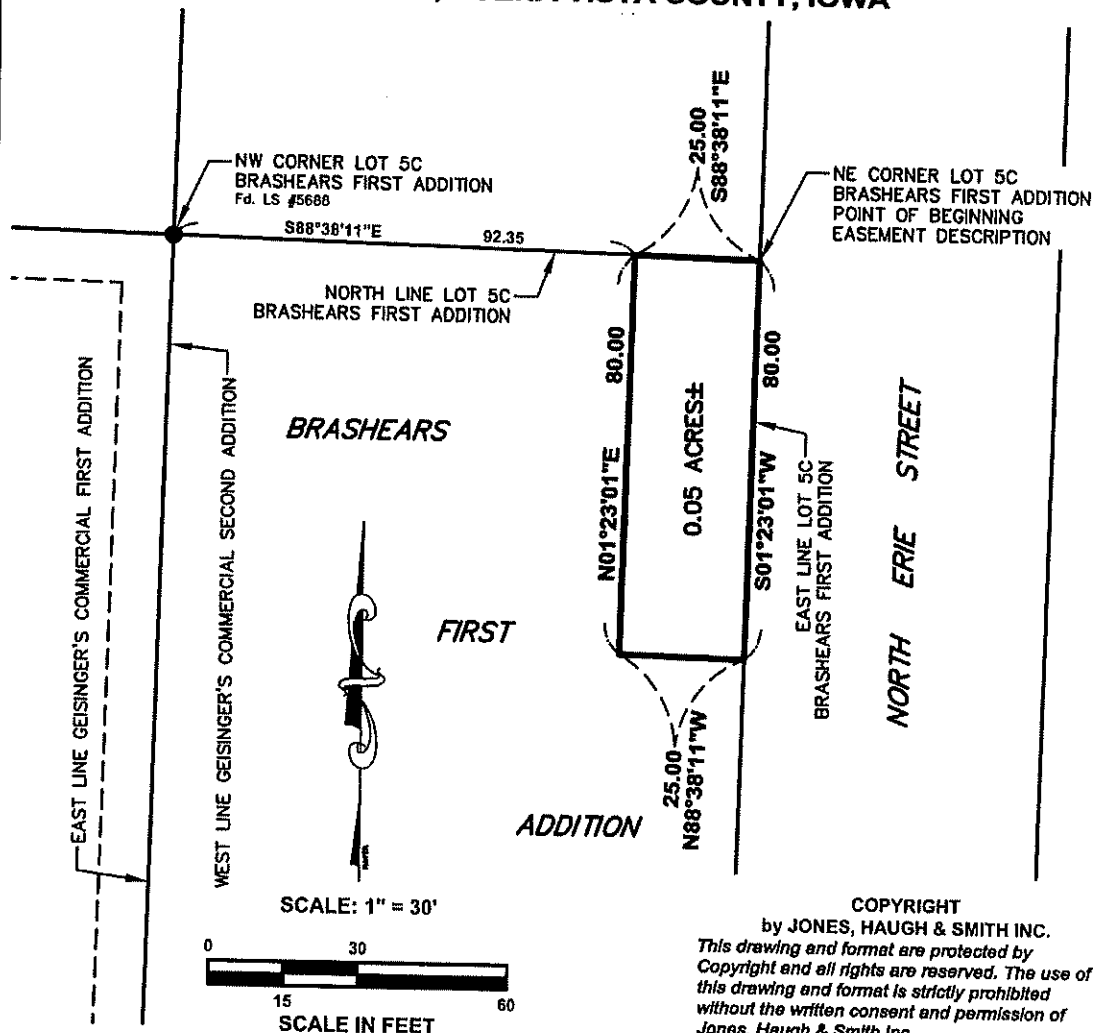
thence North 88°36'41" West a distance of 10.00 feet, parallel with north line of said Lot 2, to the said east right-of-way line;

thence South 01°23'39" West a distance of 100.00 feet, on said east right-of-way line, to the point of beginning.

LOCATION MAP 	CLIENT: UDG, LLC. Date of survey: 3/30/2016 Revised date: - Drawn by: ADM Survey: - Book: - Page 1 of 1 Coord-System: IA, RCS ZONE 2 Job No.: 16-072EASE-2		I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa. Steven J. Thompson DATE 4-22-16 License number 13147 My license renewal date is December 31, 2016 Pages or sheets covered by this seal: Plat of Survey Legal Description
MONUMENTS ○ = 5/8" x 16" rebar stake mon. (Capped RLS 13147)-Placed ● = Iron stake mon.-Found ⊙ = Drill Hole	 JONES HAUGH SMITH Engineers + Surveyors	515 South Washington Ave. Albert Lea, MN 56007 507-373-4876 415 West North Street Owatonna, MN 55060 507-451-4588	

PLAT OF SURVEY

IN LOT 5C, BRASHEARS FIRST ADDITION STORM LAKE, BUENA VISTA COUNTY, IOWA



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this drawing and format is strictly prohibited
without the written consent and permission of
Jones, Haugh & Smith Inc.

PREPARED EASEMENT DESCRIPTION

An easement for construction and maintenance of drainage facilities over, under and across all that part of Lot 5C, Brashears First Addition, as the same is platted and recorded in the office of the County Recorder of Buena Vista County, Iowa; said easement described as follows;

Commencing at the northeast corner of said Lot 5C;

thence South 01°23'01" West a distance of 80.00 feet, on the east line of said Lot 5C;

thence North 88°38'11" West a distance of 25.00 feet, parallel with the north line of said Lot 5C;

thence North 01°23'01" East a distance of 80.00 feet, parallel with the east line of said Lot 5C, to the north line of said Lot 5C;

thence South 88°38'11" East a distance of 25.00 feet, on the north line of said Lot 5C, to the point of beginning.

LOCATION MAP NW1/4 NE1/4 34 SW1/4 SE1/4 T91N R37W 1" = 4000'	CLIENT: UDG, LLC. Date of survey: 3/30/2016 Revised date: - Drawn by: ADM Survey: - Book: - Page 1 of 1 Coord-System: IA. RCS ZONE 2 Job No.: 16-072EASE1	SEAL LICENSED LAND SURVEYOR STEVEN J. THOMPSON 13147 IOWA	I hereby certify that this land surveying document was prepared and the related survey work was performed by me or under my direct personal supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Iowa.
MONUMENTS ○ = 5/8" x 16" rebar stake mon. (Capped RLS 13147)-Placed = Iron stake mon.-Found = Drill Hole	 JONES HAUGH SMITH Engineers + Surveyors	515 South Washington Ave. Albert Lea, MN 56007 507-373-4876 415 West North Street Owatonna, MN 55060 507-451-4598	Steven J. Thompson DATE 4-22-16 License number 13147 My license renewal date is December 31, 2016. Pages or sheets covered by this seal: Plat of Survey Legal Description

Staff Summary

10/17/2016

Agenda Item # E.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Scott Olesen, Building Official

SUBJECT: Stormwater Management Facilities Maintenance Covenant And Permanent Easement Agreement For Buena Vista Regional Medical Center.

BACKGROUND: Buena Vista Regional Medical Center is constructing a new parking lot at 1525 West Fifth Street in Storm Lake.

As a part of this new parking lot project, they are required to comply with our Post Construction Stormwater Control Ordinance. This Ordinance requires projects to control stormwater run off from the site.

The basic premise is that the post development rate of stormwater runoff should not exceed the pre-development rate. Since the new parking lot involves the addition of increased hard surfaced area over the previous use, it is required that the developer install features such as storm water detention basins or rain gardens which both control the rate of stormwater run off and clean the water leaving the site.

As a part of this project, Buena Vista Regional Medical Center has constructed a vegetated swale and an infiltration basin, on the west, north and east sides of the parking lot.

These facilities require a certain amount of maintenance, depending on their complexity. The attached agreement accomplishes two things. First, it provides for a recorded easement to allow the City of Storm Lake access to the stormwater features for inspection and if necessary, repairs in the future. And second, provides a covenant that is binding on successive owners of the property to maintain the stormwater controls if the property is sold in the future.

Once approved by the Storm Lake City Council, Buena Vista Regional Medical Center will record the executed document.
City of Storm Lake Attorney's fees estimated at \$500.00.

FISCAL IMPACT:

RECOMMENDATION: Approve the attached Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement submitted by Buena Vista Regional Medical Center.

ATTACHMENTS:

Description		Type
☐	Easement - BVRMC	Backup Material

Prepared by and return to: John M. Murray, Murray & Murray, PLC, 530 Erie, PO Box 27, Storm lake, IA 50588, 712-732-8181

STORMWATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT

THIS STORMWATER MANAGEMENT FACILITIES MAINTENANCE COVENANT AND PERMANENT EASEMENT AGREEMENT is entered into by and between **Buena Vista Regional Medical Center** (the “*Grantor*”) and the **City of Storm Lake, Iowa** (“*City*”), in consideration of the approval by the City of the Grantor’s Stormwater Management Final Plan for real estate described as:

Portions of Garden Grove, and of Garden Grove 2nd and 4th Additions to the City of Storm Lake, as shown on attached Exhibit “A”, incorporated herein.

(the “*Benefited Property*”). Grantor is obligated by the City Code of the City of Storm Lake to control stormwater runoff and provide water quality improvements for the proposed improvements to the Benefited Property as a part of the Stormwater Management Final Plan approval process. In consideration for the City’s approval of the Grantor’s Stormwater Management Final Plan for the Benefited Property (the “*Plan*”), the parties have entered into this Stormwater Management Facilities Maintenance Covenant and Permanent Easement Agreement (the “*Agreement*”) to control and address stormwater runoff and water quality for the Benefited Property.

The following provisions are covenants running with the land to the benefit of the City of Storm Lake, Iowa, binding on Grantor and Grantor’s heirs, successors and assigns in interest to the Benefited Property, and shall only be amended or released with the written permission of the City.

PART I – COVENANTS ON THE BENEFITED PROPERTY

1. Description of Easement Areas. Grantor hereby agrees that the stormwater runoff and water quality for the Benefited Property shall be controlled through installation, construction and maintenance of one or more Bio-retention Cells (hereinafter referred to as the Stormwater Management Facilities), more specifically described in the Plan on file with the City, upon, over, under, through and across the following described real estate:

Reference is made to Exhibit "B", being an Easement Plat, incorporated herein.

(the "*Easement Areas*").

2. Stormwater Management Plan.

A. The Stormwater Management Facilities required to serve the Benefited Property shall be designed, constructed and maintained to meet the requirements of the City Code of the City of Storm Lake, Iowa, as of the date of this Agreement. Grantor covenants and agrees to design, construct and maintain the Stormwater Management Facilities in compliance with the plans and specifications for the Bio-retention Cells, being part of the Plan now on file and available for public inspection in the office of the Building Official of the City of Storm Lake.

B. Subject to the prior written approval by the City, the Plan may be amended by Grantor. Subject to the prior written approval by the City, the portion of the Plan for facilities located upon a parcel or group of parcels may be amended by the owners of all such parcels.

3. Transfer of Grantor's Obligations. It is hereby agreed that Grantor shall construct and install the Stormwater Management Facilities in substantial compliance with the Plan. Grantor's obligations under this Agreement may not and shall not be transferred to the Grantor's successors and assigns in ownership of the Benefited Property until the City provides written acknowledgment to Grantor that the Stormwater Management Facilities have been completed by Grantor in substantial compliance with the Plan. To be in substantial compliance the Stormwater Management Facilities must satisfy the requirements of the City Code of the City of Storm Lake, Iowa.

4. Annual Inspections. The Grantor shall inspect the Stormwater Management Facilities on an annual basis. The inspection shall include inspecting the Easement Areas and Stormwater Management Facilities, including but not limited to all pipes, inlets, outlets and basins, for defects, obstructions and changes from the Stormwater Management Plan. The Grantor shall document such inspection by completing the Inspection Report Form available from the City Building Inspector and attaching thereto date stamped photographs of the Stormwater Management Facilities. Any deficiencies or defects noted by the inspection shall be corrected by the Grantor as provided in Section 9, below. The Inspection Report Form and photographs shall be made available to the City for review upon request and shall be kept and maintained for a period of 5 years. Failure to comply with the requirements of this paragraph may constitute a violation of the City's City Code subject to punishment as a municipal infraction.

5. Failure to Maintain.

A. Grantor acknowledges and agrees, on behalf of Grantor, the Association, and Grantor's successors and assigns in ownership of the Benefited Property, that if the Stormwater Management Facilities are not maintained in substantial compliance with the Plan, the

Stormwater Management Facilities will not serve their intended purpose of controlling the quantity and quality of stormwater runoff from the Benefited Property, and will constitute a nuisance detrimental to the public health and safety.

B. The Grantor and its successors and assigns of any portion of the Easement Areas identified above shall abate any nuisance arising from any failure by such owners to maintain the portion of the Easement Areas owned by such owners as provided in Section 8, below. If the owners fail to abate any such nuisance upon their property by performing those obligations imposed upon the property owner by Section 7, below, within a reasonable time after receipt of notice from the City, the City may cause such work to be done to abate the nuisance, and assess the reasonable and necessary costs of such work, including the cost of materials and equipment, as a special assessment upon the lot, parcel or condominium units owned by such owners.

C. The Grantor and its successors and assigns of any portion of the Easement Areas identified above shall abate any nuisance arising from any failure by the Grantor to maintain and repair the Stormwater Management Facilities as provided in Section 8, below. If the owners fail to abate any such nuisance by repairing, reconstructing, grading, dredging and replanting the Stormwater Management Facilities as necessary to restore such facilities into substantial compliance with the Plan within a reasonable time after receipt of notice from the City, the City may cause such work to be done to abate the nuisance, and assess the reasonable and necessary costs of such work, including the cost of materials and equipment, as a special assessment upon the Benefited Property. The cost to abate or correct said deficiencies shall be assessed against the Benefited Property as a special assessment and shall be a lien on the property, billed and collected as ordinary taxes.

D. Grantor hereby agrees and consents on behalf of itself, and all successors and assigns of the Benefited Property to assessment of the costs of maintaining, reconstructing, repairing, grading, dredging and replanting the Easement Areas and Stormwater Management Facilities in the manner set forth in this Section, and further waives any right of notice, benefit or value as it pertains to the amount of the special assessments and waives its rights to appeal such assessment, excepting the correction of any errors in the calculation of the reasonable and necessary costs incurred by the City to maintain and restore the Stormwater Management Facilities into substantial compliance with the Plan.

PART II – Easement for Stormwater Management Facilities

6. Grant of Easement. Grantor hereby grants to the City a Permanent Stormwater Management Facilities Maintenance Easement under, over, through and across the Easement Areas, the Benefited Property, and the Stormwater Management Facilities for the purpose of inspecting each at reasonable times, and for the purpose of constructing, reconstructing,

repairing, grading and maintaining the Stormwater Management Facilities and the surface of the Easement Areas in substantial compliance with the Plan.

7. Duties of Individual Owners of Easement Areas. Grantor and all subsequent owners of the Benefited Property or Easement Areas shall be responsible for the following for the Easement Areas within their property:

Affirmative Covenants:

- a. Removal all trash, litter, debris or obstructions to the flow of water in the Easement Area and any inlets or outlets located within the Easement Area.

Negative Covenants:

- b. No chemicals or substances shall be applied to the Easement Area that shall harm or impair the effectiveness of the Stormwater Management Facilities or Water Quality measures.
- c. No trees and shrubs shall be planted or allowed to grow within the Easement Area, other than plantings required by the Stormwater Management Plan.
- d. No portion of the Stormwater Management Facilities shall be altered or removed without the prior written approval of the City Engineer.
- e. No structure shall be erected on, over or within an Easement Area without the prior written approval of the City Engineer.
- f. No change shall be made to the grade, elevation or contour of any part of the Easement Area without obtaining the prior written approval of the City Engineer.
- g. No structure, material, device, thing or matter which could reasonably be expected to obstruct or impede the normal flow of surface water over the Easement Area shall be erected or caused to be placed on the Easement Area without obtaining the prior written approval of the City Engineer.
- h. No Easement Area shall be used as a compost site, or for the disposal of yard wastes or other materials.

8. Duties of the Grantor. From and after completion of the Stormwater Management Facilities in substantial compliance with the Plan, the Grantor and all subsequent owners of the Benefited Property and Easement Areas shall maintain the Easement Areas and the Stormwater Management Facilities as follows:

A. Inspections. The Grantor or subsequent owners of the Easement Areas shall annually inspect all Easement Areas and Stormwater Management Facilities serving the Benefited Property as more specifically provided in Section 4, above.

B. General. The Grantor shall not take any action prohibited by the Negative Covenants in paragraphs b through h of Section 7, above.

C. Storm Sewer Easement Area: The Grantor or the owner of any of the Easement Areas shall be responsible to repair and replace the Stormwater Management Facilities in any Easement Area owned by such Grantor or owner as necessary to maintain the Stormwater Management Facilities in substantial compliance with the Plan.

9. Access to Easement Areas. The Grantor, the City and their agents, contractors, employees and assigns shall have the right of access to the Easement Areas and Benefited Property and have all rights of ingress and egress reasonably necessary for the use and benefit of the Easement Areas as herein described, including, but not limited to, the right to remove any unauthorized plantings or structures placed or erected on the Easement Areas and the right to do maintenance, repair, reconstruction, grading and dredging as determined by the City to be necessary to restore the Stormwater Management Facilities to substantial compliance with the Plan.

10. Application to City. Nothing in this Agreement shall be construed to impose an obligation upon the City to maintain the Easement Areas or the Stormwater Management Facilities.

11. Successor's and Assigns. This Agreement shall be deemed to run with the land and shall be binding on Grantor and on Grantor's successors and assigns.

12. Grantor's Representations and Covenants. Grantor does hereby covenant with the City that Grantor holds said real estate described in this Agreement by title in fee simple; that Grantor has good and lawful authority to convey the same; and said Grantor covenants to warrant and defend the said premises against the lawful claims of all persons whomsoever.

13. Relinquishment of Rights of Dower, Homestead and Distributive Share. Each of the undersigned Grantors hereby relinquishes all rights of dower, homestead and distributive share, if any, in and to the interests conveyed by this Agreement.

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

IN WITNESS WHEREOF, the Grantors hereto have executed this Agreement this _____ day of October, 2016.

BUENA VISTA REGIONAL MEDICAL CENTER

By: _____

Rob Colerick

Capacity: Chief Executive Officer

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged this _____ day of October, 2016, by Rob Colerick, as Chief Executive Officer of Buena Vista Regional Medical Center.

Notary Public in and for the State of Iowa

ACCEPTED AND APPROVED by the City of Storm Lake, Iowa, on the ____ day of October, 2016.

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

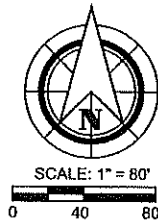
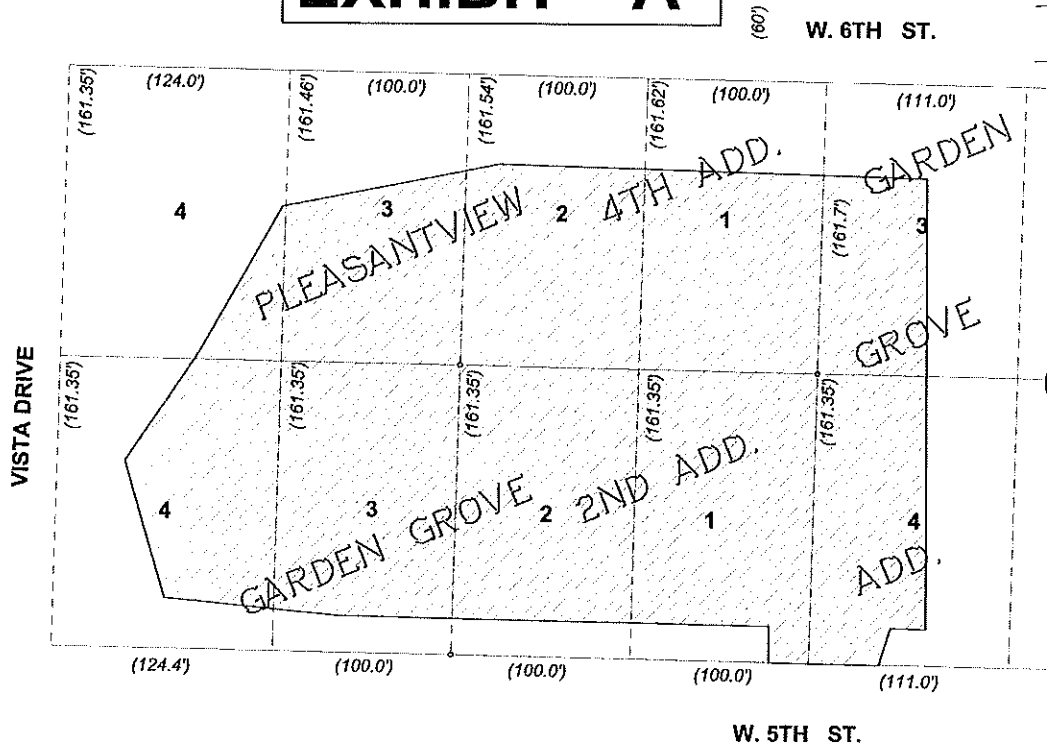
Sue Vossberg, City Clerk

STATE OF IOWA, COUNTY OF BUENA VISTA

This record was acknowledged this _____ day of October, 2016, by Jon F. Kruse and Sue Vossberg, as Mayor and City Clerk of the City of Storm Lake, Iowa.

Notary Public in and for the State of Iowa

EXHIBIT "A"



LEGEND



= BIO-RETENTION CELL
WATERSHED

(100)

= RECORDED
DIMENSION

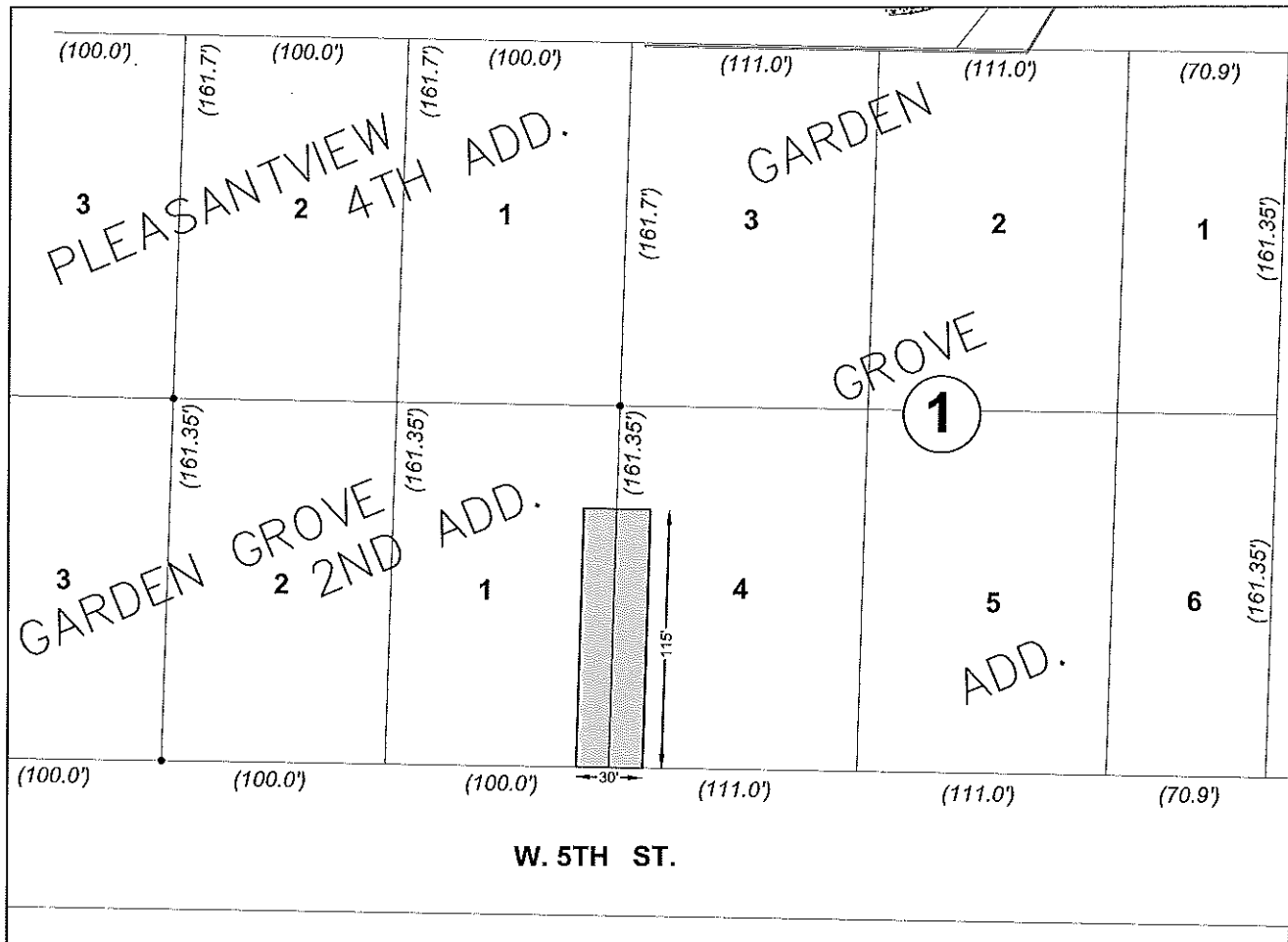
BENEFITED PROPERTIES
BIO-RETENTION CELL
PART OF GARDEN GROVE
ADDITION, GARDEN GROVE
2ND ADDITION, AND
PLEASANTVIEW 4TH ADDITION
TO THE CITY OF STORM LAKE,
BUENA VISTA COUNTY, IOWA



1725 N. Lake Ave.
Storm Lake Ia. 50588
Ph: 712-732-7745
PN: 13-16000
Drawn: ALD
Sheet 1 OF 1
Surveyed by: BAM
Survey Date:
Revision Date:
Drawing Name:

EXHIBIT “B”

BIO-RETENTION CELL



DESCRIPTION - BIO-RETENTION CELL EASEMENT

AN EASEMENT FOR MAINTENANCE OF A BIO-RETENTION CELL IN PORTIONS OF GARDEN GROVE ADDITION, LOT FOUR (4), BLOCK ONE (1), AND GARDEN GROVE SECOND (2ND) ADDITION, LOT ONE (1), BLOCK ONE (1), ALL WITHIN THE CORPORATE LIMITS OF THE CITY OF STORM LAKE, BUENA VISTA COUNTY, IOWA AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

The East Fifteen Feet (E 15') of the South One-Hundred Fifteen Feet (S 115') of Lot One (1), Block One (1) of Garden Grove Second Addition; and the West Fifteen Feet (W 15') of the South One-Hundred Fifteen Feet (S 115') of Lot Four (4), Block One (1) of Garden Grove Addition.

Easement contains 0.08 Acres.



LEGEND

EASEMENT PLAT
BIO-RETENTION CELL



Staff Summary

10/17/2016
Agenda Item # 4.



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

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Public Hearing on a Proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan

BACKGROUND: The Storm Lake Industrial Park Urban Renewal Plan for the Industrial Park Urban Renewal Area was originally adopted in 1991 and amended in 2004, 2010, 2013, 2014, and 2015.

The updates to the plan include Construction of two entrances in City owned right-of-way to and from Sunrise Park Road, adjacent sidewalks and parking in the vicinity of 201 Sunrise Park Road. The cost of these improvements will not exceed \$150,000.

