

# Agenda -Notice of Meeting

Polk City | City Council

\*\*\*\*\*

January 23, 2023 | 6:00 pm

City Hall Council Chambers

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**Public Meeting participation in person or via phone**

**Call in # 515-726-3598 Participant Code 535355**

**Public members can also provide comments\* directly to [support@polkcityia.gov](mailto:support@polkcityia.gov)**

*\*any comments received before the time of the meeting will be made a part of the public hearing*

**Broadcast live and playback will be available at <https://www.youtube.com/c/polkcityiagovchannel>**

\*\*\*\*\*

Steve Karsjen | Mayor

Rob Sarchet | Pro Tem

City Council Members: Jeff Walters | Dave Dvorak | Mandy Vogel | Ron Anderson

## 1. Call to Order

## 2. Roll Call

## 3. Approval of Agenda

## 4. Public Hearings:

- a. Public Hearing on Amending the 2016 Polk City Comprehensive Plan by Updating the Future Land Use Map
  - i. Resolution 2023-04 to amend the 2016 Polk City Comprehensive Plan by Updating the Future Land Use Map
- b. Public Hearing on Proposed Rezoning request for Gateway Crossings
  - i. First Reading of Ordinance 2023-2000 rezoning Gateway Crossings from A-1 to: C-2 (28.96 acres), M-1 Restricted (16.70 acres), M-1 (7.5 acres), R-3 (27.83 acres)

## 5. Presentations:

- a. Polk City Friends of the Parks presenting the City \$10,000 check for shade structure at Leonard Park

## 6. Public Comments: *This is the time and place for comments for any item other than those that are a Public Hearing. If you wish to speak, please contact the City Clerk by 6pm on the date of the meeting by email at [jcoffin@polkcityia.gov](mailto:jcoffin@polkcityia.gov) include your name and address for the record. The Mayor will recognize you for five minutes of comment.*

## 7. Consent Items

- a. City Council Meeting Minutes for January 9, 2023
- b. City Council Work Session Meeting Minutes for January 9, 2023
- c. City Council Budget Work Session Meeting Minutes for January 12, 2023
- d. Claims listing January 23, 2023
- e. Receive and file the December 2022 Water Department Report
- f. Receive and file the November and December 2022 Library Director Report
- g. Receive and file the November 7, 2022 Library Board Meeting Minutes
- h. Acknowledge Resolution 2023-01L declaring certain items of Library property to be surplus and of no value to the City and authorizing removal from inventory
- i. Receive and file the 2022 Annual Report: Building Permits & Valuations Overview
- j. Resolution 2023-06 setting fees for Construction Observation and Administrative Services
- k. Resolution 2023-07 amending Boundaries for Corporate Limits of City

- l. Resolution 2023-08 authorizing the application for the assistance to Firefighters Grant (AFG)
- m. Resolution 2023-09 resolution authorizing the certification of liens to the Polk County Treasurer for purposes of assessing delinquent account balances against property
- n. Receive and file the Fire Department December 2022 Report
- o. Receive and file the Fire Department 2022 Annual Report
- p. Set pay for Fire Department personnel, Brian Hanson, from Lieutenant to Firefighter/EMT at a rate of \$17.50 per hour
- q. Set pay for Fire Department new hire Alyssa Wallace, part-time Paramedic at a rate of \$19 per hour with a pay increase to \$22 once certified as a firefighter
- r. Resolution 2023-10 authorizing application to Prairie Meadows Community Betterment grant in the amount of \$32,000 for extraction tools
- s. Receive and file the Parks & Recreation Department 2022 Annual Report
- t. Resolution 2023-11 authorizing application to Polk County Board of Supervisors Community Development grant in the amount of \$100,000 for the City Hall/Community Center Project
- u. Resolution 2023-12 authorizing application to Prairie Meadows Legacy grant in the amount of \$250,000 for Polk City's connection to the High Trestle Trail project
- v. Resolution 2023-13 authorizing application to Wellmark Large Match grant in the amount of \$100,000 for Polk City's connection to the High Trestle Trail project
- w. Approve Request for Proposal (RFP) for audit services for 5-year contract

## **8. Business Items**

- a. Fire Station Remodel Project
  - i. Resolution 2023-14 Adopting Plans, Specifications, Form of Contract and Opinion of Probable Construction Cost
  - ii. Resolution 2023-15 Awarding Construction Contract to GTG Companies in the amount of \$1,171,000
  - iii. Resolution 2023-16 Approving Construction Contract and Bond to GTG in the amount of \$1,171,000
- b. Resolution 2023-05 setting Public Hearing on the proposed FY 24 maximum property tax levy
- c. McClure Engineering, Standard Agreement for Consulting Services in the amount of \$753,000 for the Polk City Elevated Storage Tank Project
- d. Snyder and Associates Engineering Services agreement in the amount of \$18,000 for 2023 Street Repair Project
- e. Third Reading of Ordinance 2022-2600 amending Chapter 165.18 Zoning Regulations. Off-Street Parking
- f. Snyder & Associates December 2022 Engineering Services invoice in the amount of \$18,680.75

## **9. Reports & Particulars**

Mayor, Council, City Manager, Staff, Boards, and/or Commissions

## **10. Adjournment**

*--next meeting date February 13, 2023*

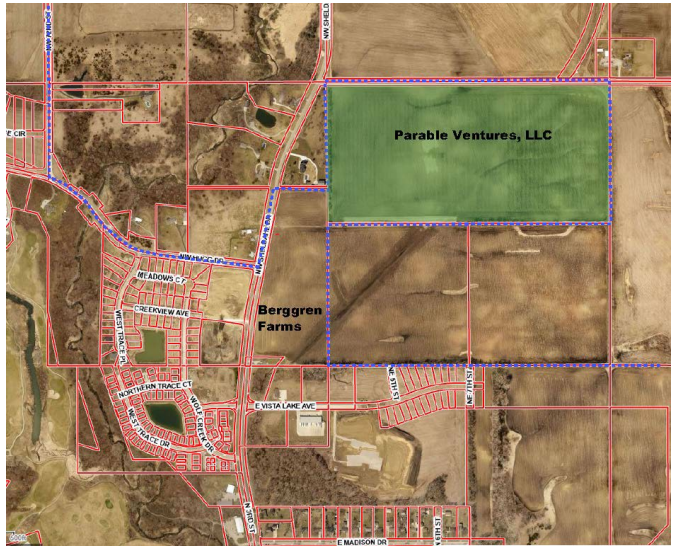
## REZONING PETITION REVIEW

Date: January 18, 2023  
 Subject Property: Gateway Crossings

Prepared by: Kathleen Connor  
 Project No.: 122.1398.01

**GENERAL INFORMATION:**

The 78-acre subject property, shaded in green on the right, was recently voluntarily annexed into Polk City, along with the Berggren Farms property. The new corporate limits are dashed in blue on the right. Per Code, both properties are now zoned A-1 Agriculture. The owner, Parable Ventures LLC, has submitted three (3) *Petitions to Rezone* the subject properties from A-1 to a mixture of R-3 Multiple Family Residential, C-2 Commercial and M-1 Light Industrial. The petitions have been signed by David Bush, president of Parable Ventures, LLC.

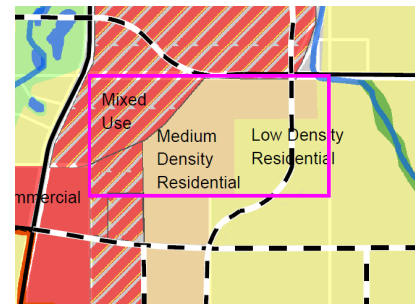


<b>Applicant/Owner:</b> Parable Ventures, LLC	<b>Existing Use:</b> Agriculture – row crops
<b>Current Zoning:</b> A-1 – 80.99 acres, total	<b>Future Use:</b> Mixed Use; Medium Density Residential; Low Density Residential.
<b>Requested Zoning:</b> R-3 - 27.83 acres C-2 - 28.96 acres M-1 - 7.5 acres M-1(R) -16.70 acres	<b>Proposed Use:</b> Commercial; Light Industrial; High Density Residential.

The applicant owns sufficient property to consent to each of the four rezonings since most of the surrounding area is unincorporated and is therefore not included in consent requirements. (100% for C-2; 100% for R-3; and 83.6% for M-1) The date of the required public hearing at City Council on these rezonings has not yet been set.

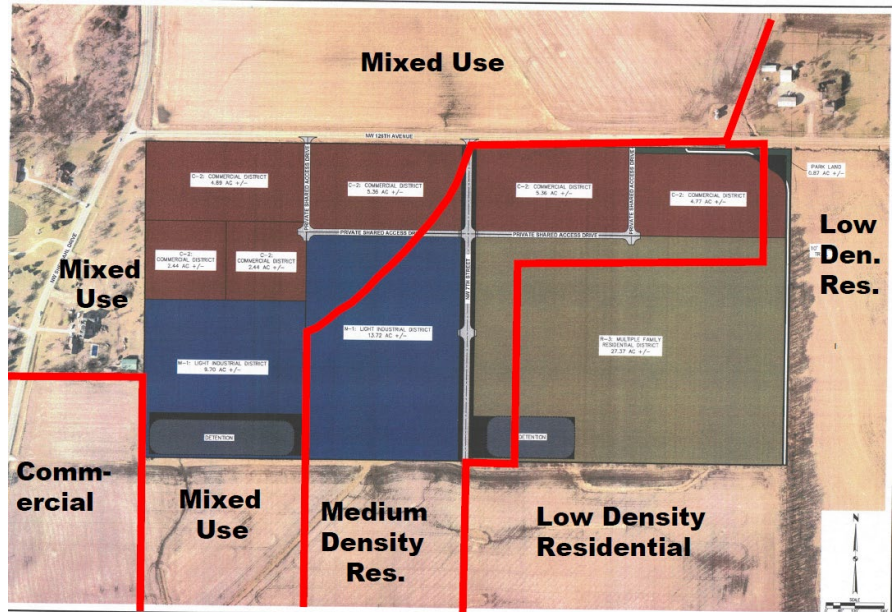
**COMPREHENSIVE PLAN:**

The Future Land Use Plan from Polk City’s 2016 Comprehensive Plan for the subject area is illustrated on the right page, with the subject parcel outlined in magenta. The rezonings as proposed are not in conformance with the land uses designated by the Comp Plan. As a result, approval of an amendment to the Future Land Use Plan is needed prior to approval of any of the proposed rezonings.



The developer submitted a concept plan to clarify their intent for future development, and provide justification for the rezoning. To simplify the City’s review of the proposed changes to the Comp Plan, the intended Future Land Uses have been overlaid on the plan below, with red lines dividing the Future Land Use designations.

Designated Mixed Use Area. The west side of the subject parcel was designated for Mixed Use which the Comp Plan defines as a mix of commercial and residential uses in one cohesive development. As illustrated above, the developer instead proposes for this area to be designated for commercial on the north side, abutting NW 126<sup>th</sup> Street, and light industrial on the south. The proposed change appears to meet the city’s identified need for more commercial and industrial land. The proposed C-2 and M-1 zoning in this area appears to be reasonably compatible with surrounding future



uses on adjacent properties, particularly since the detention area will provide separation between the M-1 and future Mixed Use to the south, especially when coupled with the required 50’ opaque buffer.

Designated Medium Density Residential Area The center section of the subject parcel was designated for Medium Density Residential Use which the Comp Plan defines as having limited uses, primarily townhomes and row houses, with single-family detached and multi-family permitted if compatibility standards are met, with a density of 4-8 dwellings per acre. The Medium Density Residential was intended to serve as a transition between the Mixed Use and Low Density Residential shown on the Future Land Use Plan. As illustrated above, the developer instead proposes this area to be commercial on the north, light industrial on the south, and high density on the east. The proposed change appears to meet the city’s identified need for more commercial and industrial land. The proposed C-2 is reasonably compatible with surrounding Mixed Use to the north, but the proposed M-1 may be less compatible with the planned Medium Density Residential to the south unless special conditions are met, including the 50’ opaque buffer and orientation of overhead doors to the interior of the development. Certain manufacturing uses generally permitted in the M-1 Zoning District may not be desirable on the southern portion this M-1 district. The proposed M-1 may be reasonably compatible with the proposed High Density Residential depending on the type of dwellings proposed, given that the public street provides some separation when combined with the 50’ opaque buffer on the west side of the street.

Designated Low Density Residential Area. The east section of the subject parcel was designated for Low Density Residential Use which the Comp Plan defines as being primarily single-family detached homes with a density of 1-4 dwellings per acre. As illustrated above, the developer instead proposes this area to continue the commercial strip along NW 126<sup>th</sup> Avenue, with the remainder proposed for high density residential. The proposed change provides the opportunity to develop apartments, condominium, or similar multi-family since the city currently has no vacant land available for constructing those types of dwellings. Per the Comp Plan, high density residential would allow 8-24 dwelling units per acre. In order to improve compatibility to the planned low density residential on the south and east sides of this 27-acre area, it may make sense to require a lesser density, such as bi-attached dwellings, along those property lines as a transition to the future SF homes.

### **REVIEW COMMENTS:**

Submittal 3 addressed all of staff's review comments and included updated boundaries and legal descriptions for the proposed Zoning Districts based on the removal of the knuckle-sacs on Street 'A' per Staff's preliminary review comments on the Concept Plan. Since there is virtually no change to the size of the individual Zoning Districts, staff has concern about the minor revisions that were made to the legal descriptions.

### **CONCEPT PLAN (Land Use Exhibit):**

Although no formal approval of the Land Use Exhibit is required or offered, we are providing the following preliminary comments on this concept which may impact the future Preliminary Plat:

1. The City Engineer will need to prepare a Traffic Impact Study for this parcel, based on land uses and densities that are provided by the developer and shown on the preliminary plat. The TIS will determine the classification of new streets, such as NE 7<sup>th</sup> Street and Street A, and the resulting width of the pavement and right-of-way. The TIS will also determine the need for improvements, such as turn lanes, to be installed by developer(s) to serve the development as well as establishing design criteria such as access spacing.
2. NE 7<sup>th</sup> Street will likely need to be realigned as per the Comprehensive Plan such that the intersection of NE 7<sup>th</sup> Street and NW 126<sup>th</sup> Avenue is located east of the reverse curve on Whitetail Parkway. The intersection location will need to be designed in consideration of a planned full intersection that includes a north leg to the Kamps' property and appropriate turning lanes and sight distances. The alignment of Whitetail Parkway/NW 126<sup>th</sup> Street will need to be designed, including the portion of NW 126<sup>th</sup> Street lying west of the Whitetail Parkway tie-in. The design will need to include elements such as the future extension of Street A north to Whitetail Parkway while considering the development potential of resulting parcels and the neighborhood as a whole.
3. Whitetail Parkway/NW 126<sup>th</sup> Street is designated as a parkway, which will include a 15' wide Parkway Easement, street trees at 40' on center, 10' wide trail, and 12" water main. (Parkways are not considered part of the park land dedication for the subdivision.)

4. The alignment of the 10' High Trestle Trail connector is in accordance with the Comprehensive Plan and will continue to be coordinated the Polk County project.
5. The Comp Plan does not designate a park within this parcel. However, with the proposed increase in density, private park amenities should be provided, based on the type and number of dwelling units, to serve the needs of the residents.
6. The City will not take ownership of any detention ponds, therefore the regional basins will be located within a Private Storm Water Management Facility, with a Maintenance Covenant and Permanent Easement Agreement required at the time of final platting.
7. This property is located within the North Sanitary Sewer District and is intended to be served by the future North Trunk Sewer. However, the existing sanitary sewer on N. 3<sup>rd</sup> Street that terminates just north of E. Vista Lake Avenue has some capacity available and may serve a portion of this property. Sanitary sewer service will need to be determined to maximize use of the existing sanitary sewer based on the developer's planned uses for the property and the associated contributing flows.
8. Development of this parcel will require extension of the city's water main to serve these uses.
9. All required buffers will need to be located within Buffer Easements, with width and plant materials in accordance with zoning regulations.
10. The entire property will need to be included in the preliminary plat in accordance with the Subdivision Ordinance. The final plat for the first phase of development will need to define future development areas as outlots.

*The developer understands that approval of the Comprehensive Plan Amendment and/or Rezoning does not constitute approval of the Concept Plan as shown on the Land Use Exhibit.*

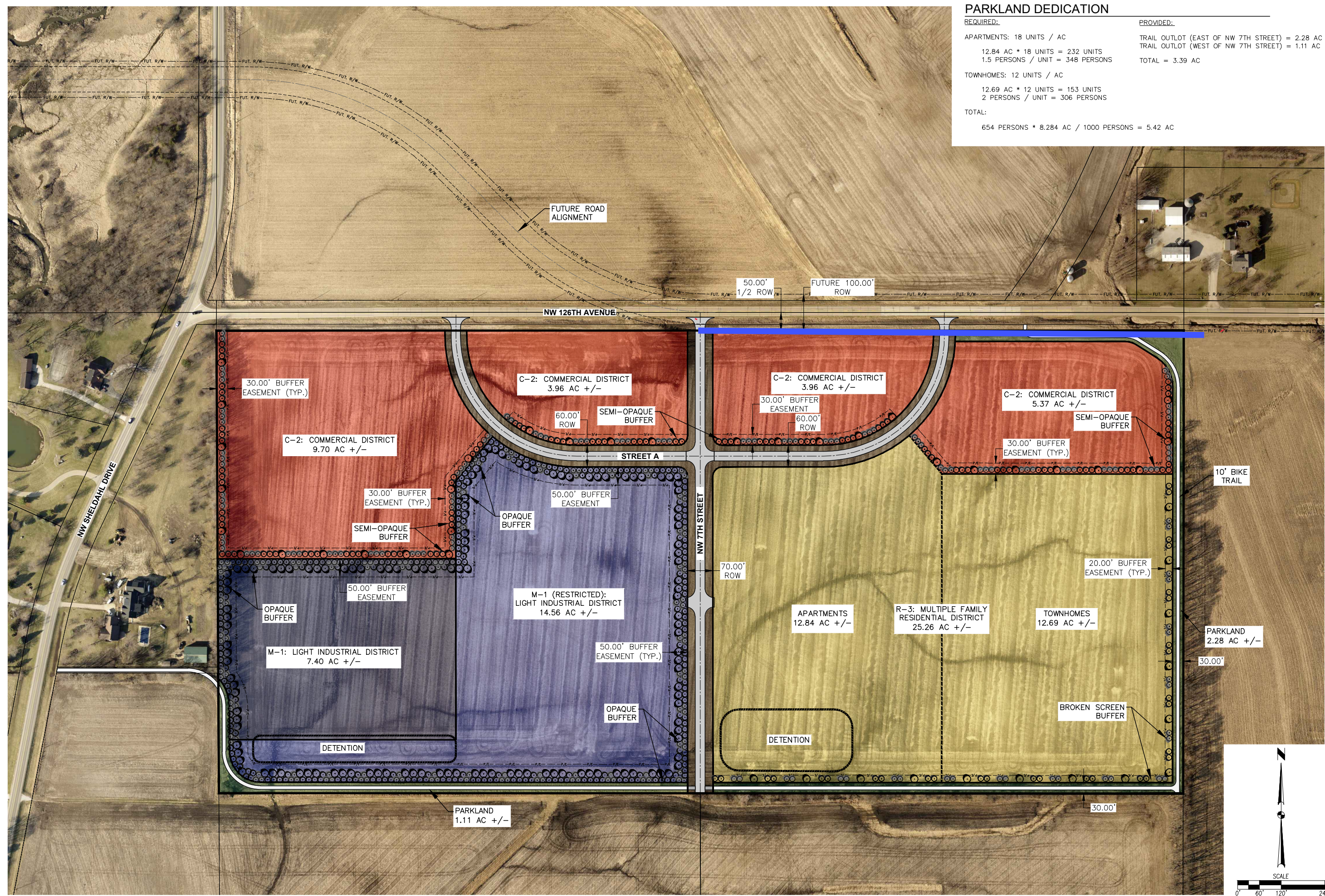
**RECOMMENDATION REGARDING COMPREHENSIVE PLAN AMENDMENT:**

On December 9, 2022, P&Z recommended approval of an amendment to the Comprehensive Plan from Mixed Use, Medium Density Residential, and Low Density Residential to Commercial, Light Industrial and High Density Residential to correspond to the Land Use Exhibit provided by the developer.

**RECOMMENDATION ON THE PROPOSED REZONINGS TO R-3, C -2, M-1, AND M-1 (RESTRICTED):**

On December 9, 2022, P&Z recommended Council approval of the applicant's request to rezone portions of their property to R-3, C-2, M-1, and M-1(Restricted). The M-1 (Restricted) parcel shall exclude mini-storage and storage of RVs, boats, and similar vehicles and equipment as a permitted use.

FILE: H:\2022\2206429\DWG\2206429-LAND USE EXHIBIT.DWG  
 DATE PLOTTED: 12/22/2022 12:52 PM  
 PLOTTED BY: ANTHONY MCDONALD  
 COMMENTS: ENDS



### PARKLAND DEDICATION

REQUIRED:	PROVIDED:
APARTMENTS: 18 UNITS / AC	TRAIL OUTLOT (EAST OF NW 7TH STREET) = 2.28 AC
12.84 AC * 18 UNITS = 232 UNITS	TRAIL OUTLOT (WEST OF NW 7TH STREET) = 1.11 AC
1.5 PERSONS / UNIT = 348 PERSONS	TOTAL = 3.39 AC
TOWNHOMES: 12 UNITS / AC	
12.69 AC * 12 UNITS = 153 UNITS	
2 PERSONS / UNIT = 306 PERSONS	
TOTAL:	
654 PERSONS * 8.284 AC / 1000 PERSONS = 5.42 AC	

REVISIONS	DATE
REVISOR	12/06/2022
REVISOR	11/18/2022
PREPARED	06/29/2022

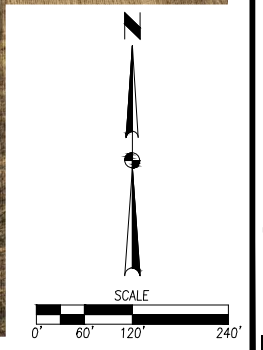
4121 NW URBANDALE DRIVE  
 URBANDALE, IA 50322  
 PHONE: (515) 369-4400  
 ENGINEER: JMM TECH: MST



POLK CITY, IOWA

# GATEWAY CROSSINGS

## LAND USE EXHIBIT





January 17, 2023

Honorable Mayor & City Council  
City of Polk City - c/o Chelsea Huisman, City Manager  
112 3<sup>rd</sup> Street  
Polk City, Iowa 50226

RE: Gateway Crossings – Rezoning Approval

Honorable Mayor & City Council;

On behalf of Parable Ventures, LLC, we respectfully request approval of a rezoning for approximately 81 acres located southeast of the intersection of NW Sheldahl Drive and NW 126<sup>th</sup> Avenue. The property is currently zoned A-1 Agriculture and the developer is proposing a mix of uses consisting of 27.83 acres of R-3 High Density Residential, 28.96 acres of C-2 Commercial, 7.50 acres of M-1 Light Industrial and 16.70 acres of M-1 Light Industrial restricted to exclude mini-storage and the storage of RV's, boats and other recreational vehicles.

There is one item to discuss following the recommendation of approval by the Planning and Zoning Commission. The legal descriptions provided to the Planning & Zoning Commission were revised prior to the City Council meeting. Upon receiving staff's recommendation letter there were modifications made to the overall conceptual plan to address removing the knuckles shown on the public streets between the commercial and light industrial/multi-family zoning districts. This modification caused the public street alignments to change, and as zoning districts extend to the centerline of the right-of-way the legal descriptions needed to be modified accordingly. Secondly the M-1 Light Industrial legal descriptions were modified to separate out the M-1 from the M-1 with restrictions. The acreage presented to the Planning and Zoning Commission did not change but the boundary of the zoning limits changed to accommodate the new alignment of the public street. The client understands that the city council is not approving the conceptual plan with the rezoning, but we would ask that the new legal descriptions be accepted so that they can match the current plan.

Please accept this submittal for the next available City Council meeting. Please contact me should you have any questions.