The City hired a consulting structural engineer to conduct a field investigation to determine the extent of the damage to the existing partial structures, which is estimated to be approximately \$900,000. The City expects to consider supporting redevelopment of this property by transferring the property, providing grants and providing rebates of the incremental taxes generated by the project of up to \$3,000,000 depending on the terms of the Development Agreement and the amount of incremental taxes generated.

FISCAL IMPACT: No fiscal impact for public hearing

RECOMMENDATION: Open Public Hearing
Hear Comments
Close Public Hearing

Staff Summary

10/17/2016
Agenda Item # 5.



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

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 33-R-2016-2017 Amendment No. 5 To The Storm Lake Industrial Park Urban Renewal Plan.

BACKGROUND: The Storm Lake Industrial Park Urban Renewal Plan for the Industrial Park Urban Renewal Area was originally adopted in 1991 and amended in 2004, 2010, 2013, 2014, and 2015.

The updates to the plan include Construction of two entrances in City owned right-of-way to and from Sunrise Park Road, adjacent sidewalks and parking in the vicinity of 201 Sunrise Park Road. The cost of these improvements will not exceed \$150,000.

The City hired a consulting structural engineer to conduct a field investigation to determine the extent of the damage to the existing partial structures, which is estimated to be approximately \$900,000. The City expects to consider supporting redevelopment of this property by transferring the property, providing grants and providing rebates of the incremental taxes generated by the project of up to \$3,000,000 depending on the terms of the Development Agreement and the amount of incremental taxes generated.

FISCAL IMPACT: Nominal cost for updating the plan

RECOMMENDATION: Council Adopt Resolution No. 33-R-2016-2017

ATTACHMENTS:

Description	Type
☐ Resolution No. 33-R-2016-2017	Resolution

RESOLUTION NO. 33-R-2016-2017

RESOLUTION DETERMINING AN AREA OF THE CITY TO BE A BLIGHTED AND ECONOMIC DEVELOPMENT AREA, AND THAT THE REHABILITATION, CONSERVATION, REDEVELOPMENT, DEVELOPMENT, OR A COMBINATION THEREOF, OF SUCH AREA IS NECESSARY IN THE INTEREST OF THE PUBLIC HEALTH, SAFETY OR WELFARE OF THE RESIDENTS OF THE CITY; DESIGNATING SUCH AREA AS APPROPRIATE FOR URBAN RENEWAL PROJECTS; AND ADOPTING AMENDMENT NO. 5 TO THE STORM LAKE INDUSTRIAL PARK URBAN RENEWAL PLAN

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, by Resolution No. 25-R-2004-2005, adopted October 18, 2004, this City Council approved and adopted an Amendment No. 1 to the Plan; and

WHEREAS, by Resolution No. 07-R-2010-2011, adopted July 19, 2010, this City Council approved and adopted an Amendment No. 2 to the Plan; and

WHEREAS, by Resolution No. 36-R-2013-2014, adopted November 18, 2013, this City Council approved and adopted an Amendment No. 3 to the Plan; and

WHEREAS, by Resolution No. 29-R-2015-2016, adopted August 24, 2015, this City Council approved and adopted an Amendment No. 4 to the Plan; and

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

ORIGINAL AREA

A part of the South Half (S1/2) of Section One (1), Township Ninety North (T 90 N), Range Thirty Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.) lying North of the Illinois Central Railroad, and a part of the Northeast Quarter (NE¹/₄) of Section (12), Township Ninety North (T 90 N), Range Thirty Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.) lying North of the Illinois Central Railroad, more particularly described as follows:

Commencing at the Northwest Corner of the Southwest Quarter (SW $\frac{1}{4}$) Section One (1), Township Ninety North (T 90 N), Range Thirty Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.), thence 00°32' East along the West Line of said Southwest Quarter (SW $\frac{1}{4}$) a distance of One Thousand Two Hundred Seven and Seven Tenths Feet (1,207.70') to the Point of Beginning; thence North 90°00' East a distance of Two Thousand Six Hundred Forty Two and Six Hundredths Feet (2,642.06') to the North-South Centerline of said Section One (1); thence South 00°34' East along the North-South Centerline of said Section One (1), a distance of Four Hundred Seven and Eighteen Hundredths Feet (407.18'); thence North 90°00' East a distance of Two Thousand Six Hundred Thirty Eight and Seventy Two Hundredths Feet (2,638.72') to the East Line of said Section One (1); thence South 00°31' East along the East Line of said Section (1) a distance of One Thousand Eighty Seven and Seven Tenths Feet (1,087.7') to the Southeast Corner of said Section One (1), said Point also being the Northeast Corner of Section Twelve (12), Township Ninety North (T 90 N), Range Thirty Seven West (R 37 W) of the Fifth Principal Meridian (5th P.M.); thence South 00°20'20" East along the East Line of said Northeast Quarter (NE $\frac{1}{4}$) Section Twelve (12) a distance of Two Hundred Sixty Six and Five Hundredths Feet (266.05') to the North Right of Way Line of the Illinois Central Railroad; thence North 77°07" West along the North Right of Way Line of said Railroad a distance of Five Thousand Four Hundred Twenty Seven and Seven Tenths Feet (5,427.7') to the West Line of the Southwest Quarter (SW $\frac{1}{4}$) said Section One (1); thence North 00° 32' West along the West Line of said Section (1) a distance of Five Hundred Fifty and Seventy One Hundredths Feet (550.71') to the Point of Beginning.

The above parcel contains 115.46 acres in total

MCS Industrial Addition to Storm Lake, Iowa

AND

A PART OF THE SOUTH EAST QUARTER (SE $\frac{1}{4}$) OF SECTION 2, TOWNSHIP 90 NORTH, RANGE 37 WEST OF THE 5TH P.M., BUENA VISTA COUNTY, IOWA AND BEING MORE FULLY DESCRIBED AS FOLLOWS:

Beginning at the Northeast (NE) corner of the Southeast Quarter (SE $\frac{1}{4}$) of said Section 2; thence South 89°45'20" West along the North line of said Southeast Quarter (SE $\frac{1}{4}$), a distance of 2,131.17 feet to a point on the Easterly right of way line of the Chicago, Milwaukee, St. Paul and Pacific Railroad; thence Southerly along the Easterly right of way line of said railroad on a curve whose short chord bearings are as follows: South 29°31'40" East, a distance of 57.05 feet; thence South 23°07'17" East, a distance of 601.83 feet; thence South 16°32'54" East, a distance of 56.08 feet; thence continuing along the Easterly line of said railroad right of way South 15°59'20" East, a distance of 675.12 feet to a point on the Northerly line of the Illinois Central Railroad right of way; thence South 89°44'44" East, along the Northerly line of said railroad, a distance of 824.23 feet;

thence South 1°56'40" West, a distance of 238.22 feet; thence South 76°34'40" East, a distance of 872.88 feet to a point on the East line of said Southeast Quarter (SE¼); thence North along the East line of said Southeast Quarter (SE¼) a distance of 1,759.60 feet to the point of beginning containing 62.91 acres and subject to all easements of record.

The East line of the Southeast Quarter (SE¼) of said Section 2 is assumed to bear due North and South in the above description.

AMENDMENT NO. 1 AREA

All of the property within the corporate limits that is located South of Richland Avenue and East of Flint Drove. The area also includes the full right-of-way of all streets forming the boundary.

AMENDMENT NO. 2 AREA

A parcel in Buena Vista County, Iowa beginning at a point which is at the center of the intersection of the Canadian National Railroad right of way and Radio Road in Storm Lake, Iowa; thence South along the center line of Radio Road to the south right of way line of Highway 7; thence continuing South along the centerline of the County Road just West of the Northwest Quarter (NW¼) of Section Twelve (12), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M. to a point that the center line intersects with the South line of the Northwest Quarter (NW¼) of Section Twelve (12), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M.; thence East along a South line of the Northwest Quarter (NW¼), Section Twelve (12), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M. to the Southeast corner of the Northwest Quarter (NW¼) of Section Twelve (12), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M.; thence North along the East line of the Northwest Quarter (NW¼) of Section Twelve (12), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M. to the point where that East line intersects with the South line of Highway 7; thence East along the South line of Highway 7 to the point where it intersects with the center line of Gilbert Street extended South across Highway 7; thence North along the center line of Gilbert Street to the point where that line intersects with the center line of the Canadian National Railroad right of way; thence Northwesterly along the center line of the Canadian National Railroad right of way to the point of beginning.

AMENDMENT NO. 3 AREA

A tract of land located in the Southwest Quarter of the Southeast Quarter (SW¼SE¼) of Section 1, Township 90 North, Range 37 West of the 5th P.M., Buena Vista County, Iowa, and being more particularly described as follows:

Beginning at the Northwest (NW) Corner of Lot Seven (7), Block One (1), of Industrial Park Addition to Storm Lake; thence on a previously recorded bearing of North 90°00'00" East along the North line of said Lot Seven (7), 581.78 Feet to the West line of the East One Hundred Seventy-Five Feet (175') of said Lot Seven (7); thence North 00°10'50" West along the Northern extension of said West line of the East One Hundred Seventy-Five Feet (175'), 186.90 feet; thence South 90°00'00" West, 583.58 Feet to the East line of Lot Six (6), of said Block One (1); thence South 00°43'45" East, along said East line, 186.90 Feet to the point of beginning.

Tract contains 2.50 acres and is subject to all easements of record.

and

A tract of land located in the Southeast Quarter (SE¼) of Section 1, Township 90 North, Range 37 West of the 5th P.M., Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the Northwest (NW) Corner of the Southeast Quarter (SE¼) of said Section 1; thence on a true bearing of South 00°21'07" East along the West line of said Southeast Quarter (SE¼), 930.76 Feet to the point of beginning; thence South 89°10'02" East 838.14 Feet; thence South 00°21'07" East, 645.29 Feet to the North line of the Industrial Park Addition to the City of Storm Lake; thence North 89°50'14" West, along said North line, 255.00 Feet; thence North 00°02'17" East, 186.90 Feet; thence North 89°47'21" West, 583.58 Feet to the East line of Lot Six (6), Block One (1) of said Industrial Park Addition; thence North 00°32'05" West, along said East line, 220.28 Feet to the Northeast (NE) Corner of said Lot Six (6); thence North 00°21'07" West, along the West line of the Southeast Quarter (SE¼), 247.44 Feet to the point of beginning. Hereafter referred to as Lot C of Lot B in Section 1, Township 90 North, Range 37 West of the 5th P.M., Buena Vista County, Iowa.

Tract contains 10.00 acres and is subject to all easements of record; and

AMENDMENT NO. 4 AREA

Added no new land.

WHEREAS, a proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan ("Amendment No. 5" or "Amendment") for the Storm Lake Industrial Park Urban Renewal Area described above has been prepared, which proposed Amendment has been on file in the office of the City Clerk and which is incorporated herein by reference, the purpose of which is to add and/or confirm a proposed project to be undertaken within the Urban Renewal Area; and

WHEREAS, this proposed Amendment No. 5 to the Urban Renewal Area adds no new land; and

WHEREAS, it is desirable that the Area be redeveloped as part of the activities described within the proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan; and

WHEREAS, by resolution adopted on September 14, 2016, this Council directed that a consultation be held with the designated representatives of all affected taxing entities to discuss the proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan and the division of revenue described therein, and that notice of the consultation and a copy of the proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan be sent to all affected taxing entities; and

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

WHEREAS, by resolution this Council also set a public hearing on the adoption of the proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan for this meeting of the Council, and due and proper notice of the public hearing was given, as provided by law, by timely publication in the Storm Lake Times, which notice set forth the time and place for this hearing and the nature and purpose thereof; and

WHEREAS, in accordance with the notice, all persons or organizations desiring to be heard on the proposed Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan, both for and against, have been given an opportunity to be heard with respect thereto and due consideration has been given to all comments and views expressed to this Council in connection therewith and the public hearing has been closed.

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

Section 1. That the findings and conclusions set forth or contained in Amendment No. 5 concerning the area of the City of Storm Lake, State of Iowa, described in the preamble hereof, be and the same are hereby ratified and confirmed in all respects as the findings of this Council for this area.

Section 2. This Council further finds:

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

b) The Plan, as amended, and Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan conform to the general plan for the development of the City as a whole; and

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

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

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

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

c. That the provision of public improvements related to housing and residential development will encourage housing and residential development which is necessary to encourage the retention or relocation of industrial and commercial enterprises in this state and its municipalities.

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

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

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

Section 4. That Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan of the City of Storm Lake, State of Iowa, attached hereto as Exhibit 1 and incorporated herein by reference, be and the same is hereby approved and adopted as "Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan for the City of Storm Lake, State of Iowa"; Amendment No. 5 to the Storm Lake Industrial Park Urban Renewal Plan of the City of Storm Lake, State of Iowa, is hereby in all respects approved; and the City Clerk is hereby directed to file a certified copy of Amendment No. 5 with the proceedings of this meeting.

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

Section 6. That all other provisions of the Plan not affected or otherwise revised by the terms of Amendment No. 5, as well as all resolutions previously adopted by this City Council related to the Plan be and the same are hereby ratified, confirmed and approved in all respects.

PASSED AND APPROVED this 17th day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

Exhibit 1

STORM LAKE INDUSTRIAL PARK URBAN RENEWAL PLAN

AMENDMENT #5

CITY OF STORM LAKE, IOWA

Original Area Adopted –1991

Amendment #1 – 2004

Amendment #2 – 2010

Amendment #3 – 2013

Amendment #4 – 2015

Amendment #5 - 2016

AMENDMENT #5
to
STORM LAKE INDUSTRIAL PARK
URBAN RENEWAL PLAN
CITY OF STORM LAKE, IOWA

The Storm Lake Industrial Park Urban Renewal Plan ("Plan") for the Storm Lake Industrial Park Urban Renewal Area ("Area" or "Urban Renewal Area"), adopted in 1991, and amended in 2004, 2010, 2013, and 2015 is being further amended to add and/or confirm the list of proposed projects to be undertaken within the Urban Renewal Area ("Amendment #5" or "Amendment"). No land is being added to the Urban Renewal Area by this Amendment.

Except as modified by this Amendment, the provisions of the original Storm Lake Industrial Park Urban Renewal Plan, as previously amended, are hereby ratified, confirmed, and approved and shall remain in full force and effect as provided herein. In case of any conflict or uncertainty, the terms of this Amendment shall control.

AREA DESIGNATION

The Urban Renewal Area has been designated as a mixed area for the remediation of blight and promotion of economic development (commercial and industrial). The Urban Renewal Area continues to be appropriate for a mixed area for the remediation of blight and promotion of economic development (commercial and industrial).

PROJECT OBJECTIVES

No changes are made by this Amendment.

TYPES OF RENEWAL ACTIVITIES

No changes are made by this Amendment.

ELIGIBLE URBAN RENEWAL PROJECTS (Amendment #5)

1. Public Improvements:

Project	Estimated Date	Not to Exceed Cost	Rationale
Construction of two entrances in City owned right-of-way to and from Sunrise Park Road, adjacent sidewalks and parking in the vicinity of 201 Sunrise Park Road.	2016-2020	\$150,000	This project will provide two-way access to a blight remediation project. Construction of these improvements will support continued residential growth in the community.

2. Development Agreements:

FB Storm Lake II, LLC - Certain land within the Urban Renewal Area is the site of the failed Regency Condominium site. This site contains partially constructed structures that are deteriorating since construction was halted approximately 10 years ago. The tax dispute has been resolved. This Area has been designated as blighted. This project was described in Amendment #3 and Amendment #4 as the “Condominium Redevelopment” project. The City is considering entering into a Development Agreement with Developer FB Storm Lake II, LLC (or related entity) in which the City would convey the subject property to the Developer subject to terms and conditions in a Development Agreement. The City expects to consider a broad range of incentives as authorized by this Amendment, including, but not limited to, land, loans, grants, tax rebates, public infrastructure assistance, and other incentives. The transfer price is expected to be approximately \$250,000. It is expected that residential condominium units, apartment units, or a combination of both will be constructed, possibly in phases. The City hired a consulting structural engineer to conduct a field investigation to determine the extent of the damage to the existing partial structures, which is estimated to be approximately \$900,000. The City expects to consider supporting redevelopment of this property by transferring the property, providing grants and providing rebates of the incremental taxes generated by the project of up to \$3,000,000 depending on the terms of the Development Agreement and the amount of incremental taxes generated. Project expenses, including engineering fees, abstracting costs, attorneys’ fees and other costs associated with the project are not expected to exceed \$20,000 to \$40,000. Depending on the City’s needs and Developer’s proposals, the total costs expected to be reimbursed from Tax Increment financing may total up to \$3,000,000 depending on the circumstances. If an acceptable agreement cannot be reached with FB Storm Lake II, LLC (or a related entity), the City will continue to seek redevelopment of this property with other entities through incentives to be reimbursed or funded from Tax Increment such as land, loans, grants, tax rebates, public infrastructure assistance, and other incentives up to \$3,000,000.

3. Planning, Engineering Fees (for Urban Renewal Plans), Attorney Fees, Other Related Costs to Support Urban Renewal Projects and Planning:

Project	Date	Estimated Cost
Fees & Costs	Undetermined	Not to Exceed \$50,000

DEBT

1.	Current constitutional debt limit:	\$24,083,708
2.	Current outstanding general obligation debt:	\$18,102,000

3.	Proposed amount of loans, advances, indebtedness or bonds to be incurred. A specific amount of debt to be incurred for the Eligible Urban Renewal Project (Amendment #5) has not yet been determined. The projects authorized in this Amendment are only proposed projects at this time. The City Council will consider each project proposal on a case-by-case basis to determine if it is consistent with the Plan and in the public's best interest to participate in the project. These projects, if approved, will commence and be concluded over a number of years. In no event will debt be incurred that would exceed the City's debt capacity. It is further expected that such indebtedness, including interest on the same, may be financed in whole or in part with tax increment revenues from the Urban Renewal Area. Subject to the foregoing, it is estimated that the cost of the Eligible Urban Renewal Projects described above will be approximately as follows:	Up to \$3,190,000
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DEVELOPMENT PLAN

Storm Lake has a general plan for the physical development of the City as a whole, outlined in the Comprehensive Plan – Storm Lake 2030, adopted by the City in 2013. The goals and objectives identified in this Amendment #5, and the urban renewal projects described herein, are in conformity with the goals, objectives, and recommendations identified in Comprehensive Plan – Storm Lake 2030.

This Urban Renewal Plan does not in any way replace the City's current land use planning or zoning regulation process. The City doesn't anticipate any change in zoning as a result of the proposed development.

The need, if any, for improved traffic, public transportation, public utilities, recreational and community facilities, or other public improvements within the Urban Renewal Area are set forth in this Amendment. As the Area continues to develop, the need for public infrastructure extensions and upgrades will be evaluated and planned for by the City.

PROPERTY ACQUISITION/DISPOSITION

The City will follow any applicable requirements for the acquisition and disposition of property.

URBAN RENEWAL PLAN AMENDMENTS

The Plan may be amended from time to time for a variety of reasons, including but not limited to, adding or deleting land, adding urban renewal projects, or to modify goals or types of renewal activities. The City may amend this Plan in accordance with applicable state law.

EFFECTIVE DATE

This Amendment #5 will become effective upon its adoption by the City Council. No changes are expected in the effective period of this Urban Renewal Area.

REPEALER

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

SEVERABILITY CLAUSE

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

Staff Summary

10/17/2016

Agenda Item # 6.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Public Hearing On The Proposal To Enter Into A Sale And Development Agreement With FB Storm Lake II, LLC

BACKGROUND: The City has received a purchase and negotiated a Developers Agreement with FB Storm Lake II, LLC for the purchase and development of City property located in the Storm Lake Industrial Park Urban Renewal Area. The Developer's Agreement consists of the construction and development of the property.

Purchase Price. The purchase price for the Development Property shall be Three Hundred Thousand Dollars (\$300,000).

Developer's Agreement:

Infrastructure Improvements: The Infrastructure Improvements include the construction of that portion of the driveways, sidewalks and parking located on City owned right-of-way, but designed for the Project. The estimated Infrastructure Improvements are expected to cost approximately \$100,000. Developer understands and agrees that an amount equivalent to the City's costs in excess of \$100,000, if any, incurred in connection with the design, bidding, and construction of the Infrastructure Improvements shall be reimbursed to the City by Developer.

Stabilization and Transition Grant: \$250,000

Economic Development Grants- Not to Exceed \$2,300,000

June 1, 2023 80% of Tax

Increments for Fiscal Year 2022-2023

June 1, 2024 80% of Tax

Increments for Fiscal Year 2023-2024

June 1, 2025 80% of Tax

Increments for Fiscal Year 2024-2025

June 1, 2026 80% of Tax

Increments for Fiscal Year 2025-2026

June 1, 2027 80% of Tax

Increments for Fiscal Year 2026-2027	
June 1, 2028	80% of Tax
Increments for Fiscal Year 2027-2028	
June 1, 2029	70% of Tax
Increments for Fiscal Year 2028-2029	
June 1, 2030	70% of Tax
Increments for Fiscal Year 2029-2030	
June 1, 2031	70% of Tax
Increments for Fiscal Year 2030-2031	
June 1, 2032	70% of Tax
Increments for Fiscal Year 2031-2032	
June 1, 2033	70% of Tax
Increments for Fiscal Year 2032-2033	
June 1, 2034	60% of Tax
Increments for Fiscal Year 2033-2034	
June 1, 2035	60% of Tax
Increments for Fiscal Year 2034-2035	
June 1, 2036	60% of Tax
Increments for Fiscal Year 2035-2036	
June 1, 2037	60% of Tax
Increments for Fiscal Year 2036-2037	
June 1, 2038	60% of Tax
Increments for Fiscal Year 2037-2038	
June 1, 2039	60% of Tax
Increments for Fiscal Year 2038-2039	
June 1, 2040	60% of Tax
Increments for Fiscal Year 2039-2040	

FISCAL IMPACT: No fiscal impact for Public Hearing

RECOMMENDATION: Open Public Hearing
Hear Comments
Close Public Hearing

ATTACHMENTS:

Description	Type
 Sale and Development Agreement	Backup Material

PURCHASE, SALE AND DEVELOPMENT AGREEMENT

By and between

CITY OF STORM LAKE, IOWA

AND

FB STORM LAKE II, LLC

_____, 2016

PURCHASE, SALE AND
DEVELOPMENT AGREEMENT

THIS PURCHASE, SALE AND DEVELOPMENT AGREEMENT ("Agreement"), is made on or as of the ____ day of _____, 2016, 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, 2015, as amended ("Urban Renewal Act") and FB STORM LAKE II, LLC, a Missouri limited liability company, having offices for the transaction of business at 8201 NW 97th Terrace, Kansas City, Missouri 64153 ("Developer").

WITNESSETH:

WHEREAS, in furtherance of the objectives of the Urban Renewal Act, the City has undertaken a program for the alleviation of blighting conditions and 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 Storm Lake Industrial Park Urban Renewal Plan approved for such Urban Renewal Area by Resolution No. 33-R-91-92 on September 16, 1991, which has been amended five times, lastly by Amendment No. 5 as approved by Resolution No. _____-R-_____ on October 17, 2016 (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, the City is the owner of certain real property located within the Urban Renewal Area as described in Exhibit A attached hereto and made a part hereof (the "Development Property"); and

WHEREAS, the City believes that the Development Property has been underutilized since it was acquired by the City and is in jeopardy of falling into a further state of disrepair and/or being a blighting influence on the City; and

WHEREAS, the City has been presented with a proposal to be undertaken by the Developer to develop the Development Property into a condominium/apartment facility; and

WHEREAS, the City is willing to transfer ownership of the Development Property to Developer in exchange for Developer's agreement to make certain improvements to the Development Property and agreement to conditions and restrictions regarding future use of the Development Property; and

WHEREAS, the City anticipates that transfer of the Development Property to Developer will remediate the blighted nature of the Development Property and create housing; and

WHEREAS, the City is willing to provide certain additional incentives in consideration for Developers obligations all 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 Project has been undertaken and is being assisted.

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

ARTICLE I. DEFINITIONS

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

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

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

Assessor means the assessor for Buena Vista County, Iowa.

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

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

Closing means the closing of the real estate transfer of the Development Property to Developer, as further defined in Section 4.8 which shall be within thirty (30) days of the execution of this Agreement by the City.

Code means the Code of Iowa, 2015, as amended.

Commence Construction means at a minimum to commence stabilization of the Existing Facility and the construction of structural improvements after entry into a valid and binding construction contract, which shall be within thirty (30) days after the Closing.

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 will be submitted to the building inspector of the City as required by applicable City codes.

Deed means the Quit Claim Deed given by the City to Developer for the Development Property in the form attached hereto as Exhibit F.

Developer means FB Storm Lake II, LLC, a Missouri limited liability company, and its permitted successors and assigns.

Development Property means that portion of the Urban Renewal Area described in Exhibit A.

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

Event of Default means any of the events described in Section 10.1 of this Agreement.

Existing Facility means that portion of the building located on the Development Property prior to commencement of the Minimum Improvements and further described in Exhibit B-1.

First Mortgage means any Mortgage granted to secure any loan made pursuant to either a mortgage commitment obtained by Developer from a commercial lender or other financial institution to fund any portion of the construction costs and initial operating capital requirements of the Minimum Improvements or all such Mortgages as appropriate.

FB Storm Lake II, LLC TIF Account means a separate account within the Storm Lake Industrial Park Urban Renewal Tax Increment Revenue Fund of the City, in which there shall be deposited Tax Increments received by the City with respect to the Minimum Improvements and the Development Property.

Full-Time Equivalent Employment Unit means the employment of the equivalent of one person for 2,000 hours per year, assuming eight hours per day for a five-day, forty-hour work week for fifty weeks per year by Developer or the property management company that Developer uses to manage the Project.

Infrastructure Improvements means the improvements and other work described in Section 4(A).1 of this Agreement and further described in Exhibit B-1.

Minimum Improvements means the construction and development of a residential condominium/apartment facility at the Development Property, more particularly described in Exhibit B-1 and depicted in Exhibit B-2. Although the diagrams shown in Exhibit B-2 show three buildings, the Minimum Improvements include the construction of the middle building and the northern most building only, each a three-floor condominium/apartment building with at least 100 separate condominium/apartment units. After construction of the Minimum Improvements, the value of the Renovated Facility for the purpose of this Agreement is expected to be approximately \$11,000,000, but the Buena Vista County Assessor will make the final determination as to the value. The increased value of the Renovated Facility after construction of the Minimum Improvements, over and above \$189,440 (which is the January 1, 2016 assessed value of the Existing Facility (improvement value only)) is the value upon which the Economic Development Grants will be measured.

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, as the case may be, pursuant to Article V of this Agreement and remaining after deducting all expenses (including fees and disbursements of counsel) incurred in the collection of such proceeds.

Ordinance means the Ordinance(s) of the City, under which the taxes levied on the taxable property in the Urban Renewal Area shall be divided and a portion paid into the Storm Lake Industrial Park Urban Renewal Tax Increment Revenue Fund.

Project means the construction and operation of the Minimum Improvements on the Development Property and the creation and retention of jobs, as described in this Agreement.

Purchase Price has the meaning assigned to it in Section 4.2 of this Agreement.

Renovated Facility means the two buildings located on the Development Property after completion of the Minimum Improvements.

Stabilization and Transition Grants means the payments to be made by the City to Developer under Article XI of this Agreement.

State means the State of Iowa.

Storm Lake Industrial Park Urban Renewal Tax Increment Revenue Fund means the special fund of the City created under the authority of Section 403.19(2) of the Code and the Ordinance, which fund was created in order to pay the principal of and interest on loans, monies advanced to or indebtedness, whether funded, refunded, assumed or otherwise, including bonds or other obligations issued under the authority of Chapters 15A, 403 or 384 of the Code, incurred by the City to finance or refinance in whole or in part projects undertaken pursuant to the Urban Renewal Plan for the Urban Renewal Area.

Tax Increments means the property tax revenues on the Minimum Improvements divided and made available to the City for deposit in the FB Storm Lake II, LLC TIF Account of the Storm Lake Industrial Park Urban Renewal Tax Increment Revenue Fund under the provisions of Section 403.19 of the Code, as amended, and the Ordinance.

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

Urban Renewal Plan means the Storm Lake Industrial Park Urban Renewal Plan, as amended, approved with respect to the 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 municipal corporation and municipality organized under the provisions of the Constitution and the laws of the State and has the power to enter into this Agreement and carry out its obligations hereunder.
- b. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented by, limited by, in conflict with, or result in a breach of, the terms, conditions or provisions of any contractual restriction, evidence of indebtedness, agreement or instrument of whatever nature to which the City is now a party or by which it is bound, nor do they constitute a default under any of the foregoing.
- c. All covenants, stipulations, promises, agreements, and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements, and obligations of the City only, and not of any governing body member, officer, agent, servant or employee of the City in the individual capacity thereof.
- d. The City will consider (in good faith) supporting Developer's Workforce Housing applications related to the Minimum Improvements.
- e. The City will submit an application to the Iowa Department of Natural Resources for a boat dock.
- f. The City will consider (in good faith) providing a non-exclusive access agreement from Sunrise Park Road to the Development Property.
- g. The City will consider (in good faith), to the extent possible, assisting Developer with zoning or design waivers required to construct the Minimum Improvements.
- h. The City will waive fifty percent (50%) of all utility fees and building permit fees related to the Minimum Improvements up to a maximum aggregate amount of Eighty Thousand Dollars (\$80,000).

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

- a. FB Storm Lake II, LLC, is a Missouri limited liability company duly organized and validly existing under the laws of the State of Missouri, registered with and authorized to conduct business in the State of Iowa, and has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as presently proposed to be conducted, and to enter into and perform its obligations under the Agreement.
- b. 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 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, the Urban Renewal Plan, and all local, State, and federal laws and regulations.

f. Developer will use its best efforts to obtain or cause to be obtained, in a timely manner, all required permits, licenses, and approvals, and will meet, in a timely manner, all requirements of all applicable local, State, and federal laws and regulations 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 \$14,000,000.

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 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 commitments for construction or acquisition and permanent financing for the Project in an amount sufficient, together with equity commitments, to successfully complete the Minimum Improvements in accordance with the Construction Plans contemplated in this Agreement.

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

k. Developer expects that, barring Unavoidable Delays, the Minimum Improvements will be completed by December 31, 2020.

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

m. Developer will not seek to change the current land assessment category, or the zoning classification, of the Development Property or the Minimum Improvements during the term of this Agreement.

ARTICLE III. CONSTRUCTION

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 shall require a total investment of approximately \$14,000,000.

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 the Urban Renewal Plan, this Agreement, and all applicable federal, State and local laws and regulations. The City shall approve the Construction Plans in writing if: (i) the Construction Plans conform to the terms and conditions of this Agreement; (ii) the Construction Plans conform to the terms and conditions of the Urban Renewal Plan; (iii) the Construction Plans conform to all applicable federal, State and local laws, ordinances, rules and regulations, and City permit requirements; (iv) the Construction Plans are adequate for purposes of this Agreement to provide for the construction of the Minimum Improvements; and (v) no Event of Default under the terms of this Agreement has occurred; 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. Commencement and 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, 2020; or (ii) by such other date as the parties shall mutually agree upon in writing. Time lost as a result of Unavoidable Delays shall be added to extend these dates by a number of days equal to the number of days lost as a result of Unavoidable Delays. All work with respect to the Minimum Improvements shall be in conformity with the Construction Plans approved by the building official or any amendments thereto as may be approved by the building official.

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

Section 3.4. Certificate of Completion. Upon written request of the Developer after issuance of an occupancy permit for the Minimum Improvements, the City will furnish the Developer with a Certificate of Completion for the Minimum Improvements 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 solely with respect to the obligations of the Developer to construct the Minimum Improvements.

The Certificate of Completion may be recorded in the proper office for the recordation of deeds and other instruments pertaining to the Development Property at the Developer's sole expense. If the City shall refuse or fail to provide a Certificate of Completion in accordance with the provisions of Section 3.4, the City shall, within twenty (20) calendar days after written request by the Developer, provide the Developer with a written statement indicating in adequate detail in what respects the Developer has failed to complete the applicable portion of 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 will be necessary, in the reasonable opinion of the City, for the 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.

ARTICLE IV. TRANSFER OF CITY OWNED REAL ESTATE

Section 4.1. Conditions Precedent to Transfer. The City's obligation to transfer title and possession of the Development Property to Developer at Closing, and Developer's obligation to pay the Purchase Price, shall be subject to satisfaction of the following conditions precedent:

- a. The ability of the City to meet its commitments under this Agreement is subject in all respects to completion of all required proceedings under Chapter 403 of the Code to effect adoption of the Urban Renewal Plan, and amendments thereto, to authorize this Project as an urban renewal project;
- b. The Developer is in material compliance with all of the terms of this Agreement; and

c. The Developer negotiating in good faith with the City to provide all necessary public utility easements, if any, over and through the Development Property.

Section 4.2. Transfer of Development Property. For Three Hundred Thousand Dollars (\$300,000) and other consideration including the obligations being assumed by the Developer hereunder and in furtherance of the Urban Renewal Plan and the Urban Renewal Act, the City agrees to sell, and the Developer agrees to purchase, the Development Property, together with all improvements thereon, subject to easements and appurtenant servient estates and any zoning and other ordinances. Such transfer shall occur under the terms and conditions of this Agreement and following all process required by the City pursuant to Section 403.8 of the Code.

Section 4.3. Purchase Price. The purchase price for the Development Property shall be Three Hundred Thousand Dollars (\$300,000) (the "Purchase Price"). Developer shall pay the Purchase Price (subject to prorations, reductions and credits as provided below) to the City by certified check or wire transfer as follows:

a. Down payment of Ten Thousand Dollars (\$10,000) the receipt of which is hereby acknowledged by the City;

b. Ninety Thousand Dollars (\$90,000) at the Closing; and

c. Two Hundred Thousand Dollars (\$200,000) (which will be the balance of the purchase price remaining after Closing) by the earlier of: (i) the date on which the Developer closes its construction loan in connection with the First Mortgage; or (ii) the date which is six months after the Commencement Date plus interest on any unpaid balances thereof at the highest rate permitted by State law until fully paid; said payments to be applied first to the interest then unpaid and next upon the balance of the principal.

Section 4.4. Real Estate Taxes and Special Assessments.

a. The Development Property is currently tax-exempt while owned by the City. Developer shall be responsible for all taxes post-Closing, if any; and

b. All special assessments, if any, shall be paid by Developer.

Section 4.5. Reserved.

Section 4.6. Risk of Loss and Insurance. The City shall bear the risk of loss or damage to the Development Property prior to Closing. The City agrees to maintain existing insurance, if any, and Developer may purchase additional insurance prior to Closing. In the event of substantial damage or destruction prior to Closing, the City shall have the option of using insurance proceeds, if any, to rebuild the Development Property. In the event of substantial damage to or destruction of the Development Property prior to Closing, City shall provide a written notice to Developer of such substantial damage or destruction and thereafter Developer shall have an option to terminate this Agreement; provided, however, that Developer must give written notice to the City exercising such option to terminate within ten (10) days after receipt of the notice from the City. Developer shall bear the risk of loss or damage to the Development Property after Closing in accordance with Article V.

Section 4.7. Condition of Property; Care and Maintenance. As of Closing, Developer agrees to take the Existing Facility and Development Property "As Is." The City makes no warranties or representations as to the condition of the Existing Facility or Development Property including, but not limited to, latent or hidden conditions. Developer hereby waives all claims against the City as to the condition of the Existing Facility and Development Property.

Section 4.8. Possession; Closing. Upon the obligations of both parties hereunder being met, including the execution of all documents required hereunder, Closing shall take place within thirty (30) days after the execution of this Agreement by the City. This purchase shall be considered "Closed" upon the delivery to Developer of a duly executed quit claim deed for the Development Property in the form of deed attached hereto as Exhibit F. All parties and individual signatories hereto further agree to make, execute and deliver such further and additional documents as may be reasonably requested by the other party for the purpose of accomplishing the transfer herein contemplated.

Section 4.9. Fixtures. Included with the Development Property shall be the Existing Facility and all fixtures that integrally belong to, are specifically adapted to or are a part of the real estate, whether attached or detached.

Section 4.10. Abstract and Title. The City shall provide an abstract for the Development Property within ten (10) days after the Commencement Date, continued through a date no more than forty-five (45) days prior to Closing, and deliver it to Developer or Developer's agent for examination, which shall become the property of the Developer upon Closing. It shall show marketable title in the City in conformity with this Agreement, Iowa law, and the title standards of the Iowa State Bar Association. The City shall make reasonable efforts to promptly perfect title. The City makes no representations or warranties concerning the marketability of title to the Development Property.

Section 4.11. Survey and Platting. Developer shall be responsible for all survey and platting of the Development Property. The City authorizes Developer and/or its agents and contractors access to the Development Property for survey and platting purposes between the Commencement Date and Closing.

Section 4.12. Environmental Matters. At Closing, the City will file with the County Recorder's office a properly executed Groundwater Hazard Statement as required by law. Developer takes the property "As Is" with regard to any environmental matters. The City makes no warranties or representations as to the environmental condition of the Development Property. Developer agrees to indemnify, release, defend and hold harmless the City for all claims, damages or costs relating to the Development Property that arise after the date of Closing. This Section shall survive the Closing.

Section 4.13. Certification. Developer and City each certify that they are not acting, directly or indirectly, for or on behalf of any person, group, entity or nation named by any Executive Order or the United States Treasury Department as a terrorist, "Specially Designated National and Blocked Person" or any other banned or blocked person, entity, nation or transaction pursuant to any law, order, rule or regulation that is enforced or administered by the Office of Foreign Assets Control; and are not engaged in this transaction, directly or indirectly on behalf of, any such person, group, entity or nation. Each party hereby agrees to defend, indemnify and hold harmless the other party from and against any and all claims, damages, losses, risks, liabilities and expenses (including attorney's fees and costs) arising from or related to my breach of the foregoing certification.

ARTICLE IV(A). INFRASTRUCTURE IMPROVEMENTS

Section 4(A).1. Infrastructure Improvements. The City shall complete the necessary steps to review the Developer's design, and assuming it meets all federal, State and local requirements, the City shall bid, and construct the Infrastructure Improvements as described on Exhibit B-1. The Infrastructure Improvements include the construction of that portion of the driveways, sidewalks and parking located on City owned right-of-way, but designed for the Project. The estimated Infrastructure Improvements are expected to cost approximately \$100,000. Developer understands and agrees that an amount equivalent to the City's costs in excess of \$100,000, if any, incurred in connection with the design, bidding, and construction of the Infrastructure Improvements shall be reimbursed to the City by Developer, and on failure of such reimbursement by Developer within sixty (60) days from receipt of an invoice from City, the City may deduct such costs and reasonable attorney fees incurred from Developer's Stabilization and Transition Grants or Economic Development Grants.

ARTICLE V. INSURANCE

Section 5.1. Insurance Requirements.

a. Developer will provide and maintain or cause to be maintained at all times during the process of constructing the Minimum Improvements (and, from time to time at the request of 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, members, 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 \$50,000 or self-insurance up to not more than \$1,000,000. No policy of insurance shall be so written that the proceeds thereof will produce less than the minimum coverage required by the preceding sentence, by reason of 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 V to be provided prior to the Termination Date shall be taken out and maintained in responsible insurance companies selected by Developer, which are authorized under the laws of the State to assume the risks covered thereby. Developer will deposit annually with the City copies of policies evidencing all such insurance, or a certificate or certificates or binders of the respective insurers stating that such insurance is in force and effect. Unless otherwise provided in this Article V, each policy shall contain a provision that the insurer shall not cancel or modify it without giving written notice to 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 V, or that there is no necessity therefor under the terms hereof. In lieu of separate policies, Developer may maintain a single policy, or blanket or umbrella policies, or a combination thereof, which provide the total coverage required herein, in which event Developer shall deposit with the City a certificate or certificates of the respective insurers as to the amount of coverage in force upon the Minimum Improvements.

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

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

ARTICLE VI. FURTHER COVENANTS OF DEVELOPER

Section 6.1. Maintenance of Properties. Developer 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 in which full, true, and correct entries will be made of all dealings and transactions of or in relation to the business and affairs of Developer relating to this Project in accordance with generally accepted accounting principles, consistently applied throughout the period involved, and Developer will provide reasonable protection against loss or damage to such books of record and account.

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

Section 6.4. Non-Discrimination. In the construction and operation of the Minimum Improvements, Developer shall not discriminate against any applicant, employee or tenant because of age, color, creed, national origin, race, religion, marital status, sex, physical disability, or familial status. Developer shall ensure that applicants, employees, and tenants are considered and 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 so that City can determine compliance with this Agreement.

Section 6.6. Employment. At least 1 Full-Time Equivalent Employment Units shall be employed either by Developer or by the property management company hired by Developer to manage the Project at the Minimum Improvements by no later than January 1, 2021, and thereafter either Developer or the property management company hired by Developer to manage the Project shall retain a Monthly Average of at least 1 Full-Time Equivalent Employment Units at the Minimum Improvements until the Termination Date of this Agreement. Developer's Annual Certifications, due beginning on October 15, 2021, shall show that a Monthly Average of at least 1 Full-Time Equivalent Employment Units has been maintained by either the Developer or the property management company hired by Developer at the Minimum Improvements over each twelve (12) month period from November 1 through the next October 1, (or, in the first certification year, an average of at least 1 Full-Time Equivalent Employment Units from January 1, 2021 through October 1, 2021).

"Monthly Average" means the average number of Full-Time Equivalent Employment Units employed as of October 1 of each year and as of the first day of each of the preceding eleven (11) months, as shown in Developer's Annual Certification in Section 6.7. Developer shall not receive any Economic Development Grants if the Monthly Average of Full-Time Equivalent Employment Units

employed by Developer or the property management company hired by Developer does not meet the requirements of this Section 6.6. 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 this Agreement and the 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 Full-Time Equivalent Employment Units employed by Developer or the property management company hired by Developer as of October 1 and as of the first day of each of the preceding eleven (11) months (prorated for the first certification); 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, 2021 and ending on October 15, 2039, both dates inclusive. Developer shall provide supporting information for its Annual Certifications upon request of the City. See Exhibit E for form required for Developer's Annual Certification.

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

Section 6.9. 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; and (d) all costs of constructing the Minimum Improvements shall be paid when due.

Section 6.10. Real Property Taxes. Developer, or its successors shall pay or cause to be paid, when due, all real property taxes and assessments payable with respect to all and any parts of the Development Property acquired and owned by 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 Development Property is vested in another person, all pursuant to the provisions of this Agreement, Developer shall be solely responsible for all assessments and taxes.

Developer and its 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 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 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 interest in the Development Property, Minimum Improvements or this Agreement to any other party unless: (i) the transferee partnership, corporation, limited liability company or individual assumes in writing all of the obligations of Developer under this Agreement; and (ii) the City consents thereto in writing in advance thereof, of which approval shall not be unreasonably withheld. Notwithstanding the foregoing, however, or any other provisions of this Agreement, Developer may pledge any and/or all of its assets as security for any financing of the Minimum Improvements, and the City agrees that Developer may assign its interest under this Agreement for such purpose.

In the event that Developer wishes to assign this Agreement, including its rights and duties hereunder, Developer and transferee individual or entity shall request that the City and Developer consent to an amendment 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 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, or its successors, or assigns agree that the Development Property cannot be transferred or sold to a non-profit entity or used for a purpose that would exempt the Development Property or Minimum Improvements from property tax liability. Nor can the Development Property or Minimum Improvements be used as centrally assessed property (including but not limited to, Iowa Code § 428.24 to 428.29 (Public Utility Plants and Related Personal Property); Chapter 433 (Telegraph and Telephone Company Property); Chapter 434 (Railway Property); Chapter 437 (Electric Transmission Lines); Chapter 437A (Property Used in the Production, Generation, Transmission or Delivery of Electricity or Natural Gas); and Chapter 438 (Pipeline Property)).

ARTICLE VIII. ECONOMIC DEVELOPMENT GRANTS

Section 8.1. Economic Development Grants. For and in consideration of the obligations being assumed by Developer hereunder, and in furtherance of the goals and objectives of the Urban Renewal

Plan for the Urban Renewal Area and the Urban Renewal Act, the City agrees, subject to Developer being and remaining in compliance with the terms of this Agreement, to make up to eighteen (18) years of consecutive annual payments of Economic Development Grants to Developer up to a total amount not to exceed Two Million Three Hundred Thousand Dollars (\$2,300,000) under the following formula:

Assuming the completion of the Minimum Improvements by December 31, 2020 and full assessment of the Minimum Improvements on January 1, 2021, and debt certification by the City to the Auditor prior to December 1, 2021, the Economic Development Grants shall commence on June 1, 2023 and end on June 1, 2040 pursuant to Section 403.19 of the Urban Renewal Act in the following amounts:

<u>Date</u>	<u>Amount of Economic Development Grants</u>
June 1, 2023	80% of Tax Increments for Fiscal Year 2022-2023
June 1, 2024	80% of Tax Increments for Fiscal Year 2023-2024
June 1, 2025	80% of Tax Increments for Fiscal Year 2024-2025
June 1, 2026	80% of Tax Increments for Fiscal Year 2025-2026
June 1, 2027	80% of Tax Increments for Fiscal Year 2026-2027
June 1, 2028	80% of Tax Increments for Fiscal Year 2027-2028
June 1, 2029	70% of Tax Increments for Fiscal Year 2028-2029
June 1, 2030	70% of Tax Increments for Fiscal Year 2029-2030
June 1, 2031	70% of Tax Increments for Fiscal Year 2030-2031
June 1, 2032	70% of Tax Increments for Fiscal Year 2031-2032
June 1, 2033	70% of Tax Increments for Fiscal Year 2032-2033
June 1, 2034	60% of Tax Increments for Fiscal Year 2033-2034
June 1, 2035	60% of Tax Increments for Fiscal Year 2034-2035
June 1, 2036	60% of Tax Increments for Fiscal Year 2035-2036
June 1, 2037	60% of Tax Increments for Fiscal Year 2036-2037
June 1, 2038	60% of Tax Increments for Fiscal Year 2037-2038
June 1, 2039	60% of Tax Increments for Fiscal Year 2038-2039
June 1, 2040	60% of Tax Increments for Fiscal Year 2039-2040

Each annual payment shall be equal in amount to the above percentages of the Tax Increments collected by the City with respect to the Minimum Improvements on the Development Property under the terms of the Ordinance and deposited into the FB Storm Lake II, LLC TIF Account (without regard to any averaging that may otherwise be utilized under Section 403.19 and excluding any interest that may accrue thereon prior to payment to Developer) during the preceding twelve-month period in respect of the Minimum Improvements, but subject to limitation and adjustment as provided in this Article (such payments being referred to collectively as the "Economic Development Grants").

The Parties recognize that the Minimum Improvements consist of the stabilization of the Existing Facility and construction of a market rate condominium/apartment facility including two 3-story condominium/apartment buildings which shall contain at least 100 units as more particularly described in Exhibit B-1 to this Agreement. The construction of the Minimum Improvements is expected to be completed by December 31, 2020. Total project costs are expected to be approximately \$14,000,000. For the purposes of this Agreement, the January 1, 2016 assessed value of the Existing Facility will not be considered part of the incremental value created by the Minimum Improvements for any Economic Development Grants. The parties agree that the January 1, 2016 assessed value of the

Existing Facility (improvement value only) is \$189,440. The parties agree that the increased value after construction of the Minimum Improvements for the purpose of this Agreement is expected to be approximately \$11,000,000, but the Buena Vista County Assessor will make the final determination as to the value.

Section 8.2. Payment Schedule. After the Minimum Improvements are first fully assessed and if in compliance with this Agreement, if Developer's Annual Certification is timely filed and contains the information required under Section 6.7 and the Council approves of the same, of which approval shall not be unreasonably withheld, the City shall certify to the County prior to December 1 of that year its request for the available Tax Increments resulting from the assessments imposed by the County as of January 1 of that year, to be collected by the County and paid to the City as taxes are paid during the following fiscal year and which shall thereafter be disbursed to Developer on the following June 1. (Example: assuming completion by December 2020 and first full assessment on January 1, 2021, if Developer certifies in October 2021 and the City certifies to the County by December 1, 2021, the first Economic Development Grants would be paid to Developer on June 1, 2023 (for 80% of the Tax Increment for fiscal year 2022-2023)). The schedule of the payments for Economic Development Grants set forth in Section 8.1 is based on the first full assessment of the Minimum Improvements being January 1, 2021. If the completion of the Minimum Improvements is delayed so that the Minimum Improvements are not fully assessed as of January 1, 2021, then the first Economic Development Grant will not begin as scheduled, but will be delayed one year. However, in no event shall the schedule of Economic Development Grants be delayed more than one year, meaning that the latest potential date for Developer's first Economic Development Grant, if eligible, is June 1, 2024.

Section 8.3. Maximum Amount of Grants. The aggregate amount of the Economic Development Grants that may be paid to Developer under this Agreement shall be equal to the sum of the total amount of the applicable percentage of Tax Increments collected in respect of the assessments imposed on the Minimum Improvements over the specified time period, but in no event shall exceed Two Million Three Hundred Thousand Dollars (\$2,300,000) over eighteen (18) years. It is recognized by all parties that the total aggregate amount set forth above is a maximum amount only and that the actual payment amounts will be determined as set forth in Section 8.1 and this Article.

Section 8.4. Limitations. The Economic Development Grants are only for the Minimum Improvements described in this Agreement (building/improvement increase value only) and not any future expansions which, to be eligible for Economic Development Grants, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 8.5. Conditions Precedent. Notwithstanding the provisions of Section 8.1 above, the obligation of the City to make an Economic Development Grant in any year shall be subject to and conditioned upon the following:

- a. compliance with the terms of this Agreement, including, but not limited to, the employment obligations in Section 6.6 of this Agreement, and payment of property taxes; and
- b. timely filing by Developer of the Annual Certifications required under Section 6.7 hereof and the Council's approval thereof; and

c. an assessed value of the Minimum Improvements (building/improvement increase value only) of at least \$11,000,000.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Economic Development Grants and the provisions of this Article shall terminate and be of no further force or effect.

Each Annual Certification filed by Developer under Section 6.7 hereof shall be considered separately in determining whether the City shall make any of the Economic Development Grant payments available to Developer under this Section. Under no circumstances shall the failure by Developer to qualify Developer for an Economic Development Grant in any year serve to extend the term of this Agreement beyond the Termination Date or the years during which Economic Development Grants may be awarded to Developer or the total amount thereof, it being the intent of parties hereto to provide Developer with an opportunity to receive Economic Development Grants only if Developer fully complies with the provisions hereof and Developer becomes entitled thereto, up to the maximum aggregate amount set forth in Sections 8.1 and 8.3.

Section 8.6. Source of Grant Funds Limited.

a. The Economic Development Grants shall be payable from and secured solely and only by amounts deposited and held in the FB Storm Lake II, LLC TIF Account of the Storm Lake Industrial Park Urban Renewal Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force during the term hereof and to apply the appropriate percentage of Tax Increments collected in respect of the Development Property and Minimum Improvements and allocated to the FB Storm Lake II, LLC TIF Account to pay the Economic Development Grants, as and to the extent set forth in this Article. The Economic Development Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under chapter 441.21A shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Economic Development Grants for which Developer is eligible.

b. Each Economic Development Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Economic Development Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction or by the City's bond counsel to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be

deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 8.1 hereof, the City shall have no obligation to make an Economic Development Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of Tax Increments resulting from the Minimum Improvements to fund an Economic Development Grant to Developer, as contemplated under said Section 8.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Economic Development Grants would otherwise have been paid to Developer under the terms of Section 8.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

d. If the City Council exercises its right of non-appropriation of an Economic Development Grant as set forth in this Section, it shall consider its right of non-appropriation for all other economic development grants subject to non-appropriation by the City and payable in the same fiscal year.

Section 8.7. Use of Other Tax Increments. The City shall be free to use any and all Tax Increments above and beyond the percentages to be given to Developer in this Agreement, or any available Tax Increments resulting from the suspension or termination of the Economic Development Grants, for any purpose for which the Tax Increments may lawfully be used pursuant to the provisions of the Urban Renewal Act (including an allocation of all or any portion thereof to the reduction of any eligible City costs), and the City shall have no obligations to Developer with respect to the use thereof.

ARTICLE IX. INDEMNIFICATION

Section 9.1. Release and Indemnification Covenants.

a. Developer releases the City and the governing body members, officers, agents, servants and employees thereof (hereinafter, for purposes of this Article IX, 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 its rights

under this Agreement); (ii) the acquisition and condition of the Development Property and the construction, installation, ownership, and operation of the Minimum Improvements; or (iii) any hazardous substance or environmental contamination located in or on the Development Property.

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

d. 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 IX shall survive the termination of this Agreement.

ARTICLE X. REMEDIES

Section 10.1. 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 Commence Construction;

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

c. Transfer of Developer's interest in the Development Property, Minimum Improvements, or this Agreement or the assets of Developer in violation of the provisions of this Agreement;

d. Failure by Developer to timely pay ad valorem taxes on the Development Property and Minimum Improvements;

e. 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, including but not limited to Sections 6.6, 6.7, 6.8, and 6.9 of this Agreement;

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

g. Developer:

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
- h. 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 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 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 and the holder of the First Mortgage (but only to the extent the City has been informed in writing of the existence of a First Mortgage and been provided with the address of the holder thereof) of the Event of Default, but only if the Event of Default has not been cured 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 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 forfeit and/or terminate this Agreement;
- c. The City may withhold the Certificate of Completion;
- d. The City shall have no obligation to make payment of Economic Development Grants to Developer subsequent to an Event of Default.
- e. 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, as the case may be, under this Agreement; or
- f. The City shall have no obligation to make payment of Stabilization and Transition Grants or Economic Development Grants to Developer subsequent to an Event of Default and shall be entitled to recover from the Developer, and the Developer shall repay to the City, an amount equal to the full amount of the Stabilization and Transition Grants and the Economic Development Grants previously made to Developer under Article VIII and Article XI, respectively, hereof, with interest thereon at a rate of 6%. The City may take any action, including any legal action it deems necessary, to recover such

amount from Developer. The City may only demand such payment following its reasonable determination that Developer is in default under this Agreement, which has not been cured, including if Developer fails to satisfy the employment obligations under Section 6.6 hereof and it has not been cured.