Sincerely,

CIVIL DESIGN ADVANTAGE, LLC

Erin K. Ollendike, P.E.

cc: David Bush, Parable Ventures, LLC



**OWNER**

PARABLE VENTURES LLC  
 CONTACT: DAVID BUSH  
 9105 CODY DR  
 WEST DES MOINES, IA 50266

**APPLICANT**

PARABLE VENTURES LLC  
 CONTACT: DAVID BUSH  
 9105 CODY DR  
 WEST DES MOINES, IA 50266

**ZONING**

EXISTING: A-1 AGRICULTURAL DISTRICT  
 PROPOSED: C-2 COMMERCIAL DISTRICT

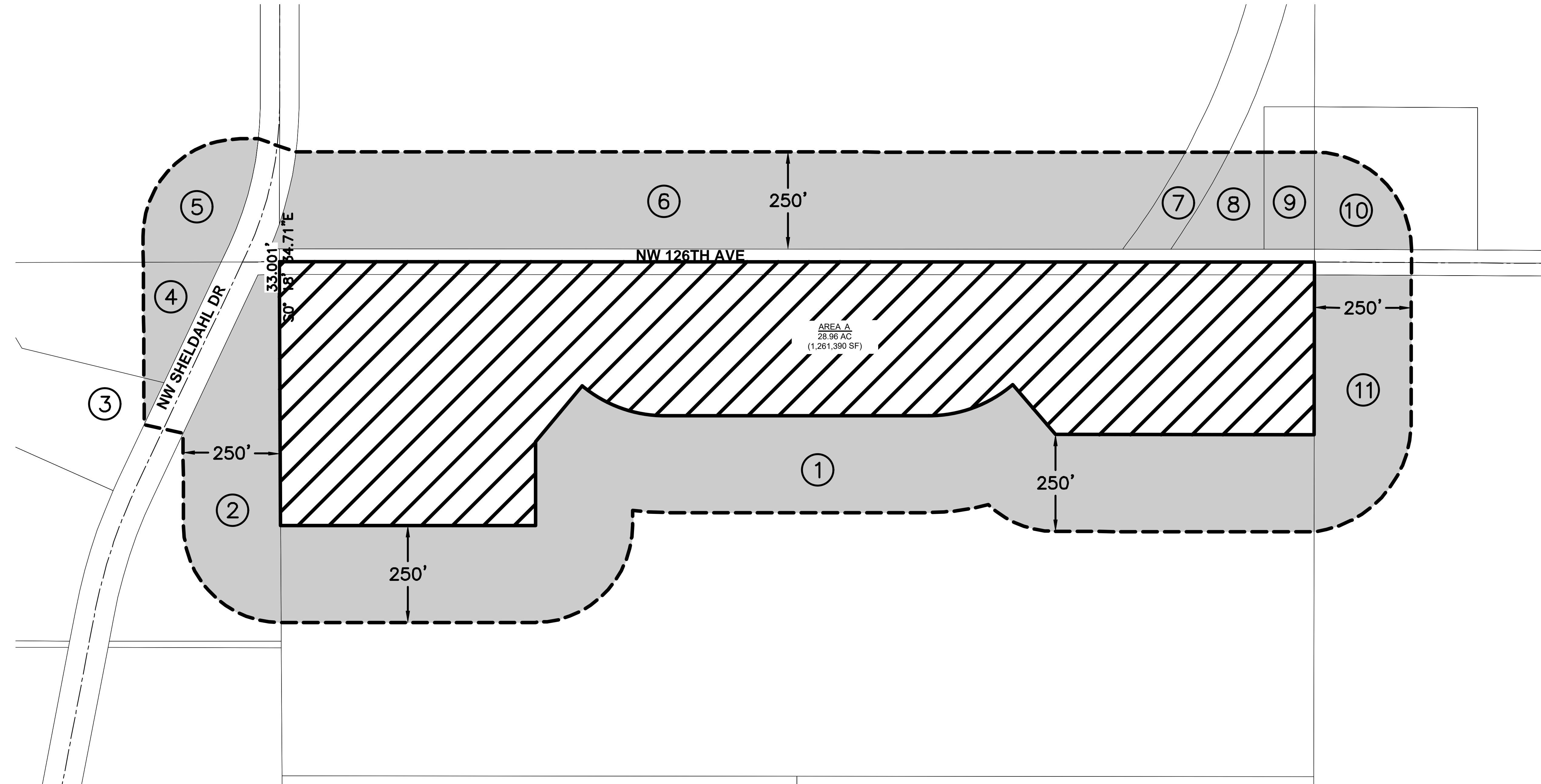
**RE ZONING DESCRIPTION**

A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 36; THENCE SOUTH 89°59'41" EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 2665.43 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 00°04'23" WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 445.75 FEET; THENCE NORTH 89°55'16" WEST, 665.99 FEET; THENCE NORTH 40°29'34" WEST, 169.04 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 235.34 FEET AND WHOSE CHORD BEARS SOUTH 69°45'13" WEST, 230.47 FEET; THENCE NORTH 90°00'00" WEST, 680.12 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 230.90 FEET AND WHOSE CHORD BEARS NORTH 70°08'09" WEST, 226.30 FEET; THENCE SOUTH 39°43'42" WEST, 187.95 FEET; THENCE SOUTH 00°00'17" EAST, 215.51 FEET; THENCE NORTH 90°00'00" WEST, 656.25 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 00°17'54" WEST ALONG SAID WEST LINE, 679.45 FEET TO THE POINT OF BEGINNING AND CONTAINING 28.96 ACRES (1,261,393 SQUARE FEET).

	ADJACENT OWNER	MAILING ADDRESS	ACRES WITHIN 250'	PERCENT	CONSENT
1	PARABLE VENTURES LLC	9105 CODY DR, WEST DES MOINES, IA 50266	16.967	100.00%	X
2	BROOKS ROLLING *	POB 287, POLK CITY, IA 50226	3.925	0.00%	
3	BRAD ALAN MILLER *	12520 NW SHELDAHL DR, POLK CITY, IA 50226	0.071	0.00%	
4	B DOUGLAS MARKERT *	12568 NW SHELDAHL DR, POLK CITY, IA 50226	0.891	0.00%	
5	YOUNG INVESTMENTS LC *	12497 NW HUGG DR, POLK CITY, IA 50226	1.584	0.00%	
6	STEVEN R KAMPS *	2355 NW 126TH AVE, POLK CITY, IA 50226	12.863	0.00%	
7	STEVEN R KAMPS *	2355 NW 126TH AVE, POLK CITY, IA 50226	0.677	0.00%	
8	STEVEN R KAMPS *	2355 NW 126TH AVE, POLK CITY, IA 50226	0.924	0.00%	
9	RANDALL FRANZEN *	5705 NW 126TH AVE, POLK CITY, IA 50226	0.745	0.00%	
10	STACEY L FRANZEN *	5705 NW 126TH AVE, POLK CITY, IA 50226	1.130	0.00%	
11	HALE PROPERTIES LLC *	6620 NW TONI DR, DES MOINES, IA 50313	3.415	0.00%	
	TOTALS		43.192	100.00%	100.00%

\* PROPERTIES OWNED BY THE CITY OF POLK CITY OR NOT WITHIN THE POLK CITY CORPORATE LIMITS ARE NOT INCLUDED IN THE CONSENTING AREAS.



FILE: H:\2022\2206429\2206429-REZONING C-2.DWG  
 PLOTTED BY: J. BUSH  
 DATE: 12/23/2022 7:13 AM

DATE: 09/28/2022  
 12/22/2022  
 12/05/2022

REVISIONS: THRU SUBMITTAL SECOND SUBMITTAL PREPARED

4121 NW URBANDALE DRIVE  
 URBANDALE, IA 50322  
 PHONE (515) 369-4400

TECH ENGINEER

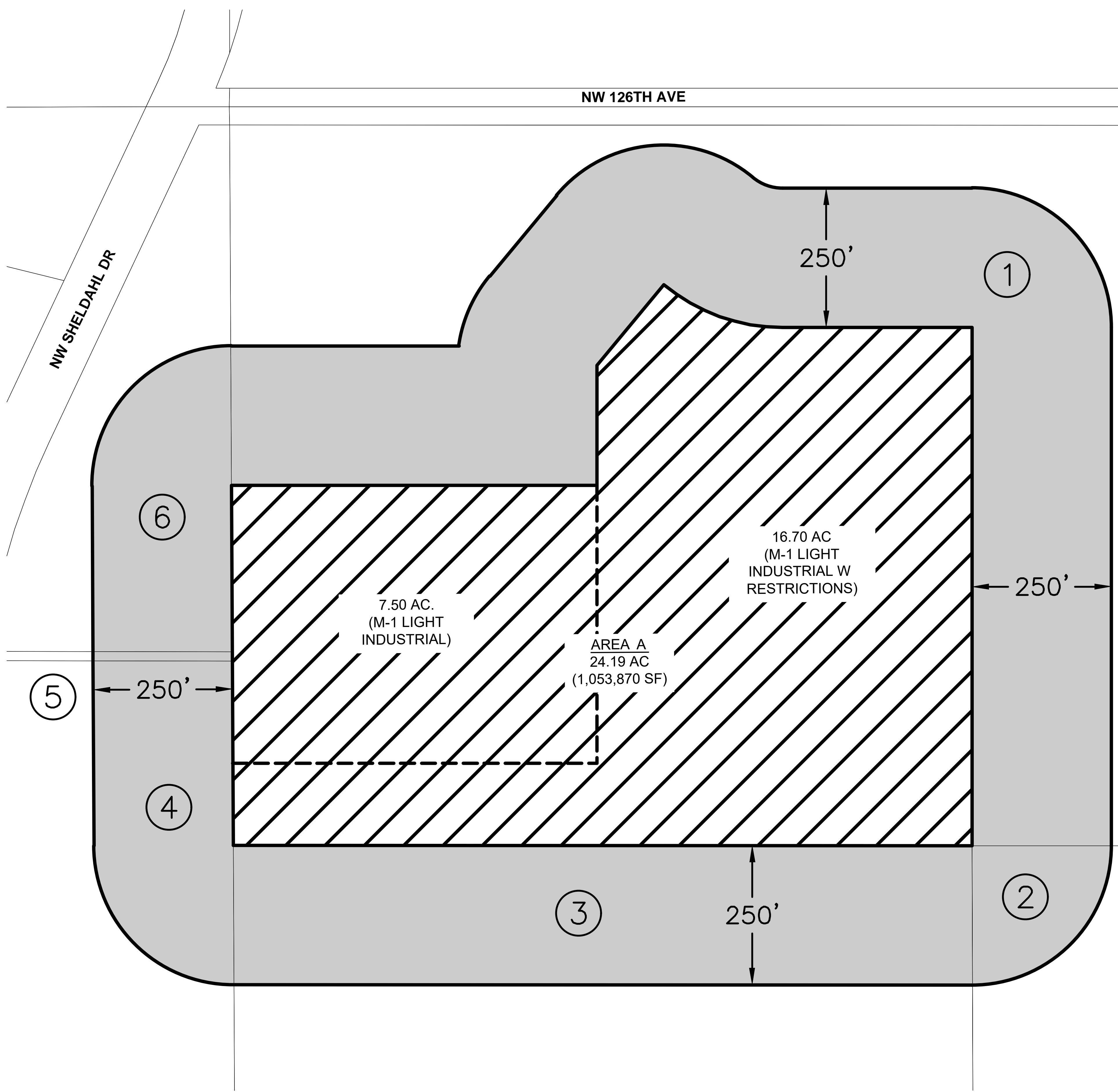
**ESA**  
 CIVIL DESIGN ADVANTAGE

**GATEWAY CROSSINGS**  
 REZONING MAP (C-2)

POL. CIT., IOWA

1/1  
 2206.429

FILE: H:\2022\2206429\2206429-REZONING M-1.DWG  
 DRAWN BY: J. L. LINDSEY  
 PLOTTED: 12/23/2022 7:14 AM  
 PLOT BY: J. L. LINDSEY



**RE ZONING DESCRIPTIONS**

**M-1 LIGHT INDUSTRIAL W/RESTRICTIONS (16.70 ACRES)**

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°17'53" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, 146.95 FEET; THENCE SOUTH 89°58'51" EAST, 653.69 FEET; THENCE NORTH 00°00'14" WEST, 498.77 FEET; THENCE NORTH 00°00'17" WEST, 215.51 FEET; THENCE NORTH 39°43'42" EAST, 187.95 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 230.90 FEET AND WHOSE CHORD BEARS SOUTH 70°08'09" EAST, 226.30 FEET; THENCE NORTH 90°00'00" EAST, 340.09 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 00°00'16" EAST ALONG SAID EAST LINE, 929.49 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 89°57'52" WEST ALONG SAID SOUTH LINE, 1326.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 16.70 ACRES (727,261 SQUARE FEET).

**M-1 LIGHT INDUSTRIAL (7.50 ACRES)**

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°17'53" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, 146.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°17'53" WEST ALONG SAID WEST LINE, 498.56 FEET; THENCE NORTH 90°00'00" EAST, 656.25 FEET; THENCE SOUTH 00°00'14" EAST, 498.77 FEET; THENCE NORTH 89°58'51" WEST, 653.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.50 ACRES (326,610 SQUARE FEET).