Section 10.3. 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 10.4. 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 10.5. Agreement to Pay Attorneys' Fees and Expenses.

a. Developer and the City shall each pay for its own attorney's fees associated with this Agreement; and

b. Whenever any Event of Default occurs and the City employs attorneys or incurs other expenses for the collection of payments due or to become due or for the enforcement or performance or observance of any obligation or agreement on the part of Developer herein contained, Developer agrees that it shall, on demand with a thirty (30) day written notice from the City 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 XI. STABILIZATION AND TRANSITION GRANTS

Section 11.1. Stabilization and Transition Grants. For and in consideration of the obligations of Developer as set forth herein, and as a necessary means of achieving the goals and objectives of the Urban Renewal Plan, the City agrees (subject to the conditions set forth in this Article and this Agreement) to make two Stabilization and Transition Grants to Developer as follows:

a. Subject to the conditions precedent in Section 11.2.a., the first Stabilization and Transition Grant shall be in the amount of One Hundred Thousand Dollars (\$100,000) and shall be due at Closing.

b. Subject to the conditions precedent in Section 11.2.a. and Section 11.2.b., the second Stabilization and Transition Grant shall be in the amount of One Hundred Fifty Thousand Dollars (\$150,000) and shall be due on or before July 31, 2017.

Section 11.2. Conditions Precedent. Notwithstanding the provisions of Section 11.1, the City's obligation to grant Developer either of the Stabilization and Transition Grants under this Agreement shall be subject to satisfaction of the following conditions precedent:

a. the Developer shall be in material compliance with all the terms and provisions of this Agreement; and

b. the Developer shall have Commenced Construction.

In the event that an Event of Default occurs or any certification filed by Developer under Section 6.7 (or other information) discloses the existence or prior occurrence of an Event of Default that was not cured or cannot reasonably be cured, the City shall have no obligation thereafter to make any payments to Developer in respect of the Stabilization and Transition Grants and the provisions of this Article shall terminate and be of no further force or effect.

Section 11.3. Maximum Amount of Stabilization and Transition Grants. The total amount of the Stabilization and Transition Grants paid by the City under this Article XI shall not exceed Two Hundred Fifty Thousand Dollars (\$250,000). The Stabilization and Transition Grants are only for the Minimum Improvements described in this Agreement and not any future construction or expansion which, to be eligible for additional incentives, would be the subject of an amendment or new agreement, at the sole discretion of the City Council.

Section 11.4. Source of Grant Funds Limited.

a. The Stabilization and Transition Grants shall be payable from and secured solely and only by amounts deposited and held in the Storm Lake Industrial Park Urban Renewal Area Tax Increment Revenue Fund of the City. The City hereby covenants and agrees to maintain the Ordinance in force during the term hereof to pay the Stabilization and Transition Grants, as and to the extent set forth in this Article. The Stabilization and Transition Grants shall not be payable in any manner by other tax increment revenues or by general taxation or from any other City funds. Any commercial and industrial property tax replacement monies that may be received under chapter 441.21A shall not be included in the calculation to determine the amount of Stabilization and Transition Grants for which Developer is eligible, and any monies received back under chapter 426C relating to the Business Property Tax Credit shall not be included in the calculation to determine the amount of Stabilization and Transition Grants for which Developer is eligible.

b. Each Stabilization and Transition Grant is subject to annual appropriation by the City Council each fiscal year. The City has no obligation to make any payments to Developer as contemplated under this Agreement until the City Council annually appropriates the funds necessary to make such payments. The right of non-appropriation reserved to the City in this Section is intended by the parties, and shall be construed at all times, so as to ensure that the City's obligation to make future Stabilization and Transition Grants shall not constitute a legal indebtedness of the City within the meaning of any applicable constitutional or statutory debt limitation prior to the adoption of a budget which appropriates funds for the payment of that installment or amount. In the event that any of the provisions of this Agreement are determined by a court of competent jurisdiction or by the City's bond counsel to create, or result in the creation of, such a legal indebtedness of the City, the enforcement of the said provision shall be suspended, and the Agreement shall at all times be construed and applied in such a manner as will preserve the foregoing intent of the parties, and no Event of Default by the City shall be deemed to have occurred as a result thereof. If any provision of this Agreement or the application thereof to any circumstance is so suspended, the suspension shall not affect other provisions

of this Agreement which can be given effect without the suspended provision. To this end the provisions of this Agreement are severable.

c. Notwithstanding the provisions of Section 11.1 hereof, the City shall have no obligation to make a Stabilization and Transition Grant to Developer if at any time during the term hereof the City fails to appropriate funds for payment, or receives an opinion from its legal counsel to the effect that the use of tax increments to fund a Stabilization and Transition Grant to Developer, as contemplated under said Section 11.1, is not authorized or otherwise an appropriate urban renewal activity permitted to be undertaken by the City under the Urban Renewal Act or other applicable provisions of the Code, as then constituted or under controlling decision of any Iowa Court having jurisdiction over the subject matter hereof. Upon receipt of any such legal opinion or non-appropriation, the City shall promptly forward notice of the same to Developer. If the non-appropriation or circumstances or legal constraints giving rise to the decision continue for a period during which two (2) annual Stabilization and Transition Grants would otherwise have been paid to Developer under the terms of Section 11.1, the City may terminate this Agreement, without penalty or other liability to the City, by written notice to Developer.

d. If the City Council exercises its right of non-appropriation of a Stabilization and Transition Grant as set forth in this Section, it shall consider its right of non-appropriation for all other stabilization and transition grants subject to non-appropriation by the City and payable in the same fiscal year.

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 FB Storm Lake II, LLC at 8201 NW 97th Terrace, Kansas City, MO 64153, Attn: Steven Foutch; and 8405 Blackstone Court, Johnston, IA, 50131, Attn: Shawn Foutch;
- b. In the case of the City, is addressed to or delivered personally to the City at P.O. Box 1086, 620 Erie Street, 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, 2040, 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, 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.

ARTICLE XIII. CONDITIONS PRECEDENT

Section 13.1. Conditions Precedent. Notwithstanding anything herein to the contrary, in addition to all other conditions precedent throughout this Agreement, Developer and City acknowledge and agree that the rights and obligations of both parties under this Agreement are subject to and contingent upon the following events occurring:

a. Completion of all required proceedings under Chapter 403 of the Code including, but not limited to Section 403.8, to approve the Purchase, Sale and Development Agreement contemplated herein. The City shall, with all reasonable due diligence, conduct the foregoing proceedings and upon request of Developer shall keep the Developer apprised of its progress in connection with the same.

Section 13.2. Conditions Precedent Deadline. If the conditions precedent provided in Section 13.1 above have not been satisfied by January 1, 2017, this Agreement shall be void from the outset and shall be of no force or effect.

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, Developer has caused this Agreement to be duly executed in its name and behalf by its authorized representatives, all on or as of the day first above written.

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

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 Purchase, Sale and Development Agreement – City of Storm Lake]

FB STORM LAKE II, LLC,
a Missouri limited liability company

By: _____
Shawn Foutch, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Shawn Foutch, to me personally known, who, being by me duly sworn, did say that he is the Manager of FB Storm Lake II, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company; and that the said Shawn Foutch as such Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

[Signature page to Purchase, Sale and Development Agreement –FB Storm Lake II, LLC]

EXHIBITS

EXHIBIT A.....	Legal Description of Development Property
EXHIBIT B-1.....	Description of the Minimum Improvements, Existing Facility and Infrastructure Improvements
EXHIBIT B-2.....	Diagram of the Minimum Improvements
EXHIBIT C.....	Certificate of Completion for Minimum Improvements
EXHIBIT D.....	Memorandum of Agreement
EXHIBIT E.....	Developer Annual Certification
EXHIBIT F.....	Form of Quit Claim Deed

EXHIBIT A
LEGAL DESCRIPTION OF DEVELOPMENT PROPERTY

The Development Property is legally described as follows:

A tract of land located in Government Lot One (1), being a part of the North Half of the Northeast Fractional Quarter ($N\frac{1}{2}NE\frac{1}{4}$) of Section Eleven (11), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., within the corporate limits of the City of Storm Lake, Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the southeast corner of Government Lot One (1) of said Section Eleven (11); thence on a true bearing of South $88^{\circ}57'36''$ West, along the south line of said Government Lot One (1), 879.37 Feet to the point of beginning; thence continuing along said south line, South $88^{\circ}57'36''$ West, 181.03 Feet to the original ordinary high water line of Storm Lake, as shown on a survey plat prepared by Charles A. Tapley recorded in Miscellaneous Book 26, on Page 775, in the office of the Buena Vista County Recorder; thence along said ordinary high water line the following courses: North $21^{\circ}08'30''$ West, 133.80 Feet; thence North $36^{\circ}18'01''$ West, 264.00 Feet; thence North $44^{\circ}23'22''$ West, 376.74 Feet; thence North $49^{\circ}58'48''$ West, 20.00 Feet; thence departing from said ordinary high water line along a line bearing North $40^{\circ}01'12''$ East, 170.00 Feet; thence South $49^{\circ}58'48''$ East, 28.30 Feet; thence South $44^{\circ}23'22''$ East, 397.06 Feet; thence South $36^{\circ}18'01''$ East, 298.64 Feet; thence South $21^{\circ}08'30''$ East, 218.64 Feet to the point of beginning. Tract contains 3.39 acres and is subject to easements of record.

Buena Vista County Parcel #14-11-200-006

EXHIBIT B-1
DESCRIPTION OF MINIMUM IMPROVEMENTS AND EXISTING FACILITY

Minimum Improvements means the construction and development of a residential condominium/apartment facility on the Development Property. The Minimum Improvements shall consist of two separate buildings each of which shall be 3 stories tall and include a minimum of 100 condominium/apartment units between the two buildings. The Minimum Improvements must be completed by December 31, 2020. See the attached Exhibit B-2 showing the footprint for three buildings. The Minimum Improvements required and defined under this Agreement are only the middle and northern most building.

After construction of the Minimum Improvements, the value of the Renovated Facility for the purpose of this Agreement is expected to be approximately \$11,000,000, but the Buena Vista County Assessor will make the final determination as to the value. The increased value of the Renovated Facility after construction of the Minimum Improvements, over and above \$189,440 (which is the January 1, 2016 assessed value of the Existing Facility on the Development Property (improvement value only)) is the value upon which the Economic Development Grants will be measured.

Existing Facility means the existing earthwork, footings, underfloor plumbing, utilities, foundation walls, garage floor slab and structural core deck for the first floor of each of the middle building and northern most building shown in Exhibit B-2. The water proofing of the perimeter walls was in progress but not completed when the original job was abandoned in 2007. The January 1, 2016 assessed value of the Existing Facility (improvement value only) is \$189,440.

Infrastructure Improvements means the construction of that portion of the driveways, sidewalks and parking located on City owned right-of-way, but designed for the Project. The Infrastructure Improvements are expected to cost approximately \$100,000.

URI: <https://doi.org/10.21203/rs.3.rs-1007180/v1>

SUNSET BAY CONDOMINIUMS

STORM LAKE, IOWA

NOT TO SCALE



NO.

5

PROPOSED
TREC M-1-A

PERMANENT EASEMENT

SUNSET BAY CONDOMINIUMS, LLC
6600 WESTOWN PARKWAY
WEST DES MOINES, IOWA 50266

SIMONSON & ASSOCIATES LLC
2420 128TH STREET
LIBRDAULF, IOWA 50323

CIVIL DESIGN ADVANTAGE, LLC
6501 NW 112TH STREET, SUITE C
FORTS JORDA 90111

PHONE (515) 269-4400

SIT AREA - 3.39 ACRES

ZONING

R-4 (MULTIPLE-FAMILY RESIDENTIAL)

BULK REGULATIONS

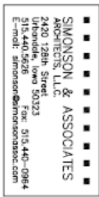
BULK REGULATIONS SHALL APPLY AS FOLLOWS:

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RELAY PAVED SETBACK ■ TO FIELD

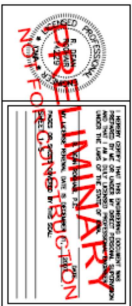
- FIRST SUBMITTAL: 6-31-06

- FIRST SUBMITTAL: 6-31-06

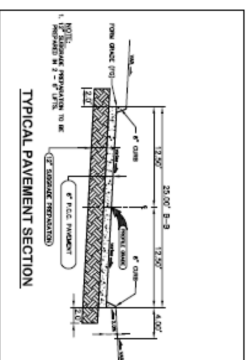
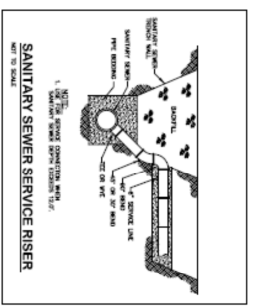
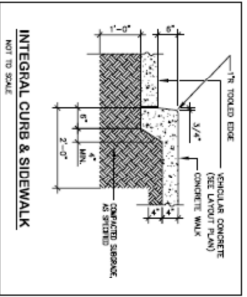
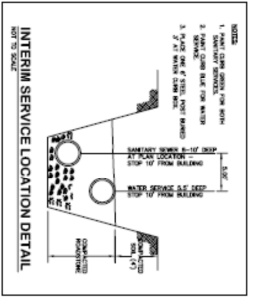
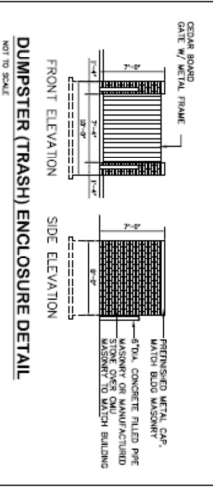
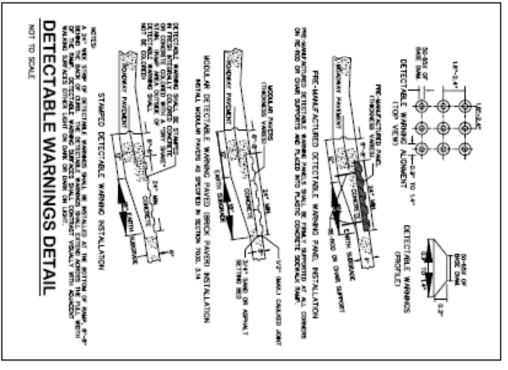
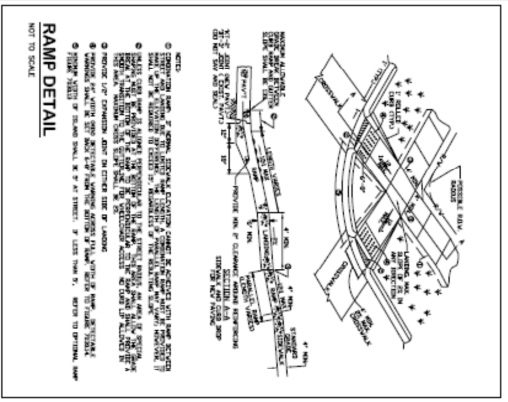


CIVIL DESIGN ADVANTAGE
5501 NW 412th STREET, SUITE C, CRUISE, FL 33045

PH: (515) 369-4400 Fax: (515) 369-4410
PROJECT NO. 0507.180



This design specifically prepared for use at the location shown. Use in any other manner exceeds the intended purpose of these drawings and only accompanying specifications.



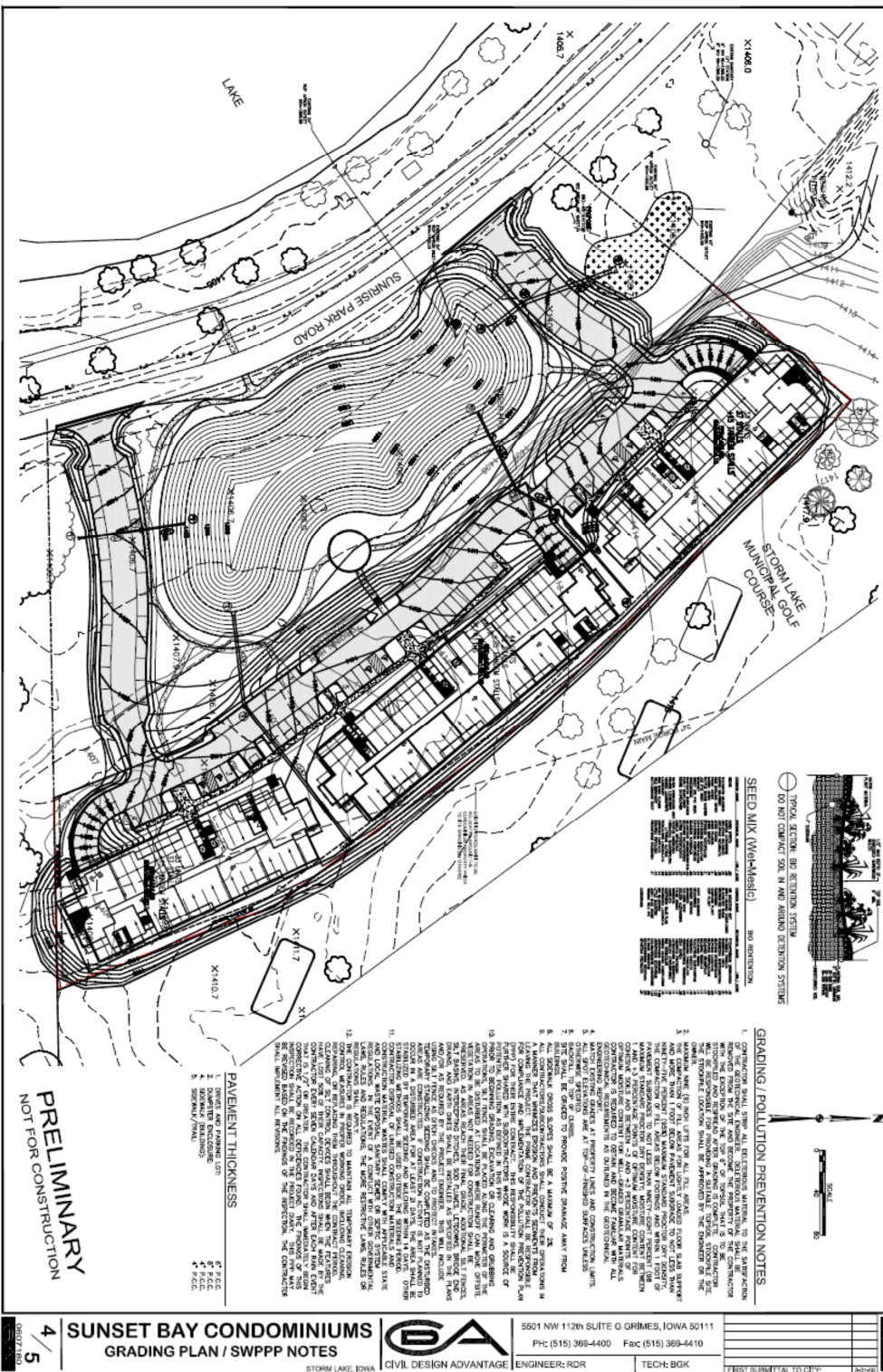


EXHIBIT C
CERTIFICATE OF COMPLETION FOR MINIMUM IMPROVEMENTS

WHEREAS, the City of Storm Lake, Iowa, ("City") and FB Storm Lake II, LLC, a Missouri limited liability company, ("Developer"), did on or about the _____ day of _____, 2016, make, execute and deliver, each to the other, a Purchase, Sale and Development Agreement (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:

A tract of land located in Government Lot One (1), being a part of the North Half of the Northeast Fractional Quarter (N½NEFrac¼) of Section Eleven (11), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., within the corporate limits of the City of Storm Lake, Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the southeast corner of Government Lot One (1) of said Section Eleven (11); thence on a true bearing of South 88°57'36" West, along the south line of said Government Lot One (1), 879.37 Feet to the point of beginning; thence continuing along said south line, South 88°57'36" West, 181.03 Feet to the original ordinary high water line of Storm Lake, as shown on a survey plat prepared by Charles A. Tapley recorded in Miscellaneous Book 26, on Page 775, in the office of the Buena Vista County Recorder; thence along said ordinary high water line the following courses: North 21°08'30" West, 133.80 Feet; thence North 36°18'01" West, 264.00 Feet; thence North 44°23'22" West, 376.74 Feet; thence North 49°58'48" West, 20.00 Feet; thence departing from said ordinary high water line along a line bearing North 40°01'12" East, 170.00 Feet; thence South 49°58'48" East, 28.30 Feet; thence South 44°23'22" East, 397.06 Feet; thence South 36°18'01" East, 298.64 Feet; thence South 21°08'30" East, 218.64 Feet to the point of beginning. Tract contains 3.39 acres and is subject to easements of record.

Buena Vista County Parcel #14-11-200-006

(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 in accordance with the Agreement (as defined therein); and

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

NOW, THEREFORE, this is to certify that all covenants and conditions of the Agreement with respect to the obligations of Developer and its successors and assigns, to construct the Minimum Improvements on the Development Property have been completed and performed by Developer and are

hereby released absolutely and forever terminated insofar as they apply to the land described herein. The County Recorder of Buena Vista County is hereby authorized to accept for recording and to record the filing of this instrument, to be a conclusive determination of the satisfactory termination of the covenants and conditions of said Agreement with respect to the construction of the Minimum Improvements on the Development Property.

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

[Remainder of page intentionally left blank; signature page follows]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 Certificate of Completion for Minimum Improvements – City of Storm Lake]

EXHIBIT D
MEMORANDUM OF AGREEMENT

[See following pages.]

Type of Document: **MEMORANDUM OF AGREEMENT BETWEEN THE CITY OF
STORM LAKE, IOWA AND FB STORM LAKE II, LLC**

Return Document to: **Sue Vossberg
City of Storm Lake
City Hall
620 Erie Street
Storm Lake, IA 50588**

Preparer Information: **Jason L. Comisky
Ahlers & Cooney, P.C.
100 Court Ave., Ste. #600
Des Moines, IA 50309
(515) 243-7611**

Taxpayer Information: **N/A**

GRANTORS: N/A

GRANTEES: N/A

LEGAL DESCRIPTION: See the first page of the Memorandum of Agreement.

MEMORANDUM OF AGREEMENT

WHEREAS, the City of Storm Lake, Iowa ("City"), and FB STORM LAKE II, LLC, a Missouri limited liability company, ("Developer"), did on or about the ____ day of _____, 2016, make, execute and deliver, each to the other, a Purchase, Sale and Development Agreement ("Agreement"), wherein and whereby Developer agreed, in accordance with the terms of the Agreement and the Storm Lake Industrial Park Urban Renewal Plan ("Plan"), as amended, to develop certain real property located within the City and within the Storm Lake Industrial Park Urban Renewal Area, as amended.

The Development Property is described as follows:

A tract of land located in Government Lot One (1), being a part of the North Half of the Northeast Fractional Quarter (N½NEFrac¼) of Section Eleven (11), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., within the corporate limits of the City of Storm Lake, Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the southeast corner of Government Lot One (1) of said Section Eleven (11); thence on a true bearing of South 88°57'36" West, along the south line of said Government Lot One (1), 879.37 Feet to the point of beginning; thence continuing along said south line, South 88°57'36" West, 181.03 Feet to the original ordinary high water line of Storm Lake, as shown on a survey plat prepared by Charles A. Tapley recorded in Miscellaneous Book 26, on Page 775, in the office of the Buena Vista County Recorder; thence along said ordinary high water line the following courses: North 21°08'30" West, 133.80 Feet; thence North 36°18'01" West, 264.00 Feet; thence North 44°23'22" West, 376.74 Feet; thence North 49°58'48" West, 20.00 Feet; thence departing from said ordinary high water line along a line bearing North 40°01'12" East, 170.00 Feet; thence South 49°58'48" East, 28.30 Feet; thence South 44°23'22" East, 397.06 Feet; thence South 36°18'01" East, 298.64 Feet; thence South 21°08'30" East, 218.64 Feet to the point of beginning. Tract contains 3.39 acres and is subject to easements of record.

Buena Vista County Parcel #14-11-200-006

(the "Development Property"); and

WHEREAS, the term of the Agreement commenced on the ____ day of _____, 2016 and terminates on December 31, 2040, unless otherwise terminated as set forth in the Agreement; and

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

NOW, THEREFORE, IT IS AGREED AS FOLLOWS:

1. That the recording of this Memorandum of Agreement 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 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 on the _____ day of _____, 2016.

[Remainder of page intentionally left blank; signature page follows]

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 – City of Storm Lake]

FB STORM LAKE II, LLC,
a Missouri limited liability company

By: _____
Shawn Foutch, Manager

STATE OF _____)
) SS
COUNTY OF _____)

On this _____ day of _____, 2016, before me the undersigned, a Notary Public in and for said State, personally appeared Shawn Foutch, to me personally known, who, being by me duly sworn, did say that he is the Manager of FB Storm Lake II, LLC, a Missouri limited liability company, and that said instrument was signed on behalf of said limited liability company; and that the said Shawn Foutch as such Manager, acknowledged the execution of said instrument to be the voluntary act and deed of said limited liability company, by him voluntarily executed.

Notary Public in and for said State

[Signature page to Memorandum of Agreement – FB Storm Lake II, LLC]

EXHIBIT E
DEVELOPER ANNUAL CERTIFICATION
(due by October 15th as required under terms of Development Agreement)

The Developer certifies the following:

During the time period covered by this Certification, the Developer is and was in compliance with Section 6.7 of the Agreement as follows:

(i) all ad valorem taxes on the Development Property then owned by the Developer in the Urban Renewal Area have been timely paid for the prior fiscal year (and for the current year, if due) and attached to this Annual Certification are proof of payment of said taxes;

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

(iii) The total number of Full-Time Equivalent Employment Units employed by Developer at the Minimum Improvements as of October 1, 20__ and as of the first day of each of the preceding eleven (11) months were are follows:

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

(iv) the undersigned officer of Developer has re-examined the terms and provisions of the Agreement and certifies 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.

[Remainder of page intentionally left blank; signature page follows]

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__.

FB STORM LAKE II, LLC,
a Missouri limited liability company

By: _____
Shawn Foutch, Manager

Attachments: Proof of payment of taxes

[Signature page to Developer Annual Certification –FB Storm Lake II, LLC]

EXHIBIT F
FORM OF QUIT CLAIM DEED

QUIT CLAIM DEED

Recorder's Cover Sheet

Preparer Information: (name, address and phone number)

Jason L. Comisky
Ahlers & Cooney, P.C.
100 Court Avenue, Suite 600
Des Moines, IA 50309
(515) 243-7611

Taxpayer Information:

FB Storm Lake II, LLC
8201 NW 97th Terrace
Kansas City, Missouri 64153

Return Document To:

FB Storm Lake II, LLC
8201 NW 97th Terrace
Kansas City, Missouri 64153

Grantors: City of Storm Lake, Iowa

Grantees: FB Storm Lake II, LLC

Legal Description: See first page of Quit Claim Deed.

Document or instrument number of previously recorded documents:

QUIT CLAIM DEED

For the consideration of One Dollar (\$1.00) and other valuable consideration, the **City of Storm Lake, Iowa**, ("Grantor") does hereby Quit Claim to **FB Storm Lake II, LLC**, a Missouri limited liability company, ("Grantee") the following described real estate in Buena Vista County, Iowa:

A tract of land located in Government Lot One (1), being a part of the North Half of the Northeast Fractional Quarter (N½NEFrac¼) of Section Eleven (11), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., within the corporate limits of the City of Storm Lake, Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the southeast corner of Government Lot One (1) of said Section Eleven (11); thence on a true bearing of South 88°57'36" West, along the south line of said Government Lot One (1), 879.37 Feet to the point of beginning; thence continuing along said south line, South 88°57'36" West, 181.03 Feet to the original ordinary high water line of Storm Lake, as shown on a survey plat prepared by Charles A. Tapley recorded in Miscellaneous Book 26, on Page 775, in the office of the Buena Vista County Recorder; thence along said ordinary high water line the following courses: North 21°08'30" West, 133.80 Feet; thence North 36°18'01" West, 264.00 Feet; thence North 44°23'22" West, 376.74 Feet; thence North 49°58'48" West, 20.00 Feet; thence departing from said ordinary high water line along a line bearing North 40°01'12" East, 170.00 Feet; thence South 49°58'48" East, 28.30 Feet; thence South 44°23'22" East, 397.06 Feet; thence South 36°18'01" East, 298.64 Feet; thence South 21°08'30" East, 218.64 Feet to the point of beginning. Tract contains 3.39 acres and is subject to easements of record.

Buena Vista County Parcel #14-11-200-006

This Deed is subject to all the terms, provisions, covenants, conditions and restrictions contained in that certain Purchase, Sale and Development Agreement, executed by the Grantor and Grantee herein, dated _____, 2016, as amended (hereinafter the "Agreement") which is herein incorporated by reference, a copy of which is on file for public inspection at the office of the City Clerk of the Grantor. All capitalized terms contained in this Deed have the same meaning as assigned to them in the Agreement. None of the provisions of the Agreement shall be deemed merged in, affected or impaired by this Deed.

This transfer is exempt under Iowa Code Chapter 428A.2.19

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

[Remainder of page intentionally left blank; signature page follows]

Dated: _____

(SEAL)

CITY OF STORM LAKE, IOWA

By: _____
Jon F. Kruse, Mayor

ATTEST:

By: _____
Sue Vossberg, City Clerk

STATE OF IOWA)
) SS
COUNTY OF BUENA VISTA)

On this _____ day of _____, 2016, before me a Notary Public in and for said State, personally appeared Jon F. Kruse and Sue Vossberg, 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 Quit Claim Deed – City of Storm Lake, Iowa]

01280379-1\11149-095

Staff Summary

10/17/2016

Agenda Item # 7.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 34-R-2016-2017 Approving The Proposal To Enter Into A Sale And Development Agreement With FB Storm Lake II, LLC

BACKGROUND: The City has received a purchase and negotiated a Developers Agreement with FB Storm Lake II, LLC for the purchase and development of City property located in the Storm Lake Industrial Park Urban Renewal Area. The Developer's Agreement consists of the construction and development of the property.

Purchase Price. The purchase price for the Development Property shall be Three Hundred Thousand Dollars (\$300,000).

Developer's Agreement:

Infrastructure Improvements: The Infrastructure Improvements include the construction of that portion of the driveways, sidewalks and parking located on City owned right-of-way, but designed for the Project. The estimated Infrastructure Improvements are expected to cost approximately \$100,000. Developer understands and agrees that an amount equivalent to the City's costs in excess of \$100,000, if any, incurred in connection with the design, bidding, and construction of the Infrastructure Improvements shall be reimbursed to the City by Developer.

Stabilization and Transition Grant: \$250,000

Economic Development Grants- Not to Exceed \$2,300,000

June 1, 2023 80% of Tax

Increments for Fiscal Year 2022-2023

June 1, 2024 80% of Tax

Increments for Fiscal Year 2023-2024

June 1, 2025 80% of Tax

Increments for Fiscal Year 2024-2025

June 1, 2026 80% of Tax

Increments for Fiscal Year 2025-2026

June 1, 2027	80% of Tax
Increments for Fiscal Year 2026-2027	
June 1, 2028	80% of Tax
Increments for Fiscal Year 2027-2028	
June 1, 2029	70% of Tax
Increments for Fiscal Year 2028-2029	
June 1, 2030	70% of Tax
Increments for Fiscal Year 2029-2030	
June 1, 2031	70% of Tax
Increments for Fiscal Year 2030-2031	
June 1, 2032	70% of Tax
Increments for Fiscal Year 2031-2032	
June 1, 2033	70% of Tax
Increments for Fiscal Year 2032-2033	
June 1, 2034	60% of Tax
Increments for Fiscal Year 2033-2034	
June 1, 2035	60% of Tax
Increments for Fiscal Year 2034-2035	
June 1, 2036	60% of Tax
Increments for Fiscal Year 2035-2036	
June 1, 2037	60% of Tax
Increments for Fiscal Year 2036-2037	
June 1, 2038	60% of Tax
Increments for Fiscal Year 2037-2038	
June 1, 2039	60% of Tax
Increments for Fiscal Year 2038-2039	
June 1, 2040	60% of Tax
Increments for Fiscal Year 2039-2040	

FISCAL IMPACT: Property taxes will be collected in the TIF area.

RECOMMENDATION: Council Adopt Resolution No. 34-R-2016-2017

ATTACHMENTS:

Description	Type
□ Resolution No. 34-R-2016-2017	Resolution

RESOLUTION NO. 34-R-2016-2017

RESOLUTION MAKING FINAL DETERMINATION ON
POTENTIAL SALE OF INTEREST IN REAL PROPERTY AND
APPROVING AND AUTHORIZING EXECUTION OF A
PURCHASE, SALE AND DEVELOPMENT AGREEMENT BY
AND BETWEEN THE CITY OF STORM LAKE AND FB
STORM LAKE II, LLC

WHEREAS, by Resolution No. 33-R-91-92, adopted September 16, 1991, as amended, 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 City Council also adopted the following resolutions to amend the Plan: Resolution No. 25-R-2004-2005, adopted October 18, 2004 (Amendment No. 1); Resolution No. 07-R-2010-2011, adopted July 19, 2010 (Amendment No. 2); Resolution No. 36-R-2013-2014, adopted November 18, 2013 (Amendment No. 3); and Resolution No. 29-R-2015-2016, adopted August 24, 2015 (Amendment No. 4); 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 renewal action; and

WHEREAS, the City has received a proposal from FB Storm Lake II, LLC (the "Developer"), in the form of a proposed Purchase, Sale and Development Agreement (the "Agreement") by and between the City and the Developer, pursuant to which, among other things, the Developer would agree to construct certain Minimum Improvements (as defined in the Agreement) together with all related site improvements; and

WHEREAS, the Agreement further proposes that the City will: (i) sell the Development Property (as defined in the Agreement) to the Developer under the terms and following satisfaction of the conditions set forth in the Purchase, Sale and Development Agreement; (ii) make up to eighteen (18) consecutive annual payments of Economic Development Grants consisting of a declining percentage of the Tax Increments pursuant to Iowa Code Section 403.19 and generated by the construction of the Minimum Improvements, the cumulative total for all such payments not to exceed the lesser of \$2,300,000, or the amount accrued under the formula outlined in the proposed Agreement, under the terms and following satisfaction of the conditions set forth in the Agreement; (iii) make up to two (2) payments of Stabilization and Transition Grants the cumulative total for all such payments not to exceed \$250,000 under the terms and following satisfaction of the conditions set forth in the Agreement; and

WHEREAS, Iowa Code Chapters 15A and 403 (the "Urban Renewal Law") authorize cities to make grants for economic development in furtherance of the objectives of an urban

renewal project and to appropriate such funds and make such expenditures as may be necessary to carry out the purposes of said Chapter, and to levy taxes and assessments for such purposes; and

WHEREAS, the terms of the Agreement satisfy the "fair market value" and "competitive bidding" requirements of Iowa Code Section 403.8; and

WHEREAS, in compliance with Sections 403.8, 364.6, and 364.7 of the Code of Iowa, the Council has set forth its proposal to dispose of interests in the Development Property, by publishing notice of a thirty day competitive bidding period followed by publication of notice of a public hearing on the Agreement and has held said hearing; and

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

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

WHEREAS, pursuant to notice published as required by law, this Council has held a public meeting and hearing upon the proposal to approve and authorize execution of the Agreement, which includes the potential sale of the Development Property (as defined in the Agreement), and has considered the extent of objections received from residents or property owners as to said proposed Agreement; and, accordingly the following action is now considered to be in the best interests of the City and residents thereof.

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

Section 1. The Council finds that disposal of interests in the Development Property to 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 Development Property will promote economic development and the remediation of blight in the City and that these benefits, together with the other consideration provided for in the Agreement, constitute fair consideration for the disposal of interests in the Development Property under Section 403.8, Code of Iowa.

Section 2. The proposal to sell the Development Property to 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 Development Property to the Developer in connection with the redevelopment of the Development Property under the terms set forth in the Agreement, be and is hereby declared to be a public undertaking and purpose and in furtherance of the Plan and the Urban Renewal Law and, further, that the Agreement and the City's performance thereunder is in furtherance of appropriate economic development activities and objectives of the City within the meaning of Chapters 15A and 403 of the Iowa Code, 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 17th day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

City Clerk

Staff Summary

10/17/2016

Agenda Item # 8.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: James H. Patrick, City Manager

SUBJECT: Public Hearing Concerning The Sale And Conveyance Of Real Estate To FB Storm Lake II,LLC

BACKGROUND: The City is required to conduct a Public Hearing and pass a Resolution approving the sale and conveyance of City owned real estate. The City desires to sell the real estate located adjacent to the City golf course along Sunrise Park Road for the purpose of erecting apartments/condominiums.

The Public Hearing on the proposed site and disposition was set by Resolution for this evening.

This may seem to be a duplicate Public Hearing, but it is required under another Iowa Code chapter 403.19.

There have been no other superior offers of purchase.

FISCAL IMPACT: Approximately \$500 to publish the Public Hearing notice.

RECOMMENDATION: Open the Public Hearing, Hear the Public, consider any citizen input and then close the Public Hearing.

Staff Summary

10/17/2016

Agenda Item # 9.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: James H. Patrick, City Manager

SUBJECT: Resolution No. 35-R-2016-2017 Approving Sale And Conveyance Of Real Estate To FB Storm Lake II, LLC., And Authorizing The Mayor And Clerk To Execute Contracts, Deeds, And Documents For Such Sale And Conveyance.

BACKGROUND: City Council, by Resolution adopted on September 19, 2016 proposed that the City sell and convey property along Sun Rise Park Road to FB Storm Lake II, LLC. (Developer) for the development of condominiums and apartment units at a sale price of \$300,000. The Developer's intent is to construct 110 to 120 market rate apartments and condominiums and is expected to make an investment of approximately \$11 million. The City will provide the Developer with economic development grants not to exceed a cumulative total of \$2,300,000 over a period of up to eighteen years consisting of a declining percentage of the Tax Increment. The City will also provide a stabilization and Transition Grant of \$250,000 to assist with the repair of the foundation. The City will assist in the construction of driveways, sidewalks and parking along the City owned property between Sun Rise Road and the development with a \$100,000 contribution.

The developer will construct between 110 and 120 units of condominiums and apartments.

FISCAL IMPACT: The City will have revenues of \$300,000. The City will provide up to \$2.3 million over 18 years, consisting of a declining percentage of the Tax Increment pursuant to Iowa Code Section 403.19, provide up to \$250,000 for the stabilization of the existing foundations, and provide up to \$100,000 for the construction of driveways, sidewalks and parking over the City owned property between Sun Rise Park Road and the development.

This will significantly increase the City tax base once the economic development incentives is over.

RECOMMENDATION: Council Adopt Resolution No. 35-R-2016-2017 Approving Sale And Conveyance Of Real Estate To FB Storm Lake II, LLC., And Authorizing The Mayor And Clerk To Execute Contracts, Deeds, And Documents For Such Sale And Conveyance

ATTACHMENTS:

Description	Type
 Resolution No. 35-R-2016-2017	Resolution

RESOLUTION NO. 35-R-2016-2017

RESOLUTION APPROVING SALE AND CONVEYANCE OF REAL ESTATE TO FB STORM LAKE II, LLC, AND AUTHORIZING MAYOR AND CLERK TO EXECUTE CONTRACTS, DEEDS, AND DOCUMENTS FOR SUCH SALE AND CONVEYANCE

WHEREAS, the City of Storm Lake, Iowa (the "City") is the owner of real estate described as follows:

A tract of land located in Government Lot One (1), being a part of the North Half of the Northeast Fractional Quarter (N1/2 NE Frac.1/4) of Section Eleven (11), Township Ninety (90) North, Range Thirty-Seven (37) West of the 5th P.M., within the corporate limits of the City of Storm Lake, Buena Vista County, Iowa, and being more particularly described as follows: Commencing at the Southeast (SE) Corner of Government Lot One (1) of said Section Eleven (11); thence on a true bearing of South 88°57'36" West, along the south line of said Government Lot One (1), 879.37 Feet to the point of beginning; thence continuing along said South line, South 88°57'36" West, 181.03 Feet to the original ordinary high water line of Storm Lake, as shown on a survey plat prepared by Charles A. Tapley recorded in Misc. Book 26, on Page 775, in the office of the Buena Vista County Recorder; thence along said ordinary high water line the following courses: North 21°08'30" West, 133.80 Feet; thence North 36°18'01" West, 264.00 Feet; thence North 44°23'22" West, 376.74 Feet; thence North 49°58'48" West, 20.00 Feet; thence departing from said ordinary high water line along a line bearing North 40°01'12" East, 170.00 Feet; thence South 49°58'48" East, 28.30 Feet; thence South 44°23'22" East, 397.06 Feet; thence South 36°18'01" East, 298.64 Feet; thence South 21°08'30" East, 218.64 Feet to the point of beginning. Tract contains 3.39 acres and is subject to easements of record.

(the "Real Estate");

WHEREAS, the City Council, by Resolution adopted September 19, 2016, proposed that the City sell and convey the Real Estate to FB Storm Lake II, LLC (the "Developer") for development of condominium and apartment units pursuant to a proposed Purchase, Sale and Development Agreement (the "Agreement") by and between the City and the Developer, at a sale price of \$300,000.00, \$100,000.00 of which will be due on or before closing of the sale and the balance of which will be due at the earlier of the date on which the Developer closes its construction loan or the date that is six months from the date of the Agreement;

WHEREAS, under the Agreement, the City would provide Developer with a) certain annual economic development grants not to exceed a cumulative total of \$2,300,000 over a period of up to eighteen years, consisting of a declining percentage of the Tax Increments pursuant to Iowa Code Section 403.19 and generated by the construction of certain improvements to the real estate that the Developer is required to make, and b) certain Stabilization and Transition Grants the cumulative total of which would not exceed \$250,000.00;

WHEREAS, the Real Estate is not otherwise needed by the City;

WHEREAS, notice of the October 17, 2016 public hearing on the proposed sale and disposition has been made to the public by publication in the Storm Lake Times on October 5, 2016, pursuant to a directive to the Clerk contained in the September 19, 2016 Resolution, and such hearing has now been held; and

WHEREAS, no objections to the proposed sale and conveyance have been made.

NOW, THEREFORE, BE IT HEREBY RESOLVED that the City of Storm Lake, Iowa does hereby agree to sell and convey the Real Estate to the Developer for the consideration of \$300,000.00, under the terms and conditions of the Agreement between the City and the Developer.

IT IS FURTHER RESOLVED AND DIRECTED that the Mayor and City Clerk are authorized to sign and otherwise execute the Agreement, all necessary contracts, deeds, and documents associated with the sale on behalf of the City for the purpose of selling and conveying the Real Estate to the Developer in exchange for the consideration and under the terms and conditions aforesaid.

Passed and approved this 17th day of October, 2016.

Jon F. Kruse, Mayor

Attest:

Sue Vossberg, City Clerk

Staff Summary

10/17/2016

Agenda Item # 10.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

[p \(712\) 732-8000](tel:(712)732-8000)

[f \(712\) 732-4114](tel:(712)732-4114)

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 36-R-2016-2017 for Workforce Housing Tax Incentive Program

BACKGROUND: FB Storm Lake II, LLC is submitting an application to the Iowa Economic Development Authority (IDEA) for the Workforce Housing Tax Incentive Program for the Sunrise Park Road housing project. Formal resolution from the City Council is required to support the application.

FISCAL IMPACT: There is no fiscal impact by approving this resolution

RECOMMENDATION: Council Adopt Resolution No. 36-R-2016-2017

ATTACHMENTS:

Description	Type
 Resolution No. 36-R-2016-2017	Resolution

RESOLUTION NO. 36-R-2016-2017

**A RESOLUTION IN SUPPORT OF A WORKFORCE HOUSING TAX
INCENTIVE APPLICATION TO BE SUBMITTED TO THE IOWA
ECONOMIC DEVELOPMENT AUTHORITY (IDEA) BY FB STORM
LAKE II, LLC FOR A HOUSING PROJECT LOCATED AT 201 SUNRISE
PARK ROAD**

WHEREAS, Storm Lake has a blight designation through the formation of a Urban Renewal Plan for 201 Sunrise Park Road; and

WHEREAS, FB Storm Lake II, LLC plans on a \$14 Million capital investment for a housing development located at 201 Sunrise Park Road; and

WHEREAS, the project consists of two separate buildings each of which will be three stories and include a minimum of 100 market rate condominium/apartments between the two buildings; and

WHEREAS, the project will add new assessable tax valuation to Storm Lake, and

WHEREAS, the City of Storm Lake will assist the project by providing economic development grants not to exceed \$2,550,000 through the Storm Lake Industrial Park Urban Renewal Plan; and

WHEREAS, FB Storm Lake II, LLC intends to submit an application for Workforce Housing Tax Incentive through the Iowa Economic Development Authority; and

WHEREAS, the City of Storm Lake is a duly recognized political subdivision of the State of Iowa actin under the laws of the State of Iowa; and

WHEREAS, the City Council is the duly elected governing body of Storm Lake, Iowa; and

IT IS HEREBY RESOLVED by the City Council of Storm Lake Iowa as follows:

1. The City Council is in full support of the opportunity to promote housing development in Storm Lake, Iowa and fully supports the Application for Workforce Housing Tax Incentives.
2. City staff is authorized to assist in the preparation of the application and related materials deemed necessary.

PASSED AND APPROVED this 17th day of October 2016.

Jon F. Kruse, Mayor

ATTEST

Sue Vossberg, City Clerk

Staff Summary

10/17/2016

Agenda Item # 11.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Jason Etnyre, Public Works Director

SUBJECT: Motion to Set a Public Hearing to Approve Plans, Specifications, Form of Contract, and Estimated Costs for the East Richland Street Rehabilitation Project

BACKGROUND: On June 17, 2013 the City Council entered into contract with Bolton & Menk for the engineering services associated with the 2017 East Richland Street Rehabilitation Project.

The projects will consist of the removal and replacement of approximately 3800 square yards of PCC pavement on East Richland Street from Flindt Drive to Radio Road in the City of Storm Lake. There will also be sub-drain installed to improve road bed drainage.

Staff recommends setting a Public Hearing for November 7, 2016 at 5:00 pm during the City Council meeting for the Plans, Specifications, Bids, Form of Contract, and Estimated Costs associated with the 2017 East Richland Street Project.

FISCAL IMPACT: Estimated cost for this project is \$464,901. Surface Transportation Program (STP) funds in the amount of \$202,000 will be used to partially fund this project. The balance of the cost will be paid through both the Local Option Sales Tax (LOST) and Franchise Fees for fiscal year 17.

RECOMMENDATION: Staff recommends that Council set a public hearing for November 7th, 2016.

ATTACHMENTS:

Description	Type
Project Estimate	Estimate

**CITY OF STORM LAKE, IOWA
E. RICHLAND STREET REHABILITATION**

ESTIMATED PROJECT QUANTITIES

ITEM NO.	ITEM	UNIT	TOTAL	UNIT PRICE	TOTAL
1	EXCAVATION, CLASS 13, ROADWAY AND BORROW	CY	646	\$14.00	\$9,044.00
2	TOPSOIL, FURNISH AND SPREAD	CY	93	\$25.00	\$2,325.00
3	SUBGRADE STABILIZATION MATERIAL, POLYMER GRID	SY	3,018	\$3.00	\$9,054.00
4	MODIFIED SUBBASE	CY	646	\$38.00	\$24,548.00
5	STANDARD OR SLIP FORM PORTLAND CEMENT CONCRETE PAVEMENT, CLASS C, CLASS 3 DURABILITY, 8 IN.	SY	1,050	\$40.00	\$42,000.00
6	SUBDRAIN, PERFORATED PLASTIC PIPE, 6 IN. DIA.	LF	3,150	\$25.00	\$78,750.00
7	SUBDRAIN OUTLET (DR-303)	EA	4	\$500.00	\$2,000.00
8	REMOVAL OF PAVEMENT	SY	1,050	\$7.00	\$7,350.00
9	DRIVEWAY, P.C. CONCRETE, 6 IN.	SY	90	\$42.00	\$3,780.00
10	TRAFFIC CONTROL	LS	1	\$20,000.00	\$20,000.00
11	PATCHES, FULL-DEPTH FINISH, BY AREA	SY	2,816	\$75.00	\$211,200.00
12	PATCHES, FULL-DEPTH FINISH, BY COUNT	EA	59	\$500.00	\$29,500.00
13	MOBILIZATION	LS	1	\$19,500.00	\$19,500.00
14	SEEDING AND FERTILIZING (URBAN)	AC	0.5	\$4,500.00	\$2,250.00
15	SILT FENCE	LF	500	\$3.00	\$1,500.00
16	REMOVAL OF SILT FENCE OR SILT FENCE FOR DITCH CHECKS	LF	500	\$0.50	\$250.00
17	MAINTENANCE OF SILT FENCE OR SILT FENCE FOR DITCH CHECK	LF	500	\$0.10	\$50.00
18	PERIMETER AND SLOPE SEDIMENT CONTROL DEVICE, 6 IN DIA.	LF	60	\$4.00	\$240.00
19	REMOVAL OF PERIMETER AND SLOPE SEDIMENT CONTROL	LF	60	\$1.00	\$60.00
20	MOBILIZATIONS, EROSION CONTROL	EA	3	\$500.00	\$1,500.00

ESTIMATED COST OPINION: \$464,901.00

Staff Summary

10/17/2016

Agenda Item # 12.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Resolution No. 37-R-2016-2017 Adopting Storm Lake's Airport Capital Improvement Program Submittal

BACKGROUND: The City of Storm Lake is the Airport's official sponsor organization, therefore must approve the Airport Capital Improvement Program (ACIP). Once approved, the plan will be submitted to the State of Iowa and to the Federal Aviation Administration.

The projects included in this plan are as follows:

- FY 2017-Runway 13/31 Subdrains and Apron Pavement Repairs
 - Federal Funding- \$317,790
 - Local Match- \$35,310
- FY 2018- No Project
- FY 2019- Lighting Replacements- Runway 13/31 and Taxiway
 - Federal Funding- \$417,780
 - Local Match- \$46,420
- FY 2020-Runway 13/31 NAVAIDS
 - Federal Funding- \$198,454
 - Local Match- \$22,051
- FY 2021-No Project
- FY 2022- Lighting Replacements- Runway 17/35
 - Federal Funding- \$349,110
 - Local Match- \$38,790

FISCAL IMPACT: The projects are funded 90% by the FAA and 10% by the City

RECOMMENDATION: Council Adopt Resolution No 37-R-2016-2017

ATTACHMENTS:

Description	Type
☐ Resolution No. 37-R-2016-2017	Resolution
☐ ACIP	Backup Material

RESOLUTION NO. 37-R-2016-2017

Resolution to approve the FY 2017 Five year airport capital improvement program (ACIP)

Whereas, as a condition to receive the State and Federal aid for the Storm Lake Municipal Airport, the following provisions must be met:

- Approved 5-Year Capital Improvement Program
- Approved Airport Improvement Program data sheets with Sponsors Signature
- Certification that the local match exists if the grant is awarded
- Authorization to submit the application for the proposed projects for Federal and/or State Grants, and

Whereas, the FY 2017 5-year Capital Improvement Program and Airport Capital Improvement Program data sheets are attached listing the projects deemed to be in the best interest of the Storm Lake Municipal Airport.

Now, therefore, be it resolved that the City of Storm Lake staff recommends the submittal of the attached 5-year Capital Improvement Program for the Storm Lake Municipal Airport, for potential FY2017 through FY2022 Federal and State Aviation Grants and certifies that the local match is available for the FY 2017 project if a grant is awarded.

PASSED AND APPROVED this 17th day of October, 2016.

Jon F. Kruse, Mayor

ATTEST:

Sue Vossberg, City Clerk

ACIP, STORM LAKE (SLB)											FY 2017 - FY 2022 CIP						10/1/2016	
																	Preliminary	
FY	Description	FAA %	Funding % Rates		Project Cost	Federal Entitlement Funding		Federal Discretionary Funding		State Funding	Local Funding	Federal Entitlement Balance						
			State %	Local %														
FY 2017											FY 2017 ENTITLEMENT BALANCE				\$ 315,247.00			
2017	RUNWAY 13/31 SUBDRAINS & APRON PAVEMENT REPAIRS	90%	0%	10%	\$ 353,100.00	\$ 315,247.00	\$ 2,543.00	\$ -	\$ 35,310.00	\$ -								
2017	NO PROJECT	0%	0%	100%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -								
FY 2017 TOTALS					\$ 353,100.00	\$ 315,247.00	\$ 2,543.00	\$ -	\$ 35,310.00									
FY 2018											FY 2018 ENTITLEMENT BALANCE				\$ 150,000.00			
2018	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000.00						
2018	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000.00						
FY 2018 TOTALS					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -								
FY 2019											FY 2019 ENTITLEMENT BALANCE				\$ 300,000.00			
2019	LIGHTING REPLACEMENTS - RUNWAY 13/31 & TAXIWAY	90%	0%	10%	\$ 464,200.00	\$ 300,000.00	\$ 117,780.00	\$ -	\$ 46,420.00	\$ -								
2019	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
FY 2019 TOTALS					\$ 464,200.00	\$ 300,000.00	\$ 117,780.00	\$ -	\$ 46,420.00									
FY 2020											FY 2020 ENTITLEMENT BALANCE				\$ 150,000.00			
2020	RUNWAY 13/31 NAVAIDS	90%	0%	10%	\$ 220,505.00	\$ 150,000.00	\$ 48,454.50	\$ -	\$ 22,050.50	\$ -								
2020	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
FY 2020 TOTALS					\$ 220,505.00	\$ 150,000.00	\$ 48,454.50	\$ -	\$ 22,050.50									
FY 2021											FY 2021 ENTITLEMENT BALANCE				\$ 150,000.00			
2021	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000.00						
2021	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 150,000.00						
FY 2021 TOTALS					\$ -	\$ -	\$ -	\$ -	\$ -	\$ -								
FY 2022											FY 2022 ENTITLEMENT BALANCE				\$ 300,000.00			
2022	LIGHTING REPLACEMENTS - RUNWAY 17/35	90%	0%	10%	\$ 387,900.00	\$ 300,000.00	\$ 49,110.00	\$ -	\$ 38,790.00	\$ -								
2022	NO PROJECT	90%	0%	10%	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -							
FY 2022 TOTALS					\$ 387,900.00	\$ 300,000.00	\$ 49,110.00	\$ -	\$ 38,790.00									
Summary for Storm Lake Municipal Airport					FY 2017 - FY 2022 TOTAL:	\$ 1,425,705.00	\$ 1,065,247.00	\$ 217,887.50	\$ -	\$ 142,570.50								

FY	Description	Funding % Rates			Project Cost	Federal Entitlement Funding	Federal Discretionary Funding	State Funding	Local Funding	Federal Entitlement Balance						
		FAA %	State %	Local %												
LONG TERM NEEDS																
FY 2023								FY 2023 ENTITLEMENT BALANCE \$			150,000.00					
2023	RUNWAY 17/35 NAVAIDS	90%	0%	10%	\$	255,870.00	\$	150,000.00	\$	80,283.00	\$	-	\$	25,587.00	\$	-
FY 2023 TOTALS					\$	255,870.00	\$	150,000.00	\$	80,283.00	\$	-	\$	25,587.00		
											FY 2024 ENTITLEMENT BALANCE \$			150,000.00		
2024	RUNWAY 17/35 SUBDRAINS	90%	0%	10%	\$	203,700.00	\$	150,000.00	\$	33,330.00	\$	-	\$	20,370.00	\$	-
FY 2024 TOTALS					\$	203,700.00	\$	150,000.00	\$	33,330.00	\$	-	\$	20,370.00		
											FY 2025 ENTITLEMENT BALANCE \$			150,000.00		
2025	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	150,000.00
FY 2025 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2026 ENTITLEMENT BALANCE \$			300,000.00		
2026	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	300,000.00
FY 2026 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2027 ENTITLEMENT BALANCE \$			450,000.00		
2027	100'x100' CONVENTIONAL HANGAR	90%	0%	10%	\$	916,700.00	\$	450,000.00	\$	375,030.00	\$	-	\$	91,670.00	\$	-
FY 2027 TOTALS					\$	916,700.00	\$	450,000.00	\$	375,030.00	\$	-	\$	91,670.00		
											FY 2028 ENTITLEMENT BALANCE \$			150,000.00		
2028	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	150,000.00
FY 2028 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2029 ENTITLEMENT BALANCE \$			300,000.00		
2029	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	300,000.00
FY 2029 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2030 ENTITLEMENT BALANCE \$			450,000.00		
2030	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	450,000.00
FY 2030 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2031 ENTITLEMENT BALANCE \$			600,000.00		
2031	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	600,000.00
FY 2031 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		
											FY 2032 ENTITLEMENT BALANCE \$			750,000.00		
2032	NO PROJECT	90%	0%	10%	\$	-	\$	-	\$	-	\$	-	\$	-	\$	750,000.00
FY 2032 TOTALS					\$	-	\$	-	\$	-	\$	-	\$	-		

Staff Summary

10/17/2016

Agenda Item # 13.