**OWNER**

PARABLE VENTURES LLC  
 CONTACT: DAVID BUSH  
 9105 CODY DR  
 WEST DES MOINES, IA 50266

**ONING**

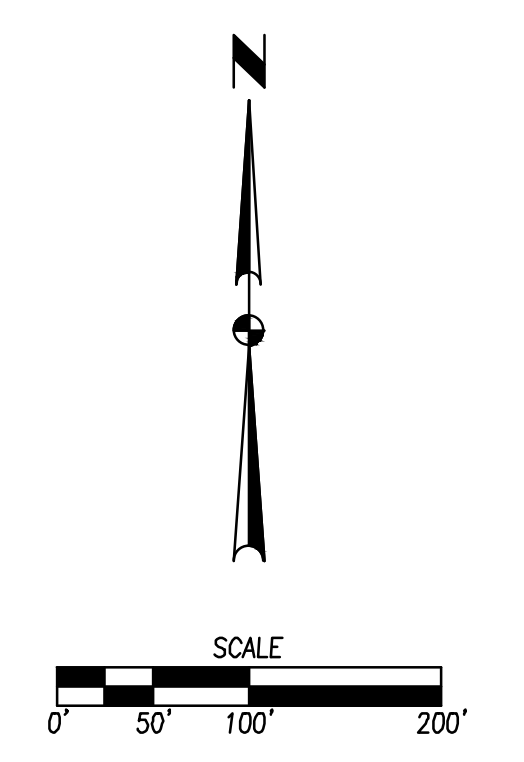
EXISTING: A-1 AGRICULTURAL DISTRICT  
 PROPOSED: M-1 LIGHT INDUSTRIAL W/  
 RESTRICTIONS ONLY ALLOWING  
 BOAT AND CAMPER STORAGE  
 AND OTHER MINI-STORAGE TO  
 NO MORE THE 7.5 ACRES ALONG  
 THE WESTERN PROPERTY LINE.

**APPLICANT**

PARABLE VENTURES LLC  
 CONTACT: DAVID BUSH  
 9105 CODY DR  
 WEST DES MOINES, IA 50266

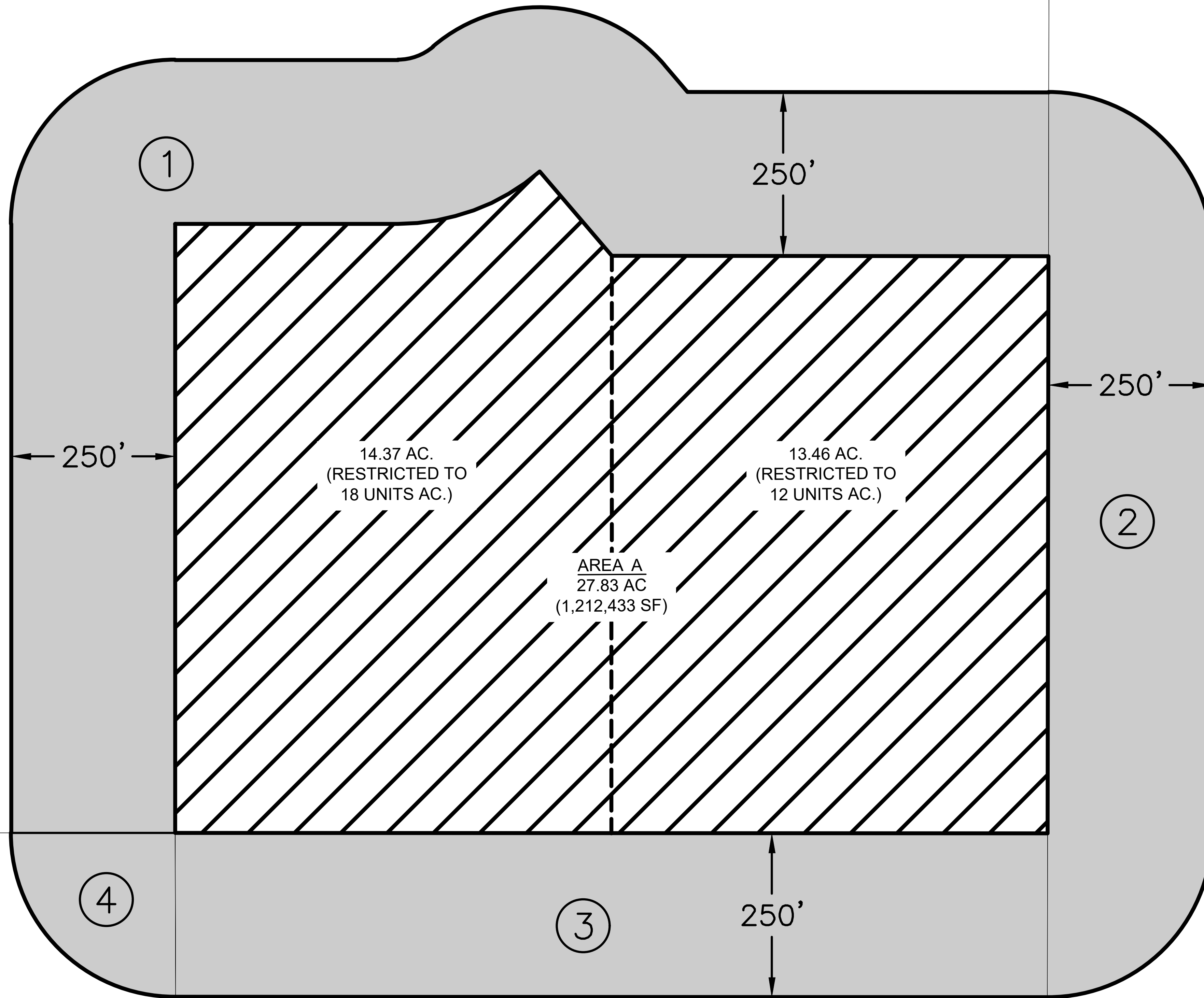
	ADJACENT OWNER	MAILING ADDRESS	ACRES WITHIN 250'	PERCENT	CONSENT
1	PARABLE VENTURES LLC	9105 CODY DR, WEST DES MOINES, IA 50266	15.517	83.67%	X
2	BERGGREN FARMS LLC *	POB 36, LE GRAND, IA 50142	1.124	0.00%	
3	BERGGREN FARMS LLC *	POB 36, LE GRAND, IA 50142	7.608	0.00%	
4	BERGGREN FARMS LLC	POB 36, LE GRAND, IA 50142	3.028	16.33%	
5	BROOKS ROLLING *	POB 287, POLK CITY, IA 50226	0.096	0.00%	
6	BROOKS ROLLING *	POB 287, POLK CITY, IA 50226	2.836	0.00%	
		TOTALS	30.209	100.00%	83.67%

\* PROPERTIES OWNED BY THE CITY OF POLK CITY OR NOT WITHIN THE POLK CITY CORPORATE LIMITS ARE NOT INCLUDED IN THE CONSENTING AREAS.



DATE	12/23/2022
REVISIONS	THIRD SUBMITTAL SECOND SUBMITTAL PREPARED
4121 NW URBANDALE DRIVE URBANDALE, IA 50322 PHONE (515) 369-4400	TECH
<b>ESA</b> CIVIL DESIGN ADVANTAGE	ENGINEER
<b>GATEWAY CROSSINGS</b> REZONING MAP (M-1)	POL. CIT., IOWA
1/1	2206.429

NW 126TH AVE



**RE ZONING DESCRIPTION**

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 89°57'50" WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, 1330.74 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°00'23" WEST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, 929.49 FEET; THENCE NORTH 90°00'00" EAST, 340.06 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 235.34 FEET AND WHOSE CHORD BEARS NORTH 69°45'13" EAST, 230.47 FEET; THENCE SOUTH 40°29'34" EAST, 169.04 FEET; THENCE SOUTH 89°55'16" EAST, 665.99 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 00°04'44" WEST ALONG SAID EAST LINE, 880.62 FEET TO THE POINT OF BEGINNING AND CONTAINING 27.83 ACRES (1,212,446 SQUARE FEET).

**OWNER**

PARABLE VENTURES LLC  
CONTACT: DAVID BUSH  
9105 CODY DR  
WEST DES MOINES, IA 50266

**ZONING**

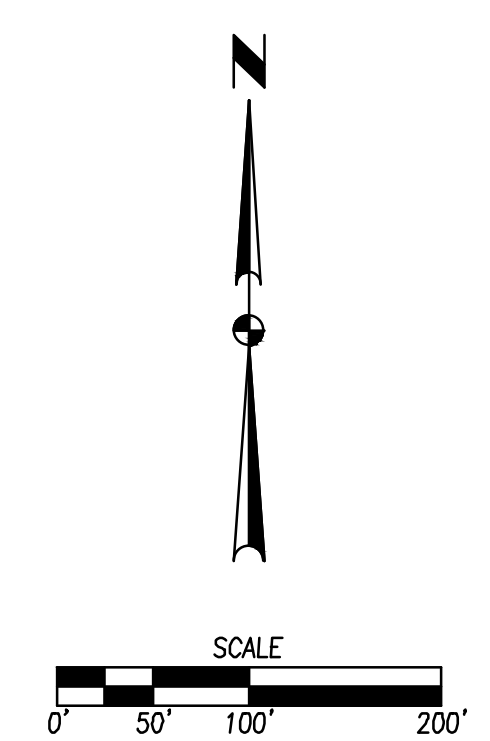
EXISTING: A-1 AGRICULTURAL DISTRICT  
PROPOSED: R-3 MULTIPLE-FAMILY RESIDENTIAL DISTRICT W/ RESTRICTIONS

**APPLICANT**

PARABLE VENTURES LLC  
CONTACT: DAVID BUSH  
9105 CODY DR  
WEST DES MOINES, IA 50266

	ADJACENT OWNER	MAILING ADDRESS	ACRES WITHIN 250'	PERCENT	CONSENT
1	PARABLE VENTURES LLC	9105 CODY DR, WEST DES MOINES, IA 50266	14.515	100.00%	X
2	HALE PROPERTIES LLC *	6620 NW TONI DR, DES MOINES, IA 50313	7.419	0.00%	
3	BERGGREN FARMS LLC *	POB 36, LE GRAND, IA 50142	7.630	0.00%	
4	BERGGREN FARMS LLC *	POB 36, LE GRAND, IA 50142	1.130	0.00%	
	TOTALS		30.694	100.00%	100.00%

\* PROPERTIES OWNED BY THE CITY OF POLK CITY OR NOT WITHIN THE POLK CITY CORPORATE LIMITS ARE NOT INCLUDED IN THE CONSENTING AREAS.



FILE: H:\2022\2206429\2206429-REZONING R-3.DWG  
PLOTTER: PLOTTED: 12/23/2022 7:15 AM  
DRAWN BY: CL LINDNER

DATE	12/23/2022
REVISIONS	THIRD SUBMITTAL
	SECOND SUBMITTAL
	PREPARED
	09/28/2022

4121 NW URBANDALE DRIVE  
URBANDALE, IA 50322  
PHONE (515) 369-4400

TECH

ENGINEER

**ESA**  
CIVIL DESIGN ADVANTAGE

POL. CIT., IOWA

**GATEWAY CROSSINGS**  
REZONING MAP (R-3)

1/1  
2206.429

**RESOLUTION NO. 2023-04**

**A RESOLUTION APPROVING AN AMENDMENT TO THE 2016 POLK CITY  
COMPREHENSIVE PLAN BY UPDATING THE FUTURE LAND USE MAP**

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**WHEREAS**, the City of Polk City adopted the 2016 Comprehensive Plan (Comp Plan) entitled “Imagine Polk City – A Bridge to the Future” on April 11, 2016 and amended on May 9, 2016 with a second amendment on November 14, 2016, a third amendment on July 8, 2019, a fourth amendment on July 22, 2019 and a fifth amendment on May 11, 2020 and a sixth amendment on September 14, 2020 and a seventh amendment on April 12, 2021 and an eighth amendment on June 14, 2021 and a ninth amendment on June 27, 2022 and a tenth amendment on November 28, 2022; and

**WHEREAS**, City Council has deemed it necessary to update the Future Land Use Plan in the 2016 Polk City’s Comprehensive Plan by revising the future land use designated in the vicinity of N 3<sup>rd</sup> Street and NW 126<sup>th</sup> Avenue from mixed use, medium density residential, and low-density residential land use to commercial, light industrial, and high-density residential land use; and

**WHEREAS**, on December 19, 2022, the Planning & Zoning Commission recommended City Council approval of an amendment to the Future Land Use designated Polk City’s Comprehensive Plan’s Future Land Use Plan as shown on the attached Exhibit ‘A’; and

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Polk City, Iowa that the 2016 Comprehensive Plan entitled “Imagine Polk City – A Bridge to the Future” is hereby amended by revising the Future Land Use in the vicinity of N 3<sup>rd</sup> Street and NW 126<sup>th</sup> Avenue from mixed use, medium density residential, and low-density residential land use to commercial, light industrial, and high density residential land use as shown on the attached Exhibit ‘A’.

**PASSED AND APPROVED** this 23 day of January 2023.

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Steve Karsjen, Mayor

ATTEST:

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Jenny Coffin, City Clerk

# EXHIBIT 'A'

## Proposed Amendment to the Polk City Comprehensive Plan's approved Future Land Use Plan

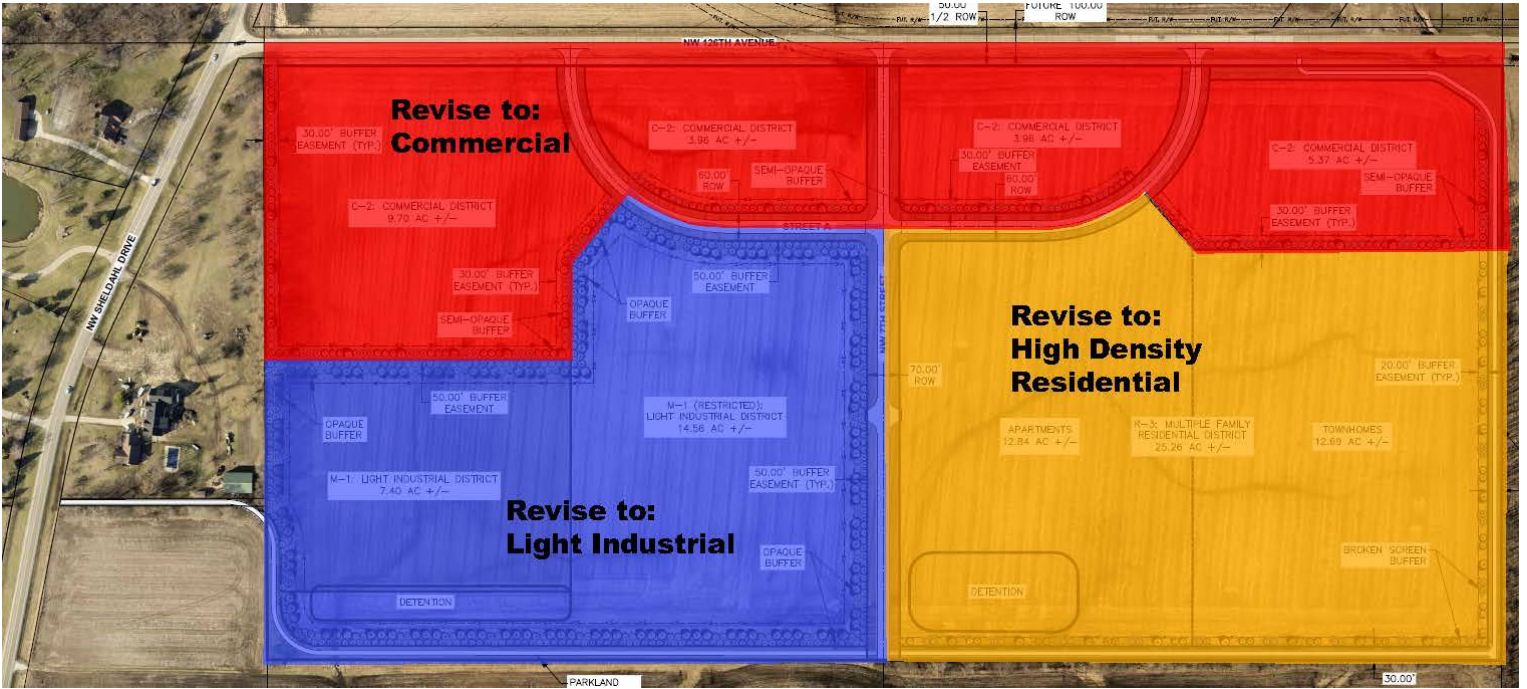
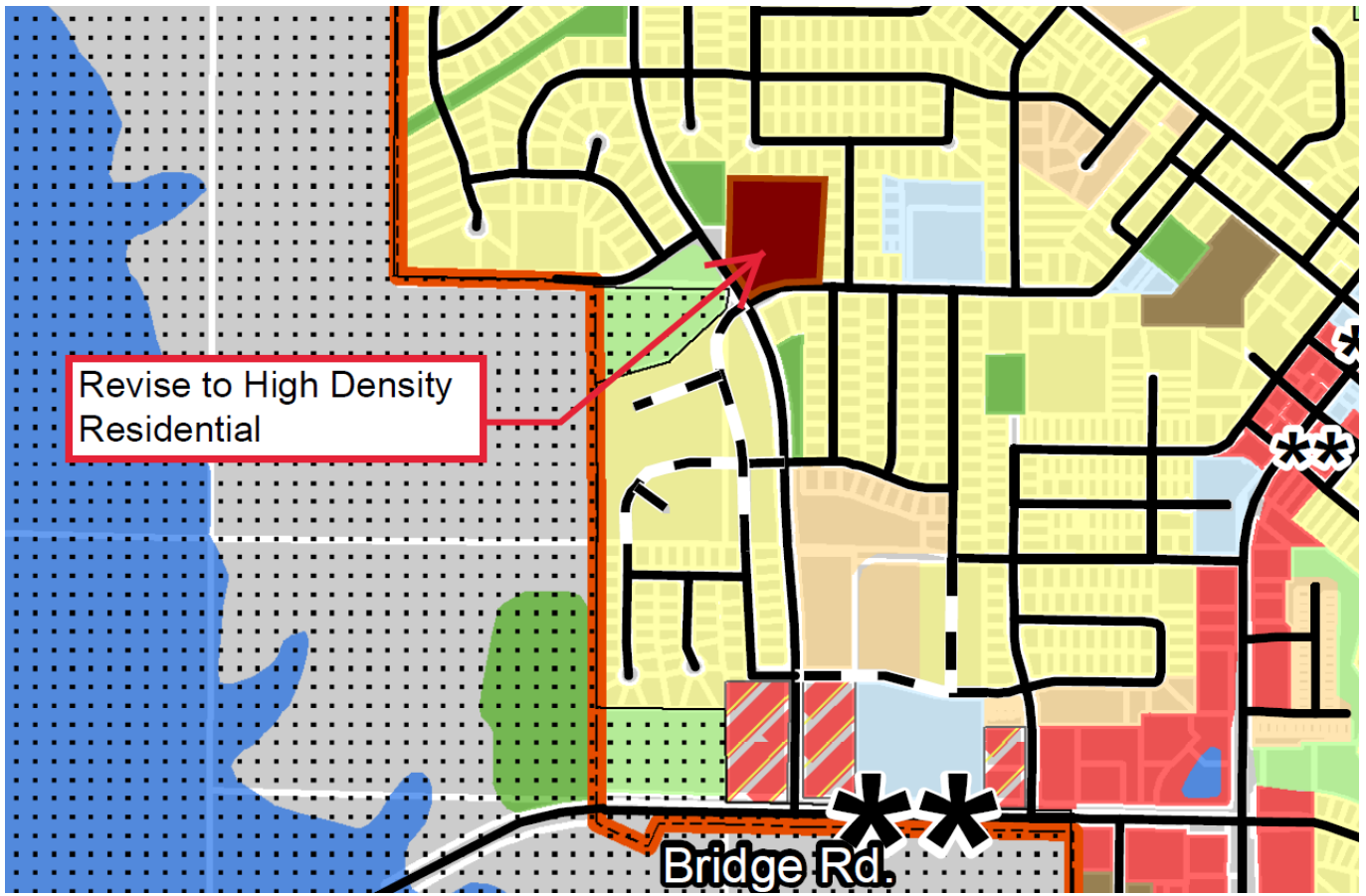


EXHIBIT 'A'

Proposed Amendment to the Polk City Comprehensive Plan's approved Future Land Use Plan FLUP



**ORDINANCE NO. 2023-1000**

**AN ORDINANCE AMENDING THE MUNICIPAL CODE OF THE CITY OF POLK CITY, IOWA, BY REZONING OF THE PARABLE VENTURES, LLC PROPERTY LOCATED IN THE VICINITY OF N 3RD STREET AND NW 126TH AVENUE FROM A-1 AGRICULTURAL TO C-2 COMMERCIAL, M-1 LIGHT INDUSTRIAL, M-1 (RESTRICTED) LIGHT INDUSTRIAL, AND R-3 MULTIPLE-FAMILY RESIDENTIAL**

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**WHEREAS**, on the 19<sup>th</sup> day of November 2022, the Planning and Zoning Commission of the City of Polk City, Iowa, recommended to the City Council that the property legally described as:

A PART OF THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTH QUARTER CORNER OF SAID SECTION 36; THENCE SOUTH 89°59'41" EAST ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER, 2665.43 FEET TO THE NORTHEAST CORNER OF SAID SECTION 36; THENCE SOUTH 00°04'23" WEST ALONG THE EAST LINE OF SAID NORTHEAST QUARTER, 445.75 FEET; THENCE NORTH 89°55'16" WEST, 665.99 FEET; THENCE NORTH 40°29'34" WEST, 169.04 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 235.34 FEET AND WHOSE CHORD BEARS SOUTH 69°45'13" WEST, 230.47 FEET; THENCE NORTH 90°00'00" WEST, 680.12 FEET; THENCE WESTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 230.90 FEET AND WHOSE CHORD BEARS NORTH 70°08'09" WEST, 226.30 FEET; THENCE SOUTH 39°43'42" WEST, 187.95 FEET; THENCE SOUTH 00°00'17" EAST, 215.51 FEET; THENCE NORTH 90°00'00" WEST, 656.25 FEET TO THE WEST LINE OF SAID NORTHEAST QUARTER; THENCE NORTH 00°17'54" WEST ALONG SAID WEST LINE, 679.45 FEET TO THE POINT OF BEGINNING AND CONTAINING 28.96 ACRES (1,261,393 SQUARE FEET).

be considered for rezoning from zoning classification A-1 Agricultural to C-2 Commercial; and

**WHEREAS**, on the 19<sup>th</sup> day of November 2022, the Planning and Zoning Commission of the City of Polk City, Iowa, recommended to the City Council that the property legally described as:

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°17'53" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, 146.95 FEET; THENCE SOUTH 89°58'51" EAST, 653.69 FEET; THENCE NORTH 00°00'14" WEST, 498.77 FEET; THENCE NORTH 00°00'17" WEST, 215.51 FEET; THENCE NORTH 39°43'42" EAST, 187.95 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 230.90 FEET AND WHOSE CHORD BEARS SOUTH 70°08'09" EAST, 226.30 FEET; THENCE NORTH 90°00'00" EAST, 340.09 FEET TO THE EAST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 00°00'16" EAST ALONG SAID EAST LINE, 929.49 FEET TO THE SOUTHEAST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 89°57'52" WEST ALONG SAID SOUTH LINE, 1326.01 FEET TO THE POINT OF BEGINNING AND CONTAINING 16.70 ACRES (727,261 SQUARE FEET).

be considered for rezoning from zoning classification A-1 Agricultural to M-1 (Restricted) Light Industrial with restrictions that exclude mini-storage facilities and storage facilities for boats, RVs and similar vehicles and equipment as permitted uses; and

**WHEREAS**, on the 19<sup>th</sup> day of November 2022, the Planning and Zoning Commission of the City of Polk City, Iowa, recommended to the City Council that the property legally described as:

A PART OF THE NORTHWEST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°17'53" WEST ALONG THE WEST LINE OF SAID NORTHWEST QUARTER OF THE NORTHEAST QUARTER, 146.95 FEET TO THE POINT OF BEGINNING; THENCE CONTINUING NORTH 00°17'53" WEST ALONG SAID WEST LINE, 498.56 FEET; THENCE NORTH 90°00'00" EAST, 656.25 FEET; THENCE SOUTH 00°00'14" EAST, 498.77 FEET; THENCE NORTH 89°58'51" WEST, 653.69 FEET TO THE POINT OF BEGINNING AND CONTAINING 7.50 ACRES (326,610 SQUARE FEET).