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

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Motion to Approve Community Development Block Grant- National Disaster Resilience Grant Agreement

BACKGROUND: On June 22, 2015, the U.S Department of Housing and Urban Development (HUD) invited 40 states and communities to compete in the second and final phase of the National Disaster Resilience Competition. Storm Lake experienced a Presidentially-declared major disaster in 2011, 2012, and 2013 and successfully competed for almost \$1 billion in funding for disaster recovery and long-term community resilience.

The City applied for funding for eight (8) projects which has a total project cost of \$8,633,000. The grant award amount is \$6.4M These projects include:

- North Seneca and Spooner Street Stormwater Improvements
- 4th and Oates Stormwater Improvements
- 7th and Geneseo Sanitary Sewer Replacement
- Memorial Park Stormwater Improvements
- 1st Street and Mae Street Sewer Lining
- 10th and Ontario Stormwater Improvements
- 4th Street and Barton Stormwater Improvements
- Wetland Pond at the Wastewater Treatment Facility

This agreement states that the City will comply with the rules and regulations set by the Iowa Economic Development Authority.

FISCAL IMPACT: The City is responsible for a 25% match for each of the projects totaling \$2.1M.

RECOMMENDATION: Approve Grant Agreement

ATTACHMENTS:

Description	Type
☐ CDBG - NRDC Contract	Contract

**IOWA ECONOMIC DEVELOPMENT AUTHORITY
COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG-NDR) PROGRAM
NATIONAL RESILIENT DISASTER RECOVERY PHASE ONE AND TWO INFRASTRUCTURE CONTRACT**

RECIPIENT:	City of Storm Lake
CDBG-NDR CONTRACT NUMBER:	13-NDRI-012
START DATE:	October 11, 2016
AWARD AMOUNT:	\$6,534,750
DIRECT Leverage (match)	\$2,158,250
END DATE:	September 30, 2021

THIS COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ("CDBG-NDR") NATIONAL RESILIENT DISASTER RECOVERY PHASE ONE AND TWO CONTRACT is made by and between the IOWA ECONOMIC DEVELOPMENT AUTHORITY, 200 East Grand Avenue, Des Moines, Iowa 50309 ("Authority" or "IEDA") and City of Storm Lake ("Recipient"), effective as of the date stated above.

WHEREAS, the Authority is designated to receive, administer, and disburse CDBG-NDR funds; and

WHEREAS, the Authority submitted an application to HUD for funds from the United State Department of Housing and Urban Development under the Disaster Relief Appropriations Act, 2013, Public Law 113-2, for the Community Development Block Grant National Disaster Resilience (CDBG-NDR) competition on behalf of the Recipient and the Recipient agreed to abide by the application terms and conditions; and

WHEREAS, the Authority received funds under the Disaster Relief Appropriations Act, 2013. (Public Law 113-2) under the CDBG-NDR program; and

WHEREAS, the Authority desires to disburse grant funds to the Recipient for eligible purposes primarily benefiting low and moderate income persons, eliminating slums and blight, or meeting community development needs having particular urgency; and

WHEREAS, the Recipient has certified to the Authority that the primary purpose for obtaining CDBG-NDR funds is to primarily benefit low and moderate income persons, eliminate slums and blight, or meet community development needs having a particular urgency;

NOW, THEREFORE, the Recipient accepts this grant upon the terms and conditions set forth in this Contract. In consideration of the mutual promises contained in this Contract and other good and valuable consideration, it is agreed as follows:

ARTICLE 1
DEFINITIONS

As used in this Contract, the following terms shall apply:

1.1 **ACT.** "Act" means Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.) and the regulations now or hereafter promulgated thereunder and the guidance now or hereafter disseminated with respect thereto.

1.2 **ACTIVITY.** "Activity" means the description of eligible work, services, and other accomplishments, as authorized by Section 105 of the "Act" and as further defined in 24 CFR 570.482, as revised April 1, 1997. Activities are line items in the budget and are found in the line items in Attachment A, "Program Description" and the Recipient's "Budget Activity" in IowaGrants.gov account and have specific performance targets.

1.3 **ALLOWABLE COSTS.** "Allowable Costs" are those costs which are identified in the "Budget Activity" as found in the Recipient's IowaGrants.gov account, and consistent with Federal regulations and guidelines applicable to the CDBG-NDR program.

1.4 **APPLICATION.** "Application" means the application submitted by the Iowa Economic Development Authority to the U.S. Department of Housing and Urban Development under the Disaster Relief Appropriations Act, 2013, Public Law 113-2, for the Community Development Block Grant National Disaster Resilience (CDBG-NDR) competition, including the application for National Resilient Disaster Recovery Phase ONE and TWO as approved by HUD on January 29, 2016, and the Recipient agreed to be a party to the Application and abide by the application terms and conditions.

- 1.5 **BUDGET.** "Budget" means the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- 1.6 **COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM (CDBG).** "Community Development Block Grant Program" means the grant program authorized by Title I of the Housing and Community Development Act of 1974, as amended.
- 1.7 **CONTRACT.** "Contract" means this Contract and all of the notes, leases, assignments, mortgages, and similar documents referred to in the Contract and all other instruments or documents executed by the Recipient or otherwise required in connection with the Contract, including the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application together with any related submittal documents.
- 1.8 **DISASTER RELIEF APPROPRIATIONS ACT, 2013 (PUBLIC LAW 113-2)** "Disaster Relief Appropriations Act, 2013 (Public Law 113-2)" means the Disaster Relief Appropriations Act, 2013 (Public Law 113-2) as published in the Federal Register on January 29, 2013.
- 1.9 **END DATE.** "End Date" means the date the Contract ceases to be in force and effect. The Contract expires upon the occurrence of one of the following: a) the Recipient fulfills the conditions and Project activities agreed to herein as of the end date stated above; or b) the Contract is terminated by the Authority due to any default under Article 9.1; or c) the Contract is terminated in accordance with provisions set forth in Sections 8 and 9 of the General Provisions, Attachment C of this Contract.
- 1.10 **GRANT.** "Grant" means the award of CDBG-NDR funds to the Recipient for Project activities.
- 1.11 **HUD.** "HUD" means the U.S. Department of Housing and Urban Development.
- 1.12 **IOWAGRANTS.GOV.** "IowaGrants.gov" means Iowa's Funding Opportunity Search and Grant Management System. This system allows you to electronically apply for and manage grants received by the state of Iowa. Persons accessing the system for this purpose are required to register online at www.IowaGrants.gov.
- 1.13 **LOW- AND MODERATE-INCOME FAMILIES.** "Low- and Moderate-Income Families" means those families earning no more than 80 percent of the higher of the median family income of the county or the statewide nonmetropolitan area as determined by the latest U.S. Department of Housing and Urban Development, Section 8 income guidelines. Unrelated individuals living together shall be considered as one-person families for this purpose.
- 1.14 **LOW- AND MODERATE-INCOME PERSONS.** "Low and Moderate Income Person" means a member of a low- and moderate-income family as defined above.
- 1.15 **LOW- AND MODERATE AREA.** "Low and Moderate Area" means the service area identified for activities is primarily low/mod income.
- 1.16 **NATIONAL RESILIENCE DISASTER RECOVERY PHASE ONE AND TWO.** "National Resilient Disaster Recovery Phase ONE and TWO" (NDR) means the Notice of Funding Availability for the National Resilient Disaster Recovery Phase ONE and TWO FR-5800-N-29A2 Application Due Date: 10/27/2015.
- 1.17 **PROGRAM.** "Program" means the Community Development Block Program for National Resilient Disaster Recovery Phase ONE and TWO authorized pursuant to the Program Rules.
- 1.18 **PROGRAM INCOME.** "Program Income" shall have the meaning for such term set forth in 24 CFR 570.500(a), as modified by the Program Rules.
- 1.19 **PROGRAM RULES.** "Program Rules" means the Act, as modified by the Disaster Relief Appropriations Act, 2013 (Public Law 113-2), and the regulations now or hereafter promulgated thereunder and the guidance now or hereafter disseminated with respect thereto including but not limited to HUD Notices published in the Federal Register on January 29, 2013, March 5, 2013, November 18, 2015, and December 7, 2015, and any additional HUD Notices or other guidance that may be disseminated.
- 1.20 **PROJECT.** "Project" means the totality of work, services, and activities to be performed or accomplished by the Recipient as described in this Contract and IowaGrants.gov.
- 1.21 **RECIPIENT.** "Recipient" means the entity identified above that has been selected to receive Program funds to undertake the funded Project and agrees to comply with all applicable CDBG-NDR requirements, including those found in Disaster Relief Appropriations Act, 2013 (Public Law 113-2), title I of the Housing and Community Development Act of 1974

(42 USC 5302 et seq.), the CDBG program regulations at 24 CFR part 570, the Notice of Funding Availability for HUD's National Community Development Block Grant Resilient Disaster Recovery Allocation and any subsequent published amendments (the CDBG-NDR NOFA), and IEDA's CDBG-NDR NOFA application. For purposes of this agreement the "Recipient" shall also be considered to meet the definition and qualifications as a "Subrecipient" as defined in 2 CFR 200.93 and 2 CFR 200.330 and agrees to receive this "Subaward" as defined in 2 CFR 200.92.

1.22 **SPECIAL FLOOD HAZARD AREA.** "Special Flood Hazard Area" means an area designated as a special hazard flood area on the most recent National Flood Insurance Program map for such area.

ARTICLE 2 **FUNDING**

2.1 **FUNDING SOURCE.** The source of funding for the Grant is a Federal appropriation for the Program.

2.2 **RECEIPT OF FUNDS.** All payments under this Contract are subject to receipt by the Authority of sufficient Federal funds for the CDBG-NDR program. Any termination, reduction or delay of CDBG-NDR funds to the Authority shall, at the option of the Authority, result in the termination, reduction or delay of CDBG-NDR funds to the Recipient.

2.3 **PRIOR COSTS.** If any Recipient has received approval from the Authority to incur certain costs prior to the Start Date of this Contract, then said written approval and the terms and conditions therein are incorporated herein and made a part of this Contract by this reference as if fully set forth; provided, however, that no such costs incurred prior to January 29, 2016 shall be reimbursed. Any such costs incurred prior to the Start Date of this Contract are subject to the Special Conditions and General Conditions of this Contract.

2.4 **DISBURSEMENT OF LESS THAN THE TOTAL AWARD AMOUNT.** If the total award amount has not been requested by the Recipient within sixty (60) days after the End Date, then the Authority shall be under no obligation for further disbursement. The Authority may allow access to funds after this time for allowable costs associated with the conduct of the audits required in Article 2.0 of the General Provisions, Attachment C to this Contract.

ARTICLE 3 **TERMS OF GRANT**

3.1 **TIME OF PERFORMANCE.** The services of the Recipient are to commence as of the Start Date and shall be undertaken in such a manner as to assure their timely and expeditious completion. All of the services required hereunder shall be completed on or before the End Date.

3.2 **MAXIMUM PAYMENTS.** It is expressly understood and agreed that the maximum amounts to be paid to the Recipient by the Authority for any item of work or service shall conform to the budget as presented in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. It is further understood and agreed that the total of all payments to the Recipient by the Authority for all work and services required under this Contract shall not exceed the Award Amount unless modified by written amendment of this Contract as provided for in Section 1.0 of the General Provisions, Attachment C of this Contract.

3.3 **ADMINISTRATION.** This Contract shall be administered in accordance with all applicable State and Federal laws and regulations now in effect and as may be amended from time to time, and including the Iowa Community Development Block Grant Management Guide as which may be amended or changed from time to time, and which can be accessed on the Authority's website, to the extent applicable to the Program and not in conflict with the Program Rules.

3.4 **LOCAL EFFORT REQUIREMENTS.** The Recipient agrees to provide local cash contribution to the Project as defined in the "Local" column of the budget shown in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. Expenditures above this level, necessary to complete the statement of work and services, shall be paid with local funds. Reports of the local funds expended shall be included in the Request for Payment/Activity Status Report specified in Article 8.1(b), "Reports".

ARTICLE 4 **PERFORMANCE TARGET ACHIEVEMENT**

4.1 **PERFORMANCE TARGETS.** By the End Date, the Recipient shall have accomplished the activities and performance targets as described in the "Budget Activity" as found in the Recipient's IowaGrants.gov account and as further elaborated in Attachment B, National Resilient Disaster Recovery Phase ONE and TWO Application.

4.2 **CALCULATION OF PROJECT COMPLETION.** The Authority has the final authority to assess whether the Recipient has met their performance targets at the End Date. The Authority shall determine completion according to the performance targets set forth in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. The Authority reserves the right to monitor and measure at any time during and after the Contract term the achievement of the performance targets.

ARTICLE 5 **USE OF FUNDS**

5.1 **GENERAL.** The Recipient shall perform in a satisfactory and proper manner, as determined by the Authority, the work activities and services as written and described in the Recipient's approved Attachment A, "Program Description", "Budget Activity" as found in the Recipient's IowaGrants.gov account, and Attachment B, National Resilient Disaster Recovery Phase ONE and TWO Application.

5.2 **PROGRAM INCOME.** Unless otherwise agreed to in a signed amendment to this Contract, proceeds generated from the use of CDBG-NDR funds are considered program income when the total amount of any CDBG-NDR program income received by the Recipient in a fiscal year exceeds \$35,000, at which time the entire \$35,000 and excess are considered program income. Prior to the End Date, all program income shall be expended prior to requesting additional CDBG-NDR funds. Program income received by the Recipient after the End Date shall be returned to the Authority unless the Recipient has submitted, and the Authority has approved, a re-use plan. Any CDBG-NDR proceeds derived from an approved Revolving Loan Fund are considered program income, regardless of the amount received in any year.

5.3 **BUDGET REVISIONS.** Budget revisions shall be subject to approval of the Authority through the Contract amendment process. Budget line item decreases that would lower the Recipient's performance level required under this Contract must be first approved by the Authority through the amendment process. In no instance shall a budget revision result in total costs exceeding the total Contract amount. Budget revisions shall be compatible with the terms of this Contract and be of such a nature as to qualify as an allowable cost. Budget revisions requested during the final ninety (90) days of the Contract period will be approved by the Authority only if it determines that the revisions are necessary to complete all activities. The Authority retains the right to amend this contract to reduce the award amount when necessary to achieve an equitable distribution of funds for all areas of the state.

5.4 **PROHIBITION ON USE OF FUNDS.** The funds provided under this Contract shall not be used for activities reimbursable by or for which funds are made available by the Federal Emergency Management Agency or the Army Corps of Engineers. The funds may be used as matching requirement, share or contribution for any other Federal program when used to carry out an eligible CDBG-NDR activity as authorized by HUD. In addition, no funds provided under this Contract may be used for the purchase of equipment or other personal property.

5.5 **ADMINISTRATIVE COST LIMITATIONS.** Federal funds used for reasonable administrative costs, as allowed under Federal and State regulations, shall be limited to two percent (2%) of the total CDBG-NDR funds as specified in the "Budget Activity" as found in the Recipient's IowaGrants.gov account. Program income received by the Recipient during the Contract period is subject to the two percent (2%) administrative cost limitation. Total administrative costs (Federal) on the Project shall not exceed two percent (2%) of total Project Budget. Project delivery costs allocable to a Project site including but not limited to acquisition and environmental review activities are not included in administrative costs for purposes of this section.

5.6 **DUPLICATION OF BENEFITS.** 42 U.S.C. 5155 provides that any federal agency administering any program providing financial assistance to person, business concerns or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which it has received financial assistance under any other federal program or from insurance or any other source (the "Duplication of Benefits Rules"). The Recipient covenants to comply with the Duplication of Benefits Rules and to report any information with respect to the Duplication of Benefits Rules to IEDA as a condition to disbursements under this Contract.

5.7 **COMPLIANCE WITH PROGRAM RULES.** All activities conducted and services performed pursuant to this contract shall be conducted and performed in compliance with the Program Rules.

5.8 **DISASTER RELIEF REQUIREMENT.** Use of all funds pursuant to this Contract shall be for necessary expenses related to disaster relief, long-term recovery and restoration of infrastructure, housing and economic revitalization in areas covered by the declarations of major disasters declared under Title IV of the Robert T. Stafford Disaster Relief and Emergency Act (42 U.S.C., Section 5721 et Seq.) in 2011, 2012, and 2013.

5.9 **SPECIAL FLOOD HAZARD AREA.** No funds under this Project shall be expended with respect to property located in a Special Flood Hazard Area or equivalent in FEMA's most recent and current data source unless it also ensures that the action is designed or modified to minimize harm to or within the floodplain accordance with Executive Order 11988 and 24 CFR part 55.

5.10 **FLOOD INSURANCE REQUIREMENTS.** The following requirements shall apply to this Contract:

- (a) No funds under this Contract may be used for repair, replacement or restoration for damage to any personal, residential or commercial property if that person at any time has received federal flood disaster assistance that was conditional on the person first having obtained flood insurance under applicable federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable federal law on such property.
- (b) The Recipient shall notify property owners receiving disaster assistance for which the owner is required to obtain flood insurance as set forth herein that such property owners have a statutory responsibility to notify any transferee of the requirement to obtain and maintain flood insurance, and that the transferring owner may be liable if he or she fails to do so. The following duties and requirements shall apply:
 - (i) The transferor shall, not later than the date on which such transfer occurs, notify the transferee in writing of ANY requirements to (A) obtain flood insurance in accordance with applicable federal law with respect to such property, if the property is not so insured as of the date on which such property is transferred; and (B) maintain flood insurance in accordance with applicable federal law, which written notification shall be contained in the deed or other document evidencing the transfer of ownership of the property.
 - (ii) If the transferor of such property fails to provide notice as described in this subsection c and, subsequent to the transfer of such property (A) the transferee fails to obtain or maintain flood insurance in accordance with applicable federal law, with respect to such property; (B) such property is damaged by a flood disaster; and (C) federal disaster relief assistance is provided for the repair, replacement, or restoration of such property as a result of such damage, then the transferor shall be required to reimburse the Federal Government in an amount equal to the amount of federal disaster relief assistance provided with respect to such property.
 - (iii) The notification requirements of this section apply to personal, commercial or residential property for which federal disaster relief assistance made available in a flood disaster area has been provided, prior to the date on which the property is transferred, for repair, replacement or restoration of such property, if such assistance was conditioned upon obtaining flood insurance in accordance with applicable federal law with respect to such property.
- (c) For purposes of this section, the term "Federal disaster relief assistance" applies to HUD or other federal assistance for disaster relief in "flood disaster areas," and the term "flood disaster area" has the meaning given such term in Section 582(d)(2) of the National Flood Insurance Reform Act of 1994, as amended, and includes an area receiving a presidential declaration of a major disaster or emergency as a result of flood conditions.

ARTICLE 6 **CONDITIONS TO DISBURSEMENT OF FUNDS**

Unless and until the following conditions have been satisfied, the Authority shall be under no obligation to disburse to the Recipient any amounts under this Contract:

6.1 **CONTRACT EXECUTED.** The Contract shall have been properly executed and, where required, acknowledged.

6.2 **COMPLIANCE WITH ENVIRONMENTAL AND HISTORIC PRESERVATION REQUIREMENTS.**

Funds shall not be released under this Contract for non-exempt activities until the Recipient has satisfied the environmental review and release of funds requirements set forth in 24 CFR Part 58, "Environmental Review Procedures for the Community Development Block Grant Program", and summarized in the Iowa Community Development Block Grant Management Guide, each to the extent applicable to the Program and not in conflict with the Program Rules. In addition, construction contracts for non-exempt activities shall not be executed and construction shall not begin prior to providing the Authority with documentation of the Recipient's compliance with Section 106 of the National Historic Preservation Act and 36 CFR Part 800, "Protection of Historic Properties." The Recipient shall comply with any Programmatic Agreement between the Iowa Economic Development Authority and the Iowa State Historic Preservation Office, applicable to any activities included in this contract. The Recipient shall comply with any lead agency agreement between FEMA and IEDA applicable to any activity included in this contract. If a

property being acquired is located in an area designated as a special flood hazard area on the most current flood advisory maps of the Federal Emergency Management Agency (FEMA), additional environmental review must be performed that complies with the requirements of 24 CFR Part 55 and Executive Order 11988.

6.3 **FINANCIAL COMMITMENTS.** The Recipient shall have submitted a firm written commitment from each source of funds to the Project identified in the "In the "Budget Activity" as found in the Recipient's IowaGrants.gov account". Each agreement shall include the amount, terms, estimated time of contributions, and conditions of the financial commitment, as well as any schedules. These commitments must be in a form and amount acceptable to the Authority.

6.4 **PERMITS AND LICENSES.** The Authority reserves the right to withhold funds until the Authority has reviewed and approved all material, such as permits or licenses from other state or Federal agencies, which may be required prior to Project commencement.

6.5 **EXCESSIVE FORCE POLICY.** The Authority, prior to release of funds under this Contract, shall review and approve the Recipient's policy on protecting individuals engaged in nonviolent civil rights demonstrations from the use of excessive force by law enforcement agencies within its jurisdiction, and enforcing state and local laws against physically barring entrance to or exit from a facility or location which is the subject of such nonviolent civil rights demonstrations within its jurisdiction, consistent with the provisions of Section 906 of the National Affordable Housing Act of 1990 and Subsection 104(l) of the Housing and Community Development Act of 1974, as amended.

6.6 **CONDITIONS TO DISBURSEMENT FOR A SPECIFIC ACTIVITY.** For each activity number listed below, the Recipient shall comply with the corresponding applicable conditions prior to release of funds for that activity. If no applicable conditions are identified below, none of the conditions in Article 6.6 shall apply to the activities funded by this Contract.

ACTIVITY NUMBER(S)	APPLICABLE CONDITIONS
55	(a) DEPARTMENT OF NATURAL RESOURCES APPROVAL

69	(a) DEPARTMENT OF NATURAL RESOURCES APPROVAL
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(a) **DEPARTMENT OF NATURAL RESOURCES APPROVAL.** Construction shall not begin prior to the written approval of the Iowa Department of Natural Resources.

(b) **REVIEW OF HANDICAPPED ACCESSIBILITY.** Prior to release of funds for construction, the Authority shall receive and review a signed statement from the Project architect that proposed construction will meet all handicapped accessibility and ADA requirements based on approved design plans.

(c) **DEPARTMENT OF HEALTH APPROVAL.** Construction shall not begin prior to receipt of written approval from the Iowa Department of Health.

(d) **FRANCHISE ORDINANCE/28E AGREEMENT.** Prior to the release of funds for construction, the Recipient shall submit, as appropriate, either an ordinance authorizing the franchise or an executed 28E Agreement for the activity for the Authority's review.

(e) **BULK PURCHASE AGREEMENT.** Prior to release of funds for construction, the Recipient shall submit an executed "Bulk Purchase Agreement" for the Authority's review.

(f) **RURAL WATER CONNECTION FEE PROJECTS.** Prior to release of funds for payment of a connection fee, the Authority shall receive and review a copy of the water purchase agreement which outlines the basis for determining the connection fee; a signed letter with the engineer's seal from the project engineer which certifies that construction is complete and water service is available to the Recipient; and a formal invoice from the Subrecipient which requests payment of the connection fee and provides a breakdown of the Federal and local dollar amounts. The Request for Payment/ Activity Status Report for the connection fee will not be processed until the Authority has received the required documentation listed in this Article.

(g) **STATE BUILDING CODE BUREAU APPROVAL.** Bidding for construction shall not be conducted prior to the written approval of the final plans by the State Building Code Bureau of the Iowa Department of Public Safety.

(h) **FAÇADE EASEMENTS.** Prior to release of funds for construction, the Recipient shall submit, as appropriate, signed copies of all façade easements and construction agreements with property owners when required for downtown revitalization projects.

(i) **STORMWATER DESIGN AND CONSTRUCTION DOCUMENTS.** Prior to bidding, the Recipient shall submit project final design and construction documents for the Authority to review for consistency with "Budget Activity" subsequently approved by the Authority. Recipient shall also consult with Iowa Department of Agriculture and Land Stewardship (IDALS) Urban Conservation Program Team on project stormwater management designs at 30, 60, 90 percent, and final design. The Recipient shall then secure and upload to www.iowaGrants.gov a letter from IDALS confirming stormwater management designs meet the requirements of the Iowa Green Streets Criteria and the Iowa Stormwater Management Manual (as applicable).

(j) **PERPETUAL RESTRICTIONS.** Prior to release of funds for acquisition, the Recipient shall provide the Authority evidence that appropriate perpetual deed restrictions and agreement for covenants and restrictions as required pursuant to Sections 5.9 and 5.10 of this Contract.

(k) **DESIGN.** Prior to the Grantee's obligation of funds for construction, the Grantee will demonstrate that the engineering design for a Project is feasible, prior to obligation of funds by the Grantee for construction. This demonstration is satisfied if a registered professional engineer (or other design professional) certifies that the design meets the appropriate code or industry design and construction standards (as applicable).

6.7 CONDITIONS TO DISBURSEMENT NECESSITATING OUTSIDE AGENCY ACTION FOR A SPECIFIC ACTIVITY. For each activity number listed below, the Recipient shall comply with the corresponding applicable conditions prior to release of funds for that activity. If no applicable conditions are identified below, none of the conditions in this Section shall apply to the activities funded by this Contract as described in the "Budget Activity" as found in the Recipient's iowaGrants.gov account to the Contract.