be considered for rezoning from zoning classification A-1 Agricultural to M-1 Light Industrial; and

**WHEREAS**, on the 19<sup>th</sup> day of November 2022, the Planning and Zoning Commission of the City of Polk City, Iowa, recommended to the City Council that the property legally described as:

A PART OF THE NORTHEAST QUARTER OF THE NORTHEAST QUARTER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE FIFTH PRINCIPAL MERIDIAN IN THE CITY OF POLK CITY, POLK COUNTY, IOWA AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 89°57'50" WEST ALONG THE SOUTH LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, 1330.74 FEET TO THE SOUTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE NORTH 00°00'23" WEST ALONG THE WEST LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER, 929.49 FEET; THENCE NORTH 90°00'00" EAST, 340.06 FEET; THENCE EASTERLY ALONG A CURVE CONCAVE NORTHERLY WHOSE RADIUS IS 333.00 FEET, WHOSE ARC LENGTH IS 235.34 FEET AND WHOSE CHORD BEARS NORTH 69°45'13" EAST, 230.47 FEET; THENCE SOUTH 40°29'34" EAST, 169.04 FEET; THENCE SOUTH 89°55'16" EAST, 665.99 FEET TO THE EAST LINE OF SAID NORTHEAST QUARTER OF THE NORTHEAST QUARTER; THENCE SOUTH 00°04'44" WEST ALONG SAID EAST LINE, 880.62 FEET TO THE POINT OF BEGINNING AND CONTAINING 27.83 ACRES (1,212,446 SQUARE FEET).

be considered for rezoning from zoning classification A-1 Agricultural to R-3 Multiple-Family Residential; and

**WHEREAS**, after due notice and hearing as provided by law, the City Council now deems it reasonable and appropriate to rezone said property.

**NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, IOWA:**

**Section 1:** That the Municipal Code of the City of Polk City, Iowa, be and is hereby amended by rezoning 28.96 acres to C-2 Commercial, 16.70 acres to M-1 Light Industrial with restrictions, 7.5 acres to M-1 Light Industrial, and 27.83 acres to R-3 Multiple-Family Residential.

**Section 2:** All Zoning Regulations, as applicable, shall apply.

**Section 3:** All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

**Section 4:** This ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

**PASSED AND APPROVED** this \_\_\_\_\_ of \_\_\_\_\_ 2023.



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Steve Karsjen, Mayor

ATTEST:

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Jenny Coffin, City Clerk

First Reading:  
Second Reading:  
Third Reading:  
Date of Publication by posting

**MEETING MINUTES**  
**The City of Polk City**  
**City Council Meeting**  
**6:00 p.m. January 9, 2022**  
**City Hall – Council Chambers**

Polk City, City Council held a meeting in the City Hall Council Chambers with public participation in person and via phone at 6:00 p.m., January 9, 2022. The agenda was posted at the City Hall office as required by law.

**These tentative minutes reflect all action taken at the meeting.**

1. **Call to Order** | Mayor Karsjen called the meeting to order at 6:00 p.m.
2. **Roll Call** | Walters, Dvorak, Sarchet, Vogel, Anderson | In attendance
3. **MOTION:** A motion was made by Walters and seconded by Vogel to approve the agenda  
**MOTION CARRIED UNANIMOUSLY**
4. **Public Hearings:**
  - a. Mayor Karsjen opened the Public Hearing on vacating a Storm Serwer and Overland Flowage Easement in Wolf Creek Townhomes Plat 13 at 6:01pm. City Clerk Coffin, said that the notice was published December 30, 2022 and no comments had been received for or against the vacation of easement. Travis Thornburgh, City Engineer, provided a report. No one was present to be heard for or against the vacation of easement.  
**MOTION:** A motion was made by Vogel and seconded by Anderson to close the public hearing at 6:02 pm.  
**MOTION CARRIED UNANIMOUSLY**
    - i. **MOTION:** A motion was made by Sarchet and seconded by Dvorak to approve the First Reading of Ordinance 2023-1000 vacating a Storm Sewer and Overland Flowage Easement for Wolf Creek Townhomes Plat 13  
**MOTION CARRIED UNANIMOUSLY**
    - ii. **MOTION:** A motion was made by Anderson and seconded by Sarchet to waive the Second and Third Reading of Ordinance 2023-1000 vacating a Storm Sewer and Overland Flowage Easement for Wolf Creek Townhomes Plat 13  
**MOTION CARRIED UNANIMOUSLY**
5. **Presentations:**
  - a. **Jon Berg, Program Manager for the Iowa Department of Cultural Affairs** | Jon provided an overview of the goals of the organization to build and sustain culturally vibrant communities. THE IDCA offers many competitive funding opportunities and encouraged the City to apply for Iowa Great Places designation. Mayor had previously appointed a working group to pursue this opportunity.
6. **Public Comments** | None
7. **Consent Items** |
  - a. City Council Meeting Minutes for December 14, 2022
  - b. City Council Work Session Meeting Minutes for December 14, 2022
  - c. Receive and file P&Z Commission Meeting Minutes for December 19, 2022
  - d. Claims listing January 9, 2023
  - e. Twelve-month Class E Liquor License, Class C Beer Permit, Class B Wine Permit for Sara B&R LLC doing business as Polk City Liquor located at 201 N. 3<sup>rd</sup> Street with Sunday Sales effective February 1, 2023 through January 31, 2024
  - f. Resolution 2023-01 setting Public Hearing on Amending the 2016 Polk City Comprehensive Plan by Updating the Future Land Use Map
  - g. Resolution 2023-02 setting the Public Hearing on the Rezoning request for Gateway Crossings for 78 acres from A-1 to R-3 (27.86 acres) and C-2 (28.95 acres) and M-1 (24.15 acres)
  - h. Receive and file the November 2022 Police Department Report
  - i. Set pay for FD new hire paid-on-call Firefighter, Matthew Stern at a rate of \$16.75 per call
  - j. Acknowledge revision of the Fire Department Policies and Procedures
  - k. Pay increase for Fire Chief Karla Hogrefe to \$95,790 annual salary for six-month review
  - l. Pay increase for Full-time Firefighter/Paramedic Riley Noggle at \$20.16 per hour for six-month review

- m. Receive and file the December 2022 Parks and Recreation Report
- n. Appoint Darren Ten Napel to the Parks Commission term ending 12/31/2028
- o. Set pay for FD new hire paid-on-call member, Matthew Reetz at a rate of \$16.00 per call

**MOTION:** A motion was made by Sarchet and seconded by Vogel to approve the consent agenda items  
**MOTION CARRIED UNANIMOUSLY**

**8. Business Items**

- a. **MOTION:** A motion was made by Sarchet and seconded by Anderson to approve Resolution 2023-03 approving the Site Plan and Easements for Lake Front Office Park – Lot 1  
**MOTION CARRIED UNANIMOUSLY**
- b. **MOTION:** A motion was made by Dvorak and seconded by Vogel to approve the second reading of Ordinance 2022-2600 amending Chapter 165.18 Zoning Regulations, Off-Street Parking  
**MOTION CARRIED UNANIMOUSLY**
- c. **MOTION:** A motion was made by Vogel and seconded by Walters to approve the third reading of Ordinance 2022-2500 rezoning Leonard Senior Living from R-1, Single Family Residential to PUD, Planned Unit Development  
**MOTION CARRIED UNANIMOUSLY**
- d. **MOTION:** A motion was made by Dvorak and seconded by Anderson to approve Snyder and Associates November 2022 Engineering Services Invoice in the amount of \$29,962.75  
**YES: Anderson, Vogel, Sarchet, Dvorak**  
**ABSTAIN: Walters**  
**MOTION CARRIED**

**9. Reports & Particulars | Mayor, Council, City Manager, Staff, Boards, and/or Commissions**

- Fire Chief Hogrefe announced the FD received a grant award from Firehouse Subs in the amount of \$26,690 for Thermal Imaging Cameras
- Council Member Sarchet congratulated Fire Chief Hogrefe on six-month anniversary as Chief, he said he can't say enough good things about the work she has done especially with staffing, and he thanked her.
- Police Chief Siepker reported that Officer Whipple and Officer Blaha-Polson are working on their field training currently.
- Mayor Karsjen thanked Police Chief Siepker and Fire Chief Hogrefe for their work on improving staffing levels.

**10. Adjournment**

**MOTION:** A motion was made by Anderson and seconded by Vogel to adjourn at 6:24 p.m.  
**MOTION CARRIED UNANIMOUSLY**

*Next Meeting Date – January 23, 2023*

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Steve Karsjen, Mayor

Attest

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Jenny Coffin, City Clerk

**MEETING MINUTES**  
**The City of Polk City**  
**Work Session**  
**5:00 p.m., Monday, January 9, 2023**  
**City Hall Council Chambers**

A Council Work Session was held on January 9, 2023 at 5:00 p.m. at the City Hall Council Chambers in Polk City, Iowa.

<p><b><u>Mayor and City Council Members Present:</u></b></p> <p>Steve Karsjen   Mayor Rob Sarchet   Pro Tem Jeff Walters   City Council Member David Dvorak   City Council Member Mandy Vogel   City Council Member Ron Anderson   City Council Member</p>	<p><b><u>Staff Members Present:</u></b></p> <p>Chelsea Huisman   City Manager Jenny Coffin   City Clerk/Treasurer Jeremy Siepker   Police Chief Mike Schulte   Public Works Director Jason Thraen   Parks &amp; Rec Director</p>
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**Minutes**

Gary Brons, VP of Water at McClure Engineering presented the recommendations for size and location of the new water tower based on the current and projected population and the average use factoring in peaks. He also reviewed the alternate possibilities. He discussed funding options including the use of ARPA funds, State Revolving Funds (SRF) and potential LMI funds.

Next steps include finalizaing the SRF loan, design, bidding and construction. Project schedule will be forthcoming.

**Motion** was made by Anderson and seconded by Sarchet to Adjourn at 5:54p.m.

***Motion carried Unanimously.***

---

Steve Karsjen, Mayor

Attest

---

Jenny Coffin, City Clerk

**MEETING MINUTES**  
**The City of Polk City**  
**Work Session**  
**2:00 p.m., Thursday, January 12, 2023**  
**City Hall Council Chambers**

A Council Work Session was held on January 12, 2023 at 2:00 p.m. at the City Hall Council Chambers in Polk City, Iowa.

<p><b><u>Mayor and City Council Members Present:</u></b></p> <p>Steve Karsjen   Mayor Rob Sarchet   Pro Tem Jeff Walters   City Council Member Dave Dvorak   City Council Member Mandy Vogel   City Council Member Ron Anderson   City Council Member</p>	<p><b><u>Staff Members Present:</u></b></p> <p>Chelsea Huisman   City Manager Jenny Coffin   City Clerk/Treasurer Mike Schulte   Public Works Director Jeremy Siepker   Police Chief Jamie Noack   Library Director Karla Hogrefe   Fire Chief Jason Thraen   Parks &amp; Recreation Director</p>
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**Minutes**

City Manager, Chelsea Huisman presented the proposed FY 23/24 Budget. She reviewed the budget calendar and the deadlines to meet. She discussed the tax levy rate, and she reviewed the valuations, future staffing needs, and equipment needs. She reviewed the capital projects impacting FY 23/24 including the Water Tower, City Facilities, Northside Dr. Realignment & Trail project, Bridge Road Trail Project east and west of Kwik Star, 2023 Street Repairs Project and Whitetail Ridge Parkway Study. Huisman also discussed the Regional Park Project and the need for a Capital Campaign and feasibility Study to assist the City moving this project forward. She noted other items for consideration that included the water and sewer funds, Phase I of the High Trestle Trail Connection for N 3<sup>rd</sup> through the Regional Park, and the need for a Special Census for FY 25.

Huisman advised Mayor and Council a new CIP adoption will need to be completed in the next six months including an updated project list. GO Bond Issuance will occur in July 2023, and SRF Funding will be finalized in September 2023.

FY 23/24 Budget has a total of \$25 million in expenses, which includes a lot of capital projects leaving approximately \$10.5 million for the city's operating expenditure budget. Next step in the Budget process will be for Council to set a Public Hearing at the next Council Meeting for the Maximum Property Tax Levy Rate.

**Motion** was made by Sarchet and seconded by Anderson to Adjourn at 4:24p.m.

***Motion carried Unanimously.***

\_\_\_\_\_  
Steve Karsjen, Mayor

Attest

\_\_\_\_\_  
Jenny Coffin, City Clerk

CLAIMS REPORT		
CITY OF POLK CITY	DATED	1/23/2023
VENDOR	REFERENCE	AMOUNT
ALEX DELANEY	GYM REIMBURSEMENT 2022	\$ 190.80
ALLYSON REISTER	MILEAGE REIMBURSEMENT	\$ 44.38
ARDICK EQUIPMENT CO.	LOGO/STREET SIGNS	\$ 282.00
BAKER & TAYLOR	LIBRARY BOOKS	\$ 912.15
Boesen The Florist	MEMORIAL SERVICE	\$ 74.57
Bound Tree Medical	MEDICAL SUPPLIES	\$ 367.61
BUSINESS PUBLICATIONS CORP	PUBLICATIONS	\$ 1,011.56
CAITLYN WHIPPLE	GYM REIMBURSEMENT 2022	\$ 200.00
CAPITAL SANITARY SUPPLY	CLEANING SUPPLIES	\$ 5.12
CENTURY LINK	PHONE SERVICE	\$ 286.13
CHR TIRE AND AUTO	TRUCK SERVICE	\$ 1,814.05
CHRISTIAN BROTHERS AUTOMOTIVE	VEHICLE MAINTENANCE	\$ 101.50
CHRISTINE BRISTLE	GYM REIMBURSEMENT 2022	\$ 200.00
CITY LAUNDERING	FLOOR MAT SERVICE	\$ 167.32
CITY OF POLK CITY	UB ASSISTANCE JANUARY 2023	\$ 750.00
CURTIS REES	REMOVAL 10 TREES - CITY HALL	\$ 6,800.00
Delta Dental	CITY DENTAL INSURANCE	\$ 1,375.56
Des Moines Water Works	3Q 2022 BOOSTER STATION O&M	\$ 30,043.34
GET SOME GUNS LLC	HANDGUNS/ACCESSORIES	\$ 1,442.25
HANIFEN CO. INC.	TOWING E451	\$ 479.00
HOMETREE HOLIDAY LIGHTS	TOWN SQUARE LIGHT DISPLAY 2022	\$ 3,180.00
HOTSY CLEANING SYSTEMS INC.	WINTER WASH SUPPLIES	\$ 692.94
I.A.M.U.	SGCIS JAN-MAR23 SAFETY TRAININ	\$ 2,310.45
IEMSA	OWEN LEADERSHIP CONFERENCE	\$ 250.00
Iowa Parks & Rec. Association	SPRING 2023 IPRA CONFERENCE	\$ 265.00
JAMIE NOACK	MILEAGE REIMBURSEMENT	\$ 417.50
JENNY COFFIN	GYM REIMBURSEMENT 2022	\$ 214.15
JEREMY SIEPKER	GYM REIMBURSEMENT 2022	\$ 200.00
KEVIN BLAHA-POLSON	GYM REIMBURSEMENT 2022	\$ 95.40
KINZLER CONSTRUCTION SERVICES	SHOP DOOR REPAIR	\$ 278.74
LIFEMED SAFETY INC	MEDICAL SUPPLIES	\$ 480.00
LINDE GAS & EQUIPMENT INC	OXYGEN	\$ 162.35
MATT ASWEGAN	GYM REIMBURSEMENT 2022	\$ 200.00
MICHAEL DOYON	RECERTIFICATION REIMBURSEMENT	\$ 25.00
MIDAMERICAN ENERGY	ELECTRIC CHARGES	\$ 14,708.15
MIDLAND POWER CO-OP	STREET LIGHTING	\$ 1,046.15
MIKE SCHULTE	GYM REIMBURSEMENT 2022	\$ 200.00
MOWBILITY SALES & SERVICE	CHAIN SAW MAINTENANCE	\$ 45.00
NELSON AUTOMOTIVE	NEW BATTERY C461	\$ 284.02
OVERDRIVE INC	DIGITAL AUDIOBOOKS	\$ 623.56
PC Print Center	ENVELOPES/BUSINESS CARDS	\$ 274.95
PLEXA	ANNUAL MEMBERSHIP/PLEXA DUES	\$ 20.00
POS SUPPLY SOLUTIONS	PRINTER PAPER FOR PATROL	\$ 299.95

RANGEMASTERS TRAINING CENTER	RANGETIME USE	\$ 10.00
Sandry Fire Supply L.L.C.	FIRE HOSE	\$ 1,261.00
SECTOR LLC	#21 TAHOE EQUIPMENT/INSTALL	\$ 10,571.77
SECURITY EQUIPMENT, INC	LOCKS/KEYS	\$ 1,061.24
TRUCK EQUIPMENT INC.	PLOW REPAIRS	\$ 353.62
VAN-WALL EQUIPMENT	VEHICLE REPAIR PARTS	\$ 519.99
VERIZON WIRELESS	PHONE AND DATA PLAN	\$ 369.20
WATCHFIRE SIGNS LLC	SIGN DATA PLAN	\$ 520.00
WELLMARK BLUE CROSS BLUE SHEILD	CITY HEALTH INSURANCE	\$ 32,047.01
YOURMEMBERSHIP.COM	ADVERTISEMENT FOR OPENINGS	\$ 798.00
Accounts Payable Total		\$ 120,332.48
GENERAL		\$ 44,376.06
ROAD USE		\$ 6,566.57
L.M.I		\$ 750.00
CITY FACILITIES TOTAL		\$ 6,800.00
CAPITAL EQUIPMENT/VEHICLE		\$ 10,571.77
WATER		\$ 40,738.98
SEWER		\$ 10,529.10
TOTAL FUNDS		\$ 120,332.48

# Polk City Water Department

## Monthly Report

Month December

Year 2022

Total Water Pumped 12,364,333 Gallons  
Monthly Daily Avg 398849 Gallons

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### Testing Results

- **SDWA Bacteriological Coliform Analysis** about University Hygienic Lab.  
Fecal Coliform Analysis- Sample incubated 35c for 48 hrs then examine for gas production. Gas production verifies presence of fecal coliform organisms.
- **Fluoride Analysis** .2 University Hygienic Lab.  
A fluoride concentration of approx. 1mg/l in drinking water effectively reduces dental caries without harmful effects on health. MCL for fluoride is 4.0 mg/l.  
Fluoride at Plant- Monthly Average .51 mg/l Polk City Lab.  
Fluoride in System- Monthly Average .66 mg/l Polk City Lab.
- **Chlorine Free At Plant- Monthly Average** 1.01 mg/l Polk City Lab.  
**Chlorine Total at plant- Monthly Average** 3.54 mg/l Polk City Lab.  
**Chlorine Free in System- Monthly Average** .59 mg/l Polk City Lab.  
**Chlorine Total in System- Monthly Average** 1.10 mg/l Polk City Lab.  
Chlorine requirement is the quantity of chlorine that must be added to H2O to achieve complete disinfection of pathogens and protozoa. Chlorine residuals will vary widely depending on organic loading. We also use chlorine to oxidize iron prior to filtration.
- **Iron Raw Water- Monthly Average** 6.64 mg/l Polk City Lab.  
**Iron Finish Water- Monthly Average** .04 mg/l Polk City Lab.  
**Iron System Water- Monthly Average** .04 mg/l Polk City Lab.  
Iron occurs in rocks and minerals in the earth's crust. It's the 4<sup>th</sup> most abundant element respectively. Iron has no effect on human health; its main objection is aesthetics. Concentrations of Iron in finish H2O should be between 0.03-0.06mg/l.
- **Manganese Raw Water- Monthly Average** 0.280 mg/l Polk City Lab.  
**Manganese Finish Water- Monthly Average** 0.174 mg/l Polk City Lab.  
**Manganese System Water- Monthly Average** 0.091 mg/l Polk City Lab.  
Manganese also occurs in rocks and the earth's crust. It is the 7<sup>th</sup> most abundant element. Manganese is extremely difficult to remove. Concentrations of Manganese in finish H2O should not exceed 0.05mg/l or black staining of plumbing fixtures may occur. No effect on human health.
- **pH Raw Water Monthly Average** 8.4 mg/l Polk City Lab.  
**pH Finish Water-Monthly Average** 8.3 mg/l Polk City Lab.  
**pH System Water- Monthly Average** 8.7 mg/l Polk City Lab.  
pH scale ranges from 0-14 with 7 being considered neutral. Below 7 becomes corrosive to plumbing, above 7 tends to deposit minerals in plumbing. We add caustic soda to maintain proper pH, which should range between 7.5-7.9 in finish water.

Total Tests Performed- Polk City Lab \_\_\_\_\_

Total Hours to perform tests \_\_\_\_\_



## **Library Director's Report November/December 2022**

### **Library Statistics:**

- November Circulation and library usage
  - November 2022 circulation increased by 45 checkouts compared to October 2022 and increased by 135 compared to November 2021.
  - 1,653 individuals visited the library in November. This is a decrease of 264 compared to October 2022. It is an increase of 95 visitors compared to November 2021.
  - Library Patrons saved \$44,240 in November by borrowing materials from the library versus purchasing them (does not include digital ebook/audiobook downloads or hotspot loans).
  - 42 passport applications were processed
  - 4 Notary appointments
  - 5 Adventure passes were used saving patrons \$210.
- December Circulation and library usage
  - December 2022 circulation decreased by 652 checkouts compared to November 2022 and increased by 115 compared to December 2021.
  - 1,533 individuals visited the library in December. This is a decrease of 120 compared to November 2022. It is an increase of 86 visitors compared to December 2021.
  - Library Patrons saved \$34,564 in December by borrowing materials from the library versus purchasing them (does not include digital ebook/audiobook downloads or hotspot loans).
  - 54 passport applications were processed. 504 passport applications were processed in 2022.
  - 4 Notary appointments
  - 8 Adventure passes were used saving patrons \$314.
- We have started our annual Winter Reading Challenge. Reading can be logged January 1-31, 2023.
- As of January 3, patrons must present their library card or a photo id when borrowing materials. We have had very little resistance to our enforcement of this policy.
- We have booked all of our performers for the 2023 Summer Reading Program. We have decided to go with a different theme this year, choosing to use a theme from 2012 "Reading is Delicious". The two national themes for this year, "All Together Now" and "Find Your Voice" did not resonate with staff.
- The Friends of the Library participated in Light Up Polk City. 133 individuals make a snowman ornament at our table in the Realty One building
- The Friends of the Library hosted Santa's Workshop at the library on December 10. We had 51 attendees.
- Allyson Reister has added Baby & Me and Music & Movement programs to our youth programming. We are also offering a PlayLab the first Saturday of each month from 10-2 where the meeting room will be transformed into self-directed play centers where families can spend time together. Adult supervision is required at all times. No staff will be permanently monitoring the room.
- We have received a \$1,000 grant from the Metro Waste Authority to upgrade our water fountains. The Friends of the Library have agreed to cover the difference in cost.
- Library staff completed the recertification process for remaining passport acceptance agents in November.
- Strauss/SEI started installing keyless entry today. This will take multiple days.
- The myLibro app is active and patrons are starting to use it. Feedback has been positive.
- A tour of the newly renovated Bondurant Library is scheduled for the afternoon of Monday, January 16 at 2:00.
- The library participated in the Polk City United Methodist Church chili cookoff on January 7 and won the VIP chef category.