ACTIVITY NUMBER(S)	APPLICABLE CONDITIONS	OUTSIDE AGENCY
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(a) **FUNDING.** Funding shall be contingent upon receipt of adequate funds from the identified agency to complete the Project described. The Recipient must submit a copy of the notification of said funding commitment to the Authority before funds can be released to the Recipient. If there is a reduction in the amount of the funds available from this source, the Recipient shall identify an alternative source of funds, and the change in funding sources shall be reflected in an amendment to this Contract. If the funds from the identified agency are rejected, this award is no longer valid.

(b) **CONTINGENT FUNDING.** The Authority has awarded these funds contingent upon receipt of other funding from the identified agency.

(c) **LONG TERM LEASE AGREEMENT.** Prior to release of funds, the Authority shall review and approve a Long Term Lease Agreement or any other binding agreement deemed appropriate by the Authority between two identified agencies. The agreement shall guarantee that the constructed facility as described in this Contract will be allowed to physically remain and continue to be used for the specified purpose. In the event that the use of the facility changes, the Recipient may be required to repay all or part of the grant award as described in Article 9.4 of this Contract.

6.8 SUB-RECIPIENT AGREEMENT. Prior to release of funds under this Contract and prior to the Recipient entering into a Sub-Recipient Agreement for the administration of this award, the Recipient shall seek and obtain the Authority's review and approval of the Recipient's proposed Sub-Recipient Agreement (as applicable).

ARTICLE 7

REPRESENTATIONS AND WARRANTIES OF RECIPIENT

To induce the Authority to make the Grant referred to in this Contract, the Recipient represents, covenants and warrants that:

7.1 AUTHORITY. The Recipient is duly authorized and empowered to execute and deliver the Contract. All required actions on the Recipient's part, such as appropriate resolution of its governing board for the execution and delivery of the Contract, have been effectively taken.

7.2 FINANCIAL INFORMATION. All financial statements and related materials concerning the Project provided to the Authority are true and correct in all material respects and completely and accurately represent the subject matter thereof as of the Start Date of the statements and related materials, and no material adverse change has occurred since that date.

7.3 CLAIMS AND PROCEEDINGS. There are no actions, lawsuits or proceedings pending or, to the knowledge of the Recipient, threatened against the Recipient affecting in any manner whatsoever their rights to execute the Contract or the ability of the Recipient to make the payments required under the Contract, or to otherwise comply with the obligations of the Contract. There are no actions, lawsuits or proceedings at law or in equity, or before any governmental or administrative

authority pending or, to the knowledge of the Recipient, threatened against or affecting the Recipient or any property involved in the Project.

7.4 **PRIOR AGREEMENTS.** The Recipient has not entered into any verbal or written contracts, agreements or arrangements of any kind which are inconsistent with the Contract.

7.5 **START DATE.** The covenants, warranties and representations of this Article are made as of the Start Date of this Contract and shall be deemed to be renewed and restated by the Recipient at the time of each advance or request for disbursement of funds.

ARTICLE 8 **COVENANTS OF THE RECIPIENT**

8.1 **AFFIRMATIVE COVENANTS.** Until the Project has been closed out, audited, and approved by IEDA, the Recipient covenants with IEDA that:

(a) **PROJECT WORK AND SERVICES.** The Recipient shall perform the work and services detailed in the CDBG-NDR Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account by the End Date.

(b) **REPORTS.** The Recipient shall prepare, review and sign the requests and reports as specified below in the form and content specified by the Authority. The Recipient shall review all Requests for Payment and verify that claimed expenditures are allowable costs. The Recipient shall maintain documentation adequate to support the claimed costs. The Recipient shall submit Request for Payment at least quarterly for each "Budget Activity".

REPORT	DUE DATE
1. Request for Payment	At least every three (3) months
2. Activity Status Report	At least every three (3) months
3. Section 3 Report (if applicable)	Submitted annually
4. Updates to the Applicant/Recipient Disclosure Report (HUD Disclosure Form 2880)	As needed due to changes
5. Outcome Value reported – Annually	As specified by IEDA
6. Final request for Payment / Status Report	Within 30 days of End Date
7. Single Audit Form (required)	Within 30 days of receipt
8. Audit Reports (if applicable)	Within 30 days of audit completion
9. Deliverables and Outcome Values	As specified in Attachment A, "Program Description"
10. Other reports as required by the Authority and the Program Rules	As needed

The Authority reserves the right to require more frequent submission of the Activity Status Report than as shown above if, in the opinion of the Authority, more frequent submissions would help improve the Recipient's CDBG-NDR program.

(c) **RECORDS.** The Recipient shall maintain books, records, documents and other evidence pertaining to all costs and expenses incurred and revenues received under this Contract in sufficient detail to reflect all costs, direct and indirect, of labor, materials, equipment, supplies, services and other costs and expenses of whatever nature, for which payment is claimed under this Contract. The Recipient shall maintain books, records and documents in sufficient detail to demonstrate compliance with the Contract and shall maintain these materials for a period of five (5) years beyond the date upon which the final audit of the Project is accepted by IEDA or December 31, 2026, whichever is later. Records for non-expendable property acquired under this Contract shall be retained for a five (5) year period after the final disposition of property. Records shall be retained beyond the prescribed period if any

litigation or audit is begun or if a claim is instituted involving the grant or agreement covered by the records. In these instances, the records shall be retained until the litigation, audit or claim has been finally resolved.

(d) ACCESS TO RECORDS/INSPECTIONS. The Recipient shall, without prior notice and at any time, permit HUD or its representatives, the General Accounting Office or its representatives, and the Authority, its representatives or the State Auditor to examine, audit and/or copy (i) any plans and work details pertaining to the Project, (ii) all of the Recipient's books, records and accounts, and (iii) all other documentation or materials related to this Contract; the Recipient shall provide proper facilities for making such examination and/or inspection.

(e) USE OF GRANT FUNDS. The Recipient shall expend funds received under the Contract only for the purposes and activities described in the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application, this Contract, the "Budget Activity" as found in the Recipient's IowaGrants.gov account, and as approved by the Authority.

(f) DOCUMENTATION. The Recipient shall deliver to IEDA, upon request, (i) copies of all contracts or agreements relating to the Project, (ii) invoices, receipts, statements or vouchers relating to the Project, (iii) a list of all unpaid bills for labor and materials in connection with the Project, and (iv) budgets and revisions showing estimated Project costs and funds required at any given time to complete and pay for the Project.

(g) NOTICE OF PROCEEDINGS. The Recipient shall promptly notify IEDA of the initiation of any claims, lawsuits or proceedings brought against the Recipient.

(h) INDEMNIFICATION. The Recipient shall indemnify and hold harmless the Authority, its officers and employees from and against any and all claims or losses accruing or resulting from any and all claims of subcontractors, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract (singularly, a "Vendor" and, collectively, "Vendors") and from any and all claims and losses accruing or resulting from any person, firm or corporation who may be injured or damaged by the Recipient in the performance of this Contract, including but not limited to claims under worker's compensation acts, claims of damages because of bodily injury including personal injury, sickness or disease, death, injury to or destruction of tangible property including but not limited to loss of use therefrom; and from claims arising out of negligent errors, omissions or acts of the Recipient. The Recipient shall require that any subrecipient or Vendor provide such indemnification to the Authority in addition to the indemnification provided by the Recipient.

(i) NOTICE TO AUTHORITY. In the event the Recipient becomes aware of any material alteration in the Project, initiation of any investigation or proceeding involving the Project, or any other similar occurrence, the Recipient shall promptly notify the Authority.

(j) CERTIFICATIONS. The Recipient certifies and assures that the Project will be conducted and administered in compliance with all applicable Federal and State laws, regulations and orders. Certain statutes are expressly made applicable to activities assisted under the Act by the Act itself, while other laws not referred to in the Act may be applicable to such activities by their own terms. The Recipient certifies and assures compliance with the applicable orders, laws and implementing regulations, including but not limited to, the following, as modified by the waivers and alternative requirements contained in the Program Rules:

(i) Financial Management guidelines issued by the U.S. Office of Management and Budget, OMB 2 CFR part 200, subpart E.

(ii) Title I of the Housing and Community Development Act of 1974 as amended (42 U.S.C. 5301 et seq.); and regulations which implement these laws.

(iii) Title VI of the Civil Rights Act of 1964 as amended (Public Law 88-352; 42 U.S.C. 2000d et seq.); Title VIII of the Civil Rights Act of 1968 as amended (Public Law 90-284; 42 U.S.C. 3601 et seq.); the Iowa Civil Rights Act of 1965; Chapter 19B.7, Code of Iowa, and Iowa Executive Order #34, dated July 22, 1988; Iowa Code Chapter 216, Presidential Executive Order 11063, as amended by Executive Order 12259; Presidential Executive Order 11246, as amended by Presidential Executive Order 11375; Section 504 of the Vocational Rehabilitation Act of 1973 as amended (29 U.S.C. 794); the Age Discrimination Act of 1975 as amended (42 U.S.C. 6101 et seq.); the Americans with Disabilities Act, as applicable, (P. L. 101-336, 42 U.S.C. 12101-12213); and related Civil Rights and Equal Opportunity statutes; and regulations which implement these laws.

(iv) Fair Housing Act, Public Law 90-284. The Public Fair Housing Act is part of Title VIII of the Civil Rights Act of 1968 as amended (42 U.S.C. 3601 et seq.); Section 109 of the Title I of the Housing and

Community Development Act of 1974, as amended; Section 3 of the Housing and Urban Development Act of 1968 as amended (12 U.S.C. 1701u); and regulations which implement these laws.

(v) Department of Housing and Urban Development regulations governing the CDBG program, 24 Code of Federal Regulations, Part 570.

(vi) Section 102 of the Department of Housing and Urban Development Reform Act of 1989 (P.L. 101-235), and implementing regulations.

(vii) Requirements for the Notification, Evaluation, and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule (24 CFR Part 35, et al.); Lead Based Paint Poisoning Prevention Act (42 U.S.C. 4821 - 4846), as amended, and implementing regulations.

(viii) Davis-Bacon Act, as amended (40 U.S.C. 276a - 276a-5), where applicable under Section 110 of the Housing and Community Development Act of 1974, as amended; Contract Work Hours and Safety Standards Act (40 U.S.C. 327 et seq.); the Copeland Anti-Kickback Act (18 U.S.C. 874); and regulations which implement these laws.

(ix) National Environmental Policy Act of 1969 and implementing regulations.

(x) Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, (URA)(42 U.S.C. 4601 - 4655) and implementing regulations; Section 104(d) of the Housing and Community Development Act of 1974, as amended, governing the residential antidisplacement and relocation assistance plan; Section 105(a)(11) of the Housing and Community Development Act of 1974, as amended, governing optional relocation assistance.

(xi) Financial and Program Management guidelines issued by the Iowa Economic Development Authority: the Iowa CDBG Management Guide and the IEDA Audit Guide, to the extent applicable to the Program and not in conflict with the Program Rules.

(xii) Government-wide Restriction on Lobbying Certification [Section 319 of Public Law 101-121] and implementing regulations.

(xiii) Fair Labor Standards Act and implementing regulations.

(xiv) Hatch Act (regarding political partisan activity and Federally funded activities) and implementing regulations.

(xv) Citizen participation, hearing and access to information requirements found under sections 104(a)(2) and 104(a)(3) of Title I of the Housing and Community Development Act of 1974.

(xvi) Subsection 104(l) of Title I of the Housing and Community Development Act of 1974, as amended, regarding the prohibition of the use of excessive force in nonviolent civil rights demonstrations and the enforcement of state and local laws on barring entrance to or exit from facilities subject to such demonstrations.

(xvii) Drug-Free Workplace Act.

(k) MAINTENANCE OF PROJECT PROPERTY AND INSURANCE. The Recipient and any subrecipient shall maintain the Project property in good repair and condition, ordinary wear and tear excepted, and shall not suffer or commit waste or damage upon the Project property. The Recipient or subrecipient shall pay for and maintain insurance as is customary in their industry. This insurance shall be in an amount not less than the full insurable value of the Project property. In addition, the Recipient shall purchase and maintain liability insurance sufficient to afford coverage for any acts for which the Recipient is required to indemnify the Authority pursuant to this Section 8.1. The subrecipient shall name the Recipient and Authority as a mortgagee and/or an additional loss payee, as appropriate, and the Recipient shall name the Authority as a mortgagee and/or an additional loss payee, as appropriate. The Recipient or subrecipient shall maintain copies of the policies as appropriate.

8.2 NEGATIVE COVENANTS. During the Contract term the Recipient covenants with IEDA that it shall not, without the prior written disclosure to and prior written consent of IEDA, directly or indirectly:

- (a) ASSIGNMENT. Assign its rights and responsibilities under this Contract.
- (b) ADMINISTRATION. Discontinue administration activities under the Contract.

ARTICLE 9 **DEFAULT AND REMEDIES**

9.1 **EVENTS OF DEFAULT**. The following shall constitute Events of Default under this Contract:

- (a) **MATERIAL MISREPRESENTATION**. If at any time any representation, warranty or statement made or furnished to the Authority by, or on behalf of the Recipient in connection with this Contract or to induce the Authority to make a grant to the Recipient shall be determined by the Authority to be incorrect, false, misleading or erroneous in any material respect when made or furnished and shall not have been remedied to the Authority's satisfaction within thirty (30) days after written notice by the Authority is given to the Recipient.
- (b) **NONCOMPLIANCE**. If there is a failure by the Recipient to comply with any of the covenants, terms or conditions contained in this Contract.
- (c) **END DATE**. If the Project, in the sole judgment of the Authority, is not completed on or before the End Date.
- (d) **MISSPENDING**. If the Recipient expends Grant proceeds for purposes not described in the CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO application, this Contract, or as authorized by the Authority.
- (e) **INSURANCE**. If loss, theft, damage or destruction of any substantial portion of the property of the Recipient occurs for which there is either no insurance coverage or for which, in the opinion of the Authority, there is insufficient insurance coverage.

9.2 **NOTICE OF DEFAULT**. IEDA shall issue a written notice of default providing therein a fifteen (15) day period in which the Recipient shall have an opportunity to cure, provided that cure is possible and feasible.

9.3 **REMEDIES UPON DEFAULT**. If, after opportunity to cure, the default remains, IEDA shall have the right, in addition to any rights and remedies available to it to do one or more of the following:

- (a) exercise any remedy provided by law,
- (b) require immediate repayment of up to the full amount of funds disbursed to the Recipient under this Contract plus interest.

9.4 **FAILURE TO MEET PERFORMANCE TARGETS**. If the Recipient is determined by the Authority to be in default of this Contract due to meeting less than one hundred percent (100%) of its Performance Targets, the Authority may require full Grant repayment or, at its discretion, the Authority may require partial repayment of Grant proceeds which allows partial credit for the performance targets which have been met, or the Authority may require other remedies that the Authority determines to be appropriate.

ARTICLE 10 **INCORPORATED DOCUMENTS**

10.1 **DOCUMENTS INCORPORATED BY REFERENCE**. The Recipient shall comply with the terms and conditions of the following documents which are hereby incorporated by reference:

- (a) Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- (b) Attachment B, "CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application" as found on the Authority's website at www.iowaeconomicdevelopment.com/Community/NDR.
- (c) Attachment C, "CDBG Program General Provisions," dated February 24, 2016.
- (d) "Iowa Community Development Block Grant Management Guide", as found on the Authority's website at www.iowaeconomicdevelopment.com/Community/CDBG.
- (e) Future HUD Guidance related to reporting program metrics and long-term commitments as stated in Iowa's NDR Phase Two application as applicable. To be found on the Authority's website at www.iowaeconomicdevelopment.com/Community/CDBG when made available by HUD.

10.2 **ORDER OF PRIORITY.** In the event of a conflict between documents of this Contract, the following order of priority shall govern:

- (a) Articles 1 through 11 herein.
- (b) Attachment C, "CDBG Program General Provisions," dated February 24, 2016.
- (c) Attachment A, "Program Description" and the "Budget Activity" as found in the Recipient's IowaGrants.gov account.
- (d) Attachment B, "CDBG-NDR National Resilient Disaster Recovery Phase ONE and TWO Application" as found on the Authority's website at www.iowaeconomicdevelopment.com/Community/NDR.
- (e) "Iowa Community Development Block Grant Management Guide", as found on the Authority's website at www.iowaeconomicdevelopment.com/Community/CDBG.
- (f) Future HUD Guidance related to reporting program metrics and long-term commitments as stated in Iowa's NDR Phase Two application as applicable. To be found on the Authority's website at www.iowaeconomicdevelopment.com/Community/CDBG when made available by HUD.

10.3 **SUPERSEDING AUTHORITY.** Notwithstanding any provision herein to the contrary, in the event of any provision of this Contract, including Attachments A, B and C, conflicts with any of the Program Rules, such conflicting provisions shall be of no force and effect, the Program Rules shall apply in lieu thereof as though fully set forth herein.

ARTICLE 11 **MISCELLANEOUS**

11.1 **LIMIT ON GRANT PROCEEDS ON HAND.** The Recipient shall request Project funds only as needed and shall not have more than five hundred dollars (\$500.00) of Grant proceeds, including earned interest, on hand for a period of longer than ten (10) working days, after which time any surplus amount shall be returned to the Authority.

11.2 **BINDING EFFECT.** This Contract shall be binding upon and shall inure to the benefit of the Authority and Recipient and their respective successors, legal representatives and assigns. The obligations, covenants, warranties, acknowledgments, waivers, agreements, terms, provisions and conditions of this Contract shall be jointly and severally enforceable against the parties to this Contract.

11.3 **SURVIVAL OF CONTRACT.** If any portion of this Contract is held to be invalid or unenforceable, the remainder shall be valid and enforceable. The provisions of this Contract shall survive the execution of all instruments herein mentioned and shall continue in full force until the Project is completed as determined by the Authority.

11.4 **GOVERNING LAW.** This Contract shall be interpreted in accordance with the laws of the State of Iowa, and any action relating to the Contract shall only be commenced in the Iowa District Court for Polk County or the United States District Court for the Southern District of Iowa.

11.5 **NOTICES.** Whenever this Contract requires or permits any funding request, notice, report, or written request by one party to another, it shall be delivered through IowaGrants.gov. Alternately the Authority may rely on the United States Mail as the Authority deems appropriate. Any such notice given hereunder shall be deemed delivered upon the earlier of actual receipt or two (2) business days after posting. The Authority may rely on the address of the Recipient set forth heretofore, as modified from time to time, as being the address of the Recipient.

11.6 **WAIVERS.** No waiver by the Authority of any default hereunder shall operate as a waiver of any other default or of the same default on any future occasion. No delay on the part of the Authority in exercising any right or remedy hereunder shall operate as a waiver thereof. No single or partial exercise of any right or remedy by the Authority shall preclude future exercise thereof or the exercise of any other right or remedy.

11.7 **LIMITATION.** It is agreed by the Recipient that the Authority shall not, under any circumstances, be obligated financially under this Contract except to disburse funds according to the terms of the Contract.

11.8 **HEADINGS.** The headings in this Contract are intended solely for convenience of reference and shall be given no effect in the construction and interpretation of this Contract.

11.9 **INTEGRATION.** This Contract contains the entire understanding between the Recipient and the Authority and any representations that may have been made before or after the signing of this Contract, which are not contained herein, are nonbinding, void and of no effect. None of the parties have relied on any such prior representation in entering into this Contract.

11.10 **COUNTERPARTS.** This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

11.11 **IOWAGRANTS.GOV.** The Authority reserves the right to require the Recipient to utilize the IowaGrants.gov system to conduct business associated with this Contract.

11.12 **TIME IS OF THE ESSENCE.** Time is of the essence with respect to the performance of the terms of the Contract and Related Documents.

IN WITNESS WHEREOF, the parties have executed this Contract as of the Start Date first stated.

RECIPIENT: City of Storm Lake

BY:

Mayor
620 Erie St.
P.O. Box 1086
Storm Lake, IA 50588

Typed or Printed Name

IOWA ECONOMIC DEVELOPMENT AUTHORITY:

BY:

Timothy R. Waddell, Division Administrator

ATTACHMENT A "PROGRAM DESCRIPTION"

The following "Program Description" is incorporated into the recipient's IowaGrants.gov account. Cost projections and tasks per quarter considered a starting point. Future modifications to be requested through IowaGrants.gov.

Storm Lake Activity Timeline

Activity 5- 1st and Mae Street Truck Sanitary Sewer Lining Construction Start-Spring/Summer 2017

Quarter 2: October-December, 2016

- Release RFQs and select engineer

Quarter 3: January-March 2017

- Complete project design
- Start and finalize environmental impact study
- Design plans on file, set bid date of Public Hearing
- Hold Public Hearing on Plans/Specification, consider bids received for award
- Receive Bids

	% Complete	Cost	TTD
Engineering/Design	100%	\$83,200	\$83,200
Engineering/Construction Observation	5%	\$5,240	\$5,240
Construction	0	\$	\$
Grant Administration	30%	\$2,263	\$2,263

Quarter 4: April –June 2017

Construction/Mobilization

- Project Close-out

	% Complete	Cost	TTD
Engineering/Design	0	0	\$83,200
Engineering/Construction Observation	85%	\$83,200	\$104,800
Construction	80%	\$832,000	\$832,000
Grant Administration	60%	\$3,839	\$7,542

Quarter 1: July –September 2017

- Complete Construction
- Project Close-out

	% Complete	Cost	TTD
Engineering/Design	0	0	\$83,200
Engineering/Construction Observation	100%	\$16,360	\$104,800
Construction	100%	\$208,000	\$1,040,000
Grant Administration	100%	\$3,839	\$7,542

Engineering	Construction	Grant Administration	Total Project Cost
\$188,000	\$1,040,000	\$7,542	\$1,235,542

Activity 1- North Central Storm Water Improvements Expansion (Spoooner and Seneca Street ; 10th Street and Russel Reconstruction)

Construction Start- Spring/Summer 2017

Quarter 2: October- December 2016

- Release RFQs and select Engineer
- Start preliminary design completed

	% Complete	Cost	TTD
Engineering/Design	50%	\$60,560	\$60,560
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarter 3: January –March 2017

- Complete project design
- Start environmental impact study
- Complete Construction on Russell and 10th Street Intersection
- Finalize environmental impact study
- Design plans on file, set bid date of Public Hearing
- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TTD
Engineering/Design	100%	\$68,560	\$121,120
Engineering/Construction Observation	4%	\$6,056	\$6,056
Construction	4%	\$65,000	\$65,000
Grant Administration	50%	\$3,703	\$3,703

Quarter 4: April- June, 2017

- Construction/Mobilization

	% Complete	Cost	TTD
Engineering/Design	%	0	\$121,120
Engineering/Construction Observation	35%	\$47,087	\$53,138
Construction	39%	\$552,650	\$617,650
Grant Administration	66.68%	\$1,234	\$4,937

Quarter1: July – September 2017

- Complete Construction

	% Complete	Cost	TTD
Engineering/Design	%	0	\$121,120
Engineering/Construction Observation	90%	\$83,534	\$136,672
Construction	90%	\$868,450	\$1,421,100
Grant Administration	83.35%	\$1,234	\$6,171

Quarter 6: October-December 2017

- Project Close-Out

	% Complete	Cost	TTD
Engineering/Design	%	0	\$121,120
Engineering/Construction Observation	100%	\$15,207	\$151,800
Construction	100%	\$92,900	\$1,514,000
Grant Administration	100%	\$1,307	\$7,542

Engineering	Construction	Grant Administration	Total Project Cost
\$273,000	\$1,514,000	\$7,542	\$1,794,542

Activity 6-10th & Ontario Storm Water Improvements
Construction Start- Fall 2017

Quarter 2: October-December 2016

- Release RFQ and select Engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$0	
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	%	0	

Quarter 3: January –March 2017

- Complete project design
- Start environmental impact study

	% Complete	Cost	TDD
Engineering/Design	100%	\$131,700	\$131,700
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	16.67%	\$1,234	\$1,234

Quarter 4: April –June 2017

- Finalize environmental impact study

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$
Engineering/Construction Observation	0%	\$	\$
Construction	0	\$0	\$
Grant Administration	33.34%	\$1,234	\$2,468

Quarter 1: July-September 2017

- Design plans on file, set bid date of Public Hearing
- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	Complete	\$	\$131,700
Engineering/Construction Observation	2%	\$3,292	\$3,292
Construction	0	\$0	\$
Grant Administration	50%	\$1,234.38	\$3,703

Quarter 2: October-December 2017

- Construction/Mobilization-

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$131,700
Engineering/Construction Observation	45%	\$70,778	\$70,778
Construction	50%	\$823,000	\$823,000
Grant Administration	16.66%	\$1,234.38	\$6,171

Quarter 3 and 4: January-June 2018

- Complete Construction

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$131,700
Engineering/Construction Observation	95%	\$74,770	\$145,548
Construction	95%	\$740,700	\$1,563,370
Grant Administration	16.66%	\$1,1234.38	\$7,604

Quarter 1: July –September 2018

- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$131,700
Engineering/Construction Observation	100%	\$8,830	\$165,600
Construction	100%	\$82,250	\$1,646,000
Grant Administration	16.66%	\$1,370	\$7,740

Engineering	Construction	Grant Administration	Total Project Cost
\$297,000	\$1,646,000	\$7,740	\$1,950,740

Activity 3-7th and Geneseo Street Sanitary Replacement
Construction Start- Spring 2018

Quarter 2: October- December 2016

- Release RFQ and Select engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$	
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarter 1: July –September 2017

- Complete preliminary project design
- Start environmental impact study

	% Complete	Cost	TDD
Engineering/Design	100%	\$20,000	\$20,000
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	20 %	\$1,481	\$1,481

Quarter 2: October-December, 2017

- Finalize environmental impact study

	% Complete	Cost	TDD
Engineering/Design	Complete	\$	\$20,000
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	40%	\$1,481	\$2,962

Quarter 3: January –March, 2018

- Design plans on file, set bid date of Public Hearing
- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$20,000
Engineering/Construction Observation	2%	\$500	\$500
Construction	0	\$0	
Grant Administration	60%	\$1,481	\$4,443

Quarter 4: April- June, 2018

- Construction/Mobilization

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$20,000
Engineering/Construction Observation	50%	\$12,000	\$12,500

Construction	50%	\$125,000	\$125,000
Grant Administration	80%	\$1,481	\$5,924

Quarter 1: July – September 2018

- Complete Construction

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$20,000
Engineering/Construction Observation	100%	\$12,500	\$25,000
Construction	100%	\$125,000	\$250,000
Grant Administration	100%	\$1,482	\$7,406

Engineering	Construction	Grant Administration	Total Project Cost
\$45,000	\$250,000	\$7,406	\$302,406

Activity 2-4th & Oates Street Water Improvements
Construction Start Spring 2019

Quarter 2: October –December 2016

- Release RFQ and select engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$	
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarter 3: January –March 2017

- Complete preliminary project design
- Finalize discussions with project partners

	% Complete	Cost	TDD
Engineering/Design	50%	\$30,320	\$30,320
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0%	\$0	\$0

Quarter 1: July –September 2018

- Finalize design
- Finalize environmental impact study
- Design plans on file, set bid date of Public Hearing

	% Complete	Cost	TDD
Engineering/Design	100%	\$30,320	\$60,640
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	25%	\$1,852	\$1,852

Quarter 3: January –March, 2019

- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$60,640
Engineering/Construction Observation	2%	\$1,527	\$1,527
Construction	0	\$0	
Grant Administration	50%	\$1,852	\$3,704