<b>LIBRARY -NOVEMBER 2022 STATS SNAPSHOT</b>	<b>November 2021</b>	<b>November 2022</b>	<b>October 2022</b>
Total Visitors	1,558	1,653	1,917
People Checking Out	351	371	386
Polk City Cardholders	302	311	339
Polk City Checkouts	2,900	2,929	2,989
Open Access Cardholders	22	27	22
Open Access Checkouts	211	201	194
Rural Cardholders	27	33	25
Rural Checkouts	286	295	231
Bridges E-book/Audiobook Checkouts	800	902	867
Outgoing ILL Books	20	25	26
Total Checkouts (incl. Bridges & Outgoing ILL)	4,217	4,352	4,307
Auto Renewals	702	628	719
Total Checkouts (adjusted for auto-renewal)	3,515	3,724	3,588
Incoming ILL Books	23	51	16
Reserves Placed	365	392	448
Materials Added	82	60	158
Materials Withdrawn	5	125	9
New Cards Issued	18	13	11
Computer Users	38	26	23
WiFi Users (on site)	293	342	391
Reference Questions	25	0	20
AWE Station Usage	74	58	82
AWE Games Played	183	170	208
Adult Programs	29	33	35
Adult Program Attendance	206	206	270
Youth Programs	19	18	15
Youth Program Attendance	232	247	381
Tutoring	0	6	4
No. of Meeting Room Uses by Outside Groups	3	2	3
Patron Savings (physical materials only)	\$40,917	\$44,240	\$40,195
Passports	34	42	49
Blank Park Zoo Adventure Pass (\$44)	0	0	4
Science Center of Iowa Adventure Pass (\$44)	2	4	1
Botanical Gardens Adventure Pass (\$34)	0	1	0
Des Moines Children's Museum (\$36)	0	0	1
Reiman Gardens (\$34)	NA	0	1
TOTAL ADVENTURE PASS SAVINGS	\$88	\$210	\$290
Summer Reading Signups (0-11) as of 7/31			
Summer Reading Signups (12-18) as of 7/31			
Adult Reading Participation as of 7/31			
Social Media Page Views (Nov 1-30)	117	98	113
Social Media Post Reach (Nov 1-30)	2,997	2,385	1,159
New Social Media Followers(Nov 1-30)	13	2	not reported
New Social Media Likes (Nov 1-30)	11	5	13
Website Views	1,132	2,290	2,312

<b>LIBRARY -DECEMBER 2022 STATS SNAPSHOT</b>	<b>December 2021</b>	<b>December 2022</b>	<b>November 2022</b>
Total Visitors	1,447	1,533	1,653
People Checking Out	327	306	371
Polk City Cardholders	284	264	311
Polk City Checkouts	2,457	2,362	2,929
Open Access Cardholders	22	18	27
Open Access Checkouts	199	141	201
Rural Cardholders	21	24	33
Rural Checkouts	191	213	295
Bridges E-book/Audiobook Checkouts	714	963	902
Outgoing ILL Books	24	21	25
<b>Total Checkouts (incl. Bridges &amp; Outgoing ILL)</b>	<b>3,585</b>	<b>3,700</b>	<b>4,352</b>
Auto Renewals	498	579	628
<b>Total Checkouts (adjusted for auto-renewal)</b>	<b>3,087</b>	<b>3,121</b>	<b>3,724</b>
Incoming ILL Books	22	26	51
Reserves Placed	407	260	392
Materials Added	104	110	60
Materials Withdrawn	3	8	125
New Cards Issued	18	19	13
Computer Users	25	30	26
WiFi Users (on site)	352	274	342
Reference Questions	25	0	0
AWE Station Usage	82	43	58
AWE Games Played	257	94	170
Adult Programs	32	30	33
Adult Program Attendance	209	173	206
Youth Programs	14	18	18
Youth Program Attendance	233	458	247
Tutoring	0	4	6
<b>No. of Meeting Room Uses by Outside Groups</b>	<b>4</b>	<b>1</b>	<b>2</b>
<b>Patron Savings (physical materials only)</b>	<b>\$36,658</b>	<b>\$34,564</b>	<b>\$44,240</b>
Passports	41	54	42
Blank Park Zoo Adventure Pass (\$44)	0	0	0
Science Center of Iowa Adventure Pass (\$44)	4	4	4
Botanical Gardens Adventure Pass (\$34)	2	2	1
Des Moines Children's Museum (\$36)	0	1	0
Reiman Gardens (\$34)	1	1	0
<b>TOTAL ADVENTURE PASS SAVINGS</b>	<b>\$278</b>	<b>\$314</b>	<b>\$210</b>
Summer Reading Signups (0-11) as of 7/31			
Summer Reading Signups (12-18) as of 7/31			
Adult Reading Participation as of 7/31			
Social Media Page Views (Dec 1-31)	100	125	98
Social Media Post Reach (Dec 1-31)	1,626	1,984	2,385
New Social Media Followers(Dec 1-31)	10	3	2
New Social Media Likes (Dec 1-31)	10	11	5
Website Views	1,977	2,200	2,290

## 2023 Library Closings

Monday, January 2	closed	city holiday
Monday, January 17 <sup>6</sup>	closed	staff training
Friday, April 7	closed	city holiday
Saturday, April 8	closed	Holiday weekend
Monday, May 29	closed	city holiday
Tuesday, July 4	closed	4th of July
Friday, July 14	close at 12:00	prepare Four Seasons Festival
Saturday, July 15	closed	Four Seasons Festival
Monday, September 4	closed	city holiday
Wednesday, November 22	close at 5:00	Thanksgiving Eve
Thursday, November 23	closed	city holiday
Friday, November 24	closed	city holiday
Saturday, November 25	closed	Holiday weekend
TBD	close at 5:00	Square Lighting
TBD	11:45-1:30	City Holiday Luncheon
Christmas Eve	closed	city holiday
Monday, December 25	closed	city holiday
Monday, January 1, 2024	closed	New Year

**POLK CITY LIBRARY BOARD MEETING NOTES**  
**Polk City Community Library**  
**1500 W. Broadway, Polk City, IA**  
**Monday, November 7, 2022 at 6:30 pm**

I. Call to order – President Mart called meeting to order at 6:30pm.

II. Approval of the Agenda

MOTION: A motion was made by Angie Conley and seconded by Rod Bergren to approve Meeting Agenda.

MOTION PASSED unanimously.

<u>Board Members Present:</u>	Rod Bergren, Angie Conley, Lisa Mart, Sara Olson
<u>Board Members Absent:</u>	Corey Hoodjer
<u>Library Director Present:</u>	Jamie Noack
<u>City Council Liaison Present:</u>	None
<u>Guests Present:</u>	None

III. Consent Items

MOTION: A motion was made by Rod Bergren and seconded by Sara Olson to approve Consent Agenda.

MOTION PASSED unanimously.

1. Approve the [October 2022 Board Minutes](#)
2. Approve September 2022 financial statements
  1. [September 2022 History](#)
  2. [September 2022 Budget](#)
  3. [September 2022 Revenue & Expenses](#)
3. Cancel December Library Board Meeting

IV. Communication from the Public – None

V. Director's Report

**Library Director's Report**  
**October 2022**

**Library Statistics:**

- October Circulation and library usage
  - October 2022 circulation decreased by 213 checkouts compared to September 2022 and increased by 492 compared to October 2021.
  - 1,917 individuals visited the library in October. This is an increase of 78 compared to September 2022. It is an increase of 522 visitors compared to October 2021.
  - Library Patrons saved \$40,195 in October by borrowing materials from the library versus purchasing them (does not include digital ebook/audiobook downloads or hotspot loans).
  - 49 passport applications were processed
  - 6 Notary appointments
  - 7 Adventure passes were used saving patrons \$290.

- The Polk City Fire Department assisted with story times during Fire Prevention Week. The kids really enjoyed getting to see the fire trucks.
- Director Noack presented to a dozen libraries interested in becoming passport acceptance facilities at the Iowa Library Association conference, but was unable to attend other sessions due to a family emergency.
- The Polk County Library Association met on October 25 to discuss the fact that our 3-year funding contract with Polk County expires at the end of FY23. The Association determined that it was in our best interest to extend the current contract one year and renegotiate the contract next year in hopes the economy has stabilized.
- The library participated in the Go Polk City's Trunk or Treat event at West Elementary on October 30. Approximately 160 kids attended.
- Our September and October teen programs were both canceled due to no registration.
- The Youth Services Librarian attended the Performer's Showcase for summer reading 2023 programs.
- Youth Services has brought back the Messy Munchkins program once a month and added a Music & Movement program once a month.
- Youth Services began doing monthly outreach story times at Tender Years, Halley's Academy and Lakes Early Learning Center this month.
- The State Survey/Annual Report was submitted to the State Library of Iowa on October 25.
- Director Noack attended a workshop on planning library construction/renovation projects post-COVID in Waterloo on November 4.
- Library staff will re-certify as passport acceptance agents in November. Allyson Reister will begin initial training in December.
- The electronic access and re-keying of the library will happen as soon as SEI has all of the parts in stock. This has been delayed due to supply chain issues. A temporary rekeying happened on October 29 for security reasons.
- The myLibro app development is a couple of weeks behind schedule.
- The city leaders and department heads will participate in annual goal setting on Wednesday, November 16 from 5:00-8:00.
- A tour of the newly renovated Bondurant Library is scheduled for the afternoon of Monday, January 16.
- The Friends of the Library will host a Santa's Workshop at the library on Saturday, December 10 from 10:00-1:00.
- The Friends of the Library have joined forces with the Polk City Community Foundation and several other organizations in hosting the Foundation's Gala on January 14, 2023.
- The Friends of the Library will host a Stuff-a-Pup storytime on Saturday, February 11, 2023 at the Methodist Church.

1. [October 2022 Stats](#)

<b>LIBRARY -OCTOBER 2022 STATS SNAPSHOT</b>	<b>October 2021</b>	<b>October 2022</b>	<b>September 2022</b>
Total Visitors	1,395	1,917	1,839
People Checking Out	338	386	392
Polk City Cardholders	292	339	348
Polk City Checkouts	2,575	2,989	3,167
Open Access Cardholders	22	22	19

Open Access Checkouts	142	194	149
Rural Cardholders	24	25	25
Rural Checkouts	296	231	284
Bridges E-book/Audiobook Checkouts	779	867	893
Outgoing ILL Books	23	26	27
Total Checkouts (incl. Bridges & Outgoing ILL)	3,815	4,307	4,520
Auto Renewals	595	719	666
Total Checkouts (adjusted for auto-renewal)	3,220	3,588	3,854
Incoming ILL Books	14	16	25
Reserves Placed	393	448	343
Materials Added	90	158	140
Materials Withdrawn	1	9	40
New Cards Issued	21	11	32
Computer Users	17	23	31
WiFi Users (on site)	281	391	354
Reference Questions	25	20	20
AWE Station Usage	80	82	209
AWE Games Played	209	208	277
Adult Programs	28	35	30
Adult Program Attendance	195	270	231
Youth Programs	18	15	10
Youth Program Attendance	192	381	226
Tutoring	0	4	0
No. of Meeting Room Uses by Outside Groups	2	3	3
Patron Savings (physical materials only)	\$35,108	\$40,195	\$47,156
Passports	23	49	26
Blank Park Zoo Adventure Pass (\$44)	2	4	5
Science Center of Iowa Adventure Pass (\$44)	1	1	3
Botanical Gardens Adventure Pass (\$34)	1	0	2
Des Moines Children's Museum (\$36)	1	1	0
Reiman Gardens (\$34)	NA	1	1
TOTAL ADVENTURE PASS SAVINGS	\$202	\$290	\$454
Summer Reading Signups (0-11) as of 7/31			
Summer Reading Signups (12-18) as of 7/31			

Adult Reading Participation as of 7/31			
Facebook Page Views (Oct 1-31)	303	113	97
Facebook Post Reach (Oct 1-31)	7,525	1,159	1,105
New Facebook Page Followers (Oct 1-31)	9	not reported	not reported
New Facebook Page Likes (Oct 1-31)	7	13	10
Website Views	1,067	2,312	2,272

VI. Liaison report – None

VII. Board Education: Corey Hoodjer is not present tonight

VIII. Agenda Items

1. Review [Library Ordinance](#) – reviewed; no changes needed
2. Review [Library Board of Trustees By-Laws](#) – reviewed; no changes needed
3. Review Library’s [Mission Statement](#) – reviewed; no changes needed
4. Approve [Passport Acceptance Policy](#)  
MOTION: A motion was made by Sara Olson and seconded by Angie Conley to approve Passport Acceptance Policy.  
MOTION PASSED unanimously.
5. Discuss [2023 Strategic Plan](#)  
MOTION: A motion was made by Sara Olson and seconded by Angie Conley to approve 2023 Strategic Plan.  
MOTION PASSED unanimously.
6. Set the date for January 2023 Library Board of Trustees meeting – meeting set for Monday, January 9, 2023 at 6:30pm.

IX. Adjourn – President Mart adjourned meeting at 6:56pm.

MOTION: A motion was made by Angie Conley and seconded by Rod Bergren to approve Meeting Adjournment.  
MOTION PASSED unanimously.

Next Meeting Monday, January 9<sup>th</sup>, 2023 at 6:30pm.

*Mission Statement: The Polk City Community Library provides a place where all can meet, learn, and grow.*



**RESOLUTION NO. 2023-01L**

**RESOLUTION DECLARING CERTAIN ITEMS OF LIBRARY PROPERTY TO  
BE SURPLUS AND OF NO VALUE TO THE CITY AND