Quarter 4: April- June, 2019

- Construction/Mobilization
- Complete Construction

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$60,640

Engineering/Construction Observation	50%	\$36,653	\$36,653
Construction	50%	\$379,000	\$379,000
Grant Administration	75%	\$1,852	\$5,556

Quarter 1: July – September 2020

- Complete Construction
- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$60,640
Engineering/Construction Observation	50%	\$38,180	\$76,360
Construction	50%	\$379,000	\$758,000
Grant Administration	100%	\$1,852	\$7,408

Engineering	Construction	Grant Administration	Total Project Cost
\$137,000	\$758,000	\$7,408	\$902,408

Activity 4- Memorial Park Storm Water Improvements
Construction Start Spring 2019

Quarter 4: April-June 2016

- Release RFQ and select engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$	
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarter 1: July –September 2016

- Complete project preliminary project design
- Finalize discussions with project partners

	% Complete	Cost	TDD
Engineering/Design	50%	\$14,560	\$14,560
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	20%	\$1,481	\$1,481

Quarter 1: July –September 2018

- Finalize design
- Finalize environmental impact study
- Design plans on file, set bid date of Public Hearing

	% Complete	Cost	TDD
Engineering/Design	50%	\$14,560	\$29,120
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	40%	\$1,481	\$2,962

Quarter 3: January –March, 2019

- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$29,120
Engineering/Construction Observation	2%	\$738	\$738
Construction	0	\$0	
Grant Administration	60%	\$1,481	\$4,443

Quarter 4: April- June, 2019

- Construction/Mobilization
- Complete Construction

	% Complete	Cost	TDD
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Engineering/Design	0%	\$	\$29,120
Engineering/Construction Observation	50%	\$17,702	\$18,440
Construction	60%	\$218,400	\$218,400
Grant Administration	80%	\$1,481	\$5,924

Quarter 5: July – September 2019

- Complete Construction
- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$29,120
Engineering/Construction Observation	50%	\$19,178	\$36,880
Construction	100%	\$145,600	\$364,000
Grant Administration	100%	\$1,481	\$7,405

Engineering	Construction	Grant Administration	Total Project Cost
\$66,000	\$364,000	\$7,405	\$437,405

Activity 8: Wastewater Treatment Facility Wetland Ponds
Construction Start Spring 2019

Quarter 2: October –December 2016

- Release RFQ and select engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$	
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarters 3 and 2: January –March 2017

- Preliminary design complete
- Start partnership discussions

	% Complete	Cost	TDD
Engineering/Design	50%	\$43,200	\$43,200
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	16.67%	\$1,235	\$1,235

Quarter 1: July –September 2018

- Complete project design
- Start environmental impact study
- Finalize discussion with project partner

	% Complete	Cost	TDD
Engineering/Design	100%	\$43,200	\$86,400
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	33.34%	\$1,235	\$2,470

Quarter 2: October-December, 2018

- Finalize environmental impact study
- Design plans on file, set bid date of Public Hearing

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$86,400
Engineering/Construction Observation	1%	\$1,086	\$1,086
Construction	0	\$0	
Grant Administration	50%	\$1,235	\$3,705

Quarter 3: January –March, 2019

- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$86,400
Engineering/Construction Observation	1%	\$1,086	\$2,172
Construction	0	\$0	
Grant Administration	66.67	\$1,235	\$4,940

Quarter 4: April- June, 2019

- Construction/Mobilization
- Complete Construction

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$86,400
Engineering/Construction Observation	60%	\$62,988	\$65,160
Construction	60%	\$648,000	\$648,000
Grant Administration	83.35%	\$1,235	\$6,175

Quarter 5: July – September 2019

- Complete Construction
- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$86,400
Engineering/Construction Observation	40%	\$43,440	\$108,600
Construction	40%	\$432,000	\$1,080,000
Grant Administration	100%	\$1,371	\$7,546

Engineering	Construction	Grant Administration	Total Project Cost
\$195,000	\$1,080,000	\$7,546	\$1,282,546

Activity 7: 4th and Barton Storm Sewer Improvements
Construction Start Spring 2020

Quarter 2: October-December 2016

- Release RFQ and select engineer

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarters 2 and 2: January –March 2017

- Preliminary design complete
- Start partnership discussions

	% Complete	Cost	TDD
Engineering/Design	50%	\$26,440	\$26,440
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	0	0	

Quarter 1: July –September 2019

- Complete project design
- Start environmental impact study

	% Complete	Cost	TDD
Engineering/Design	0%	\$26,440	\$52,880
Engineering/Construction Observation	0%	\$	
Construction	0	\$0	
Grant Administration	16.67%	\$1,235	\$1,235

Quarter 2: October-December, 2019

- Finalize environmental impact study
- Design plans on file, set bid date of Public Hearing

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$52,880
Engineering/Construction Observation	1%	\$661	\$661
Construction	0	\$0	\$
Grant Administration	33.34%	\$1,235	\$2,470

Quarter 3: January –March, 2020

- Receive Bids
- Hold Public Hearing on Plans/Specifications, consider bids received for award

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$52,880
Engineering/Construction Observation	1%	\$661	\$1,322
Construction	0	\$0	
Grant Administration	50%	\$1,235	\$3,705

Quarter 4: April- June, 2020

- Construction/Mobilization
- Complete Construction

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$52,880
Engineering/Construction Observation	40%	\$25,126	\$25,126
Construction	40%	\$264,400	\$264,400
Grant Administration	66.68%	\$1,235	\$4,940

Quarter 1: July – September 2020

- Complete Construction
- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$52,880
Engineering/Construction Observation	95%	\$29,754	\$54,880
Construction	95%	\$363,550	\$627,950
Grant Administration	83.35%	\$1,235	\$6,175

Quarter 2: October-December 2020

- Project Close-Out

	% Complete	Cost	TDD
Engineering/Design	0%	\$	\$52,880
Engineering/Construction Observation	100%	\$11,240	\$66,120
Construction	100%	\$33,050	\$661,000
Grant Administration	100%	\$1,235	\$7,410

Engineering	Construction	Grant Administration	Total Project Cost
\$119,000	\$661,000	\$7,410	\$787,410

Total of Eight Projects:

Engineering	Construction	Grant Administration	Total Project Cost
\$1,320,000	\$7,313,000	\$60,000	\$8,693,000

ATTACHMENT C
GENERAL PROVISIONS
COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM
October 4, 2016

1.0 AMENDMENT.

(a) WRITING REQUIRED. The Contract may only be amended through written prior approval of the Authority through IowaGrants.gov. Examples of situations where amendments are required include extensions for completion of Project activities, changes to the Project including, but not limited to, alteration of existing approved activities or inclusion of new activities.

(b) UNILATERAL MODIFICATION. Notwithstanding paragraph "a" above, the Authority may unilaterally modify the Contract at will in order to accommodate any change in the Act or any change in the interpretation of the Act or any applicable Federal, State or local laws, regulations, rules or policies. A copy of such unilateral modification will be given to the Recipient as an amendment to this Contract.

(c) AUTHORITY REVIEW. The Authority will consider whether an amendment request is so substantial as to necessitate reevaluating the Authority's original funding decision on the Project. An amendment will be denied if it substantially alters the circumstances under which the Project funding was originally approved or if it conflicts with the Program Rules.

2.0 AUDIT REQUIREMENTS.

(a) SINGLE AUDIT. The Recipient shall ensure that an audit is performed in accordance with the Single Audit Act Amendment of 1996; OMB 2 CFR part 200, subpart E; and OMB 2 CFR part 200, subpart F, as applicable, and the Iowa CDBG Management Guide.

(b) ADDITIONAL AUDIT. As a condition of the grant to the Recipient, the Authority reserves the right to require the Recipient to submit to a post Project completion audit and review in addition to the audit required above.

3.0 COMPLIANCE WITH LAWS AND REGULATIONS. The Recipient shall comply with all applicable State and Federal laws, rules, ordinances, regulations and orders including all Federal laws and regulations described in 24 CFR subpart K.

4.0 UNALLOWABLE COSTS. If the Authority determines at any time, whether through monitoring, audit, closeout procedures or by other means or process, that the Recipient has expended funds which are unallowable, the Recipient will be notified of the questioned costs and given an opportunity to justify questioned costs prior to the Authority's final determination of the disallowance of costs. Appeals of any determinations will be handled in accordance with the provisions of Chapter 17A, Iowa Code. If it is the Authority's final determination that costs previously paid by the Authority are unallowable under the terms of the Contract, the expenditures will be disallowed and the Recipient shall repay to the Authority any and all disallowed costs. Real property under the Recipient's control in excess of \$25,000 and equipment that was acquired or improved in whole or in part with CDBG-NDR funds shall be used to meet one of the National Objectives pursuant to 24 CFR 570.208 until five (5) years after expiration of the Agreement. If Recipient fails to use CDBG-NDR assisted real property that meets a National Objective during the five (5) year period the Recipient shall pay IEDA an amount equal to the current fair market value of the property less any portion of the value attributable to expenditures of non-CDBG-NDR funds for acquisition or improvement to the real property.

5.0 PROGRAM INCOME. All program income, as defined in 2 CFR part 200, subpart E and 24 CFR 570.489, shall be added to the Project "Budget Activity" and used to further eligible Project objectives as defined in the Contract and the "Budget Activity" in the CDBG-NDR Application. Program income not used to further Project objectives will be deducted from the total Project "Budget Activity" for the purpose of determining the amount of reimbursable costs under the Contract. In cases of dispute, final decisions regarding the definition or disposition of program income shall be made by the Authority.

6.0 INTEREST EARNED. To the extent that interest is earned on advances of CDBG-NDR funds, this interest shall be returned to the Authority, except that the Recipient may keep interest amounts of up to \$100 per year for administrative expenses.

7.0 SUSPENSION. When the Recipient has failed to comply with the Contract, award conditions or standards, the Authority may, on reasonable notice to the Recipient, suspend the Contract and withhold future payments, or prohibit the Recipient from incurring additional obligations of CDBG-NDR funds. Suspension may continue until the Recipient completes the

corrective action as required by the Authority. The Authority may allow such necessary and proper costs which the Recipient could not reasonably avoid during the period of suspension provided the Authority concludes that such costs meet the provisions of HUD regulations issued pursuant to OMB 2 CFR part 200, subpart E.

8.0 TERMINATION.

- (a) FOR CAUSE. The Authority may terminate the Contract in whole, or in part, whenever the Authority determines that the Recipient has failed to comply with the terms and conditions of the Contract.
- (b) FOR CONVENIENCE. The Parties may terminate the Contract in whole, or in part, when all parties agree that the continuation of the Project would not produce beneficial results commensurate with the future disbursement of funds.
- (c) DUE TO REDUCTION OR TERMINATION OF CDBG-NDR FUNDING. At the discretion of the Authority, the Contract may be terminated in whole, or in part, if there is a reduction or termination of CDBG-NDR Federal block grant funds to the State.

9.0 PROCEDURES UPON TERMINATION.

- (a) NOTICE. The Authority shall provide written notice to the Recipient of the decision to terminate, the reason(s) for the termination, and the effective date of the termination. If there is a partial termination due to a reduction in funding, the notice will set forth the change in funding and the changes in the approved "Budget Activity". The Recipient shall not incur new obligations beyond the effective date and shall cancel as many outstanding obligations as possible. The Authority's share of noncancellable obligations which the Authority determines were properly incurred prior to notice of cancellation will be allowable costs.
- (b) RIGHTS IN PRODUCTS. All finished and unfinished documents, data, reports or other material prepared by the Recipient under the Contract shall, at the Authority's option, become the property of the Authority.
- (c) RETURN OF FUNDS. The Recipient shall return to the Authority all unencumbered funds within one week of receipt of the notice of termination. Any costs previously paid by the Authority which are subsequently determined to be unallowable through audit, monitoring, or closeout procedures shall be returned to the Authority within thirty (30) days of the disallowance.

10.0 ENFORCEMENT EXPENSES. The Recipient shall pay upon demand any and all reasonable fees and expenses of the Authority, including the fees and expenses of its attorneys, experts and agents, in connection with the exercise or enforcement of any of the rights of the Authority under this Contract.

11.0 INDEMNIFICATION. The Recipient shall indemnify and hold harmless the Authority, its officers and employees, from and against any and all losses, accruing or resulting from any and all claims subcontractors, laborers and any other person, firm or corporation furnishing or supplying work, services, materials or supplies in connection with the performance of this Contract, and from any and all claims and losses accruing or resulting to any person, firm or corporation who may be injured or damaged by the Recipient in the performance of this Contract.

12.0 CONFLICT OF INTEREST.

- (a) GENERAL. Except for the use of CDBG-NDR funds to pay salaries and other related administrative or personnel costs, no persons identified in paragraph (b) below who exercise or have exercised any functions or responsibilities with respect to CDBG-NDR assisted activities or who are in a position to participate in a decision making process or gainside information with regard to such activities may obtain a personal or financial interest or benefit from a CDBG-NDR assisted activity or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.
- (b) PERSONS COVERED. The conflict of interest provisions described above apply to any person who is an employee, agent, consultant, officer, or elected or appointed official of the Recipient, or of any designated public agencies, or subrecipients which are receiving CDBG-NDR funds.
- (c) CONFLICTS OF INTEREST. Chapter 68B, Code of Iowa, the "Iowa Public Officials Act", shall be adhered to by the Recipient, its officials and employees.

13.0 USE OF DEBARRED, SUSPENDED, OR INELIGIBLE CONTRACTORS OR SUBRECIPIENTS. CDBG-NDR funds shall not be used directly or indirectly to employ, award contracts to, or otherwise engage the service of, or fund any contractor or subrecipient during any period of debarment, suspension, or placement ineligible status under the provisions of 24 CFR Part 24 or any applicable law or regulation of the Department of Labor.

14.0 CIVIL RIGHTS.

(a) **DISCRIMINATION IN EMPLOYMENT.** The Recipient shall not discriminate against any qualified employee or applicant for employment because of race, color, religion, sex, national origin, age, sexual orientation, gender identity, familial status, physical or mental disability. The Recipient may take affirmative action to ensure that applicants are employed and that employees are treated without regard to their race, color, religion, sex, national origin, age, sexual orientation, familial status, gender identity, or physical or mental disability. Such action shall include, but may not be limited to, the following: employment, upgrading, promotion, demotion or transfers; recruitment or recruitment advertising; lay-off or termination; rates of pay or other forms of compensation; and selection for training, including an apprenticeship. The Recipient agrees to post notices setting forth the provisions of the nondiscrimination clause in conspicuous places so as to be available to employees. Upon the State's written request, the Recipient shall submit to the State a copy of its affirmative action plan, containing goals and time specifications, and accessibility plans and policies as required under Iowa Administrative Code chapter 11—121.

(b) **CONSIDERATION FOR EMPLOYMENT.** The Recipient shall, in all solicitations or advertisements for employees placed by or on behalf of the Recipient, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, age, sexual orientation, gender identity, physical or mental disability, or familial status.

(c) **SOLICITATION AND ADVERTISEMENT.** The Recipient shall list all suitable employment openings in the State Employment Service local offices.

(d) **CIVIL RIGHTS COMPLIANCE IN EMPLOYMENT.** The Recipient shall comply with all relevant provisions of the Iowa Civil Rights Act of 1965 as amended; Chapter 19B.7 and Chapter 216, Code of Iowa; Federal Executive Order 11246, as amended; Title VI of the U.S. Civil Rights Act of 1964 as amended (42 U.S.C. Section 2000d et seq.); the Fair Labor Standards Act (29 U.S.C. Section 201 et seq.); The Americans with Disabilities Act, as applicable, (P.L. 101 336, 42 U.S.C. 12101-12213); Section 504 of the Rehabilitation Act of 1973 as amended (29 U.S.C. Section 794); and the Age Discrimination Act of 1975 as amended (42 U.S.C. Section 6101 et seq.). The Recipient will furnish all information and reports requested by the State of Iowa or required by or pursuant to the rules and regulations thereof and will permit access to payroll and employment records by the State of Iowa to investigate compliance with these rules and regulations.

(e) **CERTIFICATION REGARDING GOVERNMENT-WIDE RESTRICTION ON LOBBYING.** The Recipient certifies, to the best of his or her knowledge and belief, that:

(i) No Federal appropriated funds have been paid or will be paid, by or on behalf of the Recipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with awarding any Federal contract, making any Federal grant, making any Federal loan, entering into any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(ii) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the Recipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Federal Lobbying" in accordance with its instruction.

(iii) The Recipient shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

(iv) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(f) PROGRAM NONDISCRIMINATION. The Recipient shall conform with requirements of Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and HUD regulations issued pursuant thereto contained in 24 CFR Part 1. No person in the United States shall, on the basis of race, color, national origin, sex or religion or religious affiliation, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available through this Contract. Any prohibition against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101 et. seq.) or with respect to an otherwise qualified individual with a disability as provided in the Americans with Disabilities Act, as applicable, (P.L. 101 336, 42 U.S.C. 12101 12213) or Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. Section 794) shall also apply to any such program or Project.

(g) FAIR HOUSING. The Recipient shall comply with Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.), generally known as the Fair Housing Act, and with HUD regulations found at 24 CFR Part 107, issued in compliance with Federal Executive Order 11063, as amended by Federal Executive Order 12259. The recipient shall also comply with Section 109, Title I of the Housing and Community Development Act of 1974, as amended.

(h) SECTION 3 COMPLIANCE. The Recipient shall comply with provisions for training, employment, and contracting in accordance with 24 CFR part 135, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u). All section 3 covered contracts shall include the following clause (referred to as the section 3 clause):

A. The work to be performed under this contract is subject to the requirements of section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (section 3). The purpose of section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 135, which implement section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 135 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 135. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 135.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 135 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 135.

F. Noncompliance with HUD's regulations in 24 CFR part 135 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with section 3 covered Indian housing assistance, section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of section 3 and section 7(b) agree to comply with section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

(i) **NONCOMPLIANCE WITH THE CIVIL RIGHTS LAWS.** In the event of the Recipient's noncompliance with the nondiscrimination clauses of this Contract or with any of the aforesaid rules, regulations, or requests, this Contract may be canceled, terminated, or suspended either wholly or in part. In addition, the State of Iowa may take further action, imposing other sanctions and invoking additional remedies as provided by the Iowa Civil Rights Act of 1965 (Chapter 216, Code of Iowa) or as otherwise provided by law.

(j) **INCLUSION IN SUBCONTRACTS.** The Recipient will include the provisions of the preceding paragraphs of Section 14 in every subcontract unless exempt by the State of Iowa, and said provisions will be binding on each subcontractor. The Recipient will take such action with respect to any subcontract as the State of Iowa may direct as a means of enforcing such provisions, including sanctions for noncompliance. In the event the Recipient becomes involved in or is threatened by litigation with a subcontractor or vendor as a result of such direction by the State of Iowa, the Recipient may request the State of Iowa to enter into such litigation to protect the interests of the State of Iowa.

15.0 POLITICAL ACTIVITY. No portion of program funds shall be used for any partisan political activity or to further the election or defeat of any candidate for public office. Neither the program nor the funds provided therefore, nor the personnel employed in the administration of this Contract, shall be in any way or to any extent engaged in the conduct of political activities in contravention of The Hatch Act (5 U.S.C. 15).

16.0 LIMIT ON RECOVERY OF CAPITAL COSTS. The Recipient will not attempt to recover any capital costs of public improvements assisted in whole or part under this Contract by assessing any amount against properties owned and occupied by persons of low and moderate income, including any fee charged or assessment made as a condition of obtaining access to such public improvements, unless (i) funds received under this Contract are used to pay the proportion of such fee or assessment that relates to the capital costs of such public improvements that are financed from revenue sources other than under Title I of the Housing and Community Development Act of 1974, as amended, or (ii) for purposes of assessing any amount against properties owned and occupied by persons of low and moderate income who are not persons of very low income, the Recipient has certified to the Authority that it lacks sufficient funds received under Title I of the Housing and Community Development Act of 1974, as amended, to comply with the requirements of clause (i) above.

17.0 FEDERAL GOVERNMENT RIGHTS. If all or a portion of the funding used to pay for the Deliverables is being provided through a grant from the Federal Government, Contractor acknowledges and agrees that pursuant to applicable federal laws, regulations, circulars and bulletins, the awarding agency of the Federal Government reserves certain rights including, without limitation a royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for Federal Government purposes, the Deliverables developed under this Contract and the copyright in and to such Deliverables.

18.0 IOWA ECONOMIC DEVELOPMENT AUTHORITY FRAUD AND WASTE POLICY. The Authority has zero tolerance for the commission or concealment of acts of fraud, waste, or abuse. Allegations of such acts will be investigated and pursued to their logical conclusion, including legal action where warranted.

Staff Summary

10/17/2016

Agenda Item # 14.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

p (712) 732-8000

f (712) 732-4114

REPORT TO: Honorable Mayor and City Council

FROM: Keri Navratil, Assistant City Manager

SUBJECT: Motion to Approve Engineering Services for the Community Development Block Grant-National Resiliency Disaster Competition

BACKGROUND: The City was awarded \$6,474,750 from a Community Development Block Grant- National Disaster Resiliency Competition to assist in the mitigation of flooding and storm water management. These funds will be used to complete eight (8) projects.

Per federal procurement regulations, the City solicited Request for Proposals (RFQs) for engineering services. Five proposals were received from the following firms: Veenstra and Kimm, Bolton & Menk, EOR/Griggs, WHKS and ISG.

Prior to the submission of the RFQs, a selection committee was created to review the proposals. Committee members were selected due to their knowledge of the City, stormwater and flooding expertise, project management, and engineering experience. Each member completed an anonymous grading matrix to determine the best qualified firm for each of the eight projects. The committee recommending approving the following firms for Engineering Services:

- 1st and Mae Street Sanitary Sewer Lining- Veenstra and Kimm
- North Central Extension (Spooner and Seneca Stormwater Improvements)- Bolton & Menk
- 10th and Ontario Storm Water Improvements- EOR/Griggs
- 7th and Geneseo Sanitary Replacement- WHKS
- 4th and Oates Storm Water Improvements- EOR/Griggs
- Memorial Park Storm Water Improvements- Bolton & Menk
- Wastewater Treatment Facility Wetland Ponds- EOR/Griggs

- 4th and Barton Storm Water Improvements- ISG

Contracts with the selected firms will be at a future meeting when the City has received the funding agreement from the State of Iowa.

FISCAL IMPACT:

Per federal procurement regulations, cost for engineering services could not be factored into the selection criteria.

RECOMMENDATION:

Approve motion

ATTACHMENTS:

Description		Type
	Selection Matrix	Backup Material

1st and Mae Street	N. Central	10th and Ontario	7th and Geneseo	4th and Oates	Memorial Park	WWTP Wetlands	4th and Barton
VK	BM	EOR	WHKS	EOR	EOR	EOR	ISG
VK	BM	ISG	ISG	EOR	BM	EOR	ISG
BM/WHKS	BM	BM/VK	BM	BM	BM	BM	BM
VK	BM	EOR	BM	EOR	EOR	EOR	BM
VK	BM	EOR	WHKS	EOR	EOR	EOR	ISG
Project Award	Project Award	Project Award	Project Award	Project Award	Project Award	Project Award	Project Award
VK	BM	EOR	WHKS	EOR	EOR	EOR	ISG
		2017 Const.		2019 Const	2019 Const	2019 Const	

Note: Due to the consutrctuion scheudle for 2019, it is recommended that Memorial Park be awarded to BM

Selection Committee

James Patrick

Armond Rider

Derek Namanny

Keri Navratil

Randy Johnson

Staff Summary

10/17/2016

Agenda Item # 15.



City of Storm Lake

PO Box 1086

Storm Lake, IA 50588

[p \(712\) 732-8000](tel:(712)732-8000)

[f \(712\) 732-4114](tel:(712)732-4114)

REPORT TO: Honorable Mayor and City Council

FROM: James H. Patrick, City Manager

SUBJECT: Motion To Approve The Storm Lake Water Rate Enterprise Fund Water Rate Study Proposal For Professional Services.

BACKGROUND: City of Storm Lake Ordinance, Chapter 3-5 establishes water rates from 2011 through Fiscal year 2016. Every five years the City does a water rate study to determine the revenue needs of the water plant for the next five years.

Veenstra and Kimm have provided a proposal for professional services to conduct the water rate study for a fee not to exceed \$3,900.

FISCAL IMPACT: The Study will cost no more than \$3,900.

RECOMMENDATION: Council, by motion, direct the City Manager to sign Veenstra and Kimm's proposal for professional services to conduct a water rate study for the next five years.

ATTACHMENTS:

Description	Type
☐ Water Rate Study Proposal	Contract



VEENSTRA & KIMM, INC.

3000 Westown Parkway • West Des Moines, Iowa 50266-1320

515-225-8000 • 515-225-7848 (FAX) • 800-241-8000 (WATS)

September 19, 2016

James H. Patrick
City Manager
City of Storm Lake
620 Erie Street
P.O. Box 1086
Storm Lake, Iowa 50588-1086

STORM LAKE, IOWA
WATER ENTERPRISE FUND
WATER RATE STUDY
PROPOSAL FOR PROFESSIONAL SERVICES

In accordance with the September 19, 2016 request from Keri Navratil this letter is to present Veenstra & Kimm, Inc.'s proposal to complete a water rate study for the City of Storm Lake. It is the writer's understanding the goal of the study would be to evaluate the adequacy of water revenue and to determine if rate adjustments should be enacted to provide adequate revenue. It is the writer's understanding the level of analysis will focus on the existing water rate system and the adequacy of revenue. More detailed analysis of the structure of the water rates would not be included in the analysis.

The scope of services for the water rate study would be considered a limited study and include the following:

1. Evaluation of the revenues of the water enterprise fund for the fiscal years ending June 30, 2012 through June 30, 2016.
2. Evaluation of the expenses of the water enterprise fund for the fiscal years ending June 30, 2012 through June 30, 2016.
3. Projection of expenditures in the water enterprise fund for the fiscal year ending June 30, 2017. The projection would be based on existing rates expenditures.
4. Review of the adequacy of revenues to meet expenditures on a fiscal year basis for the fiscal years ending June 30, 2017 through June 30, 2022.

5. Determination of additional revenue that would be necessary to meet required expenditures on a fiscal year basis.
6. Development of one or more schedules of rate increase to provide adequate revenue. The rate increase schedules would be based on the concept of an annual adjustment of water rates focusing on a relatively uniform annual increase concept.
7. In consultation with the City staff, identify a preferred approach for adjusting water rates, including a program of rate increases to provide adequate revenue.
8. Presentation of the evaluation and findings of the water rate study in a letter report that would include the recommended program of water user charge rate increases.
9. Review the results of the draft report with City staff and incorporate the appropriate adjustments in the final letter report on the water rate study.

Veenstra & Kimm, Inc. would propose to undertake the water rate study on an hourly fee basis with a maximum **not to exceed fee of \$3,900.**

If this proposal is satisfactory you may sign one of the two copies of this letter and return the signed copy to the writer. Once Veenstra & Kimm, Inc. receives the signed proposal we are prepared to begin work either immediately, or on the timeframe you request.

James H. Patrick
September 19, 2016
Page 3

If you have any questions or comments concerning the project, please contact the writer at 800-241-8000.

VEENSTRA & KIMM, INC.



H. R. Veenstra Jr.

HRVJr:pjh
356
Enclosure

Accepted this _____ day of _____, 2016.

CITY OF STORM LAKE

ATTEST:

By _____

By _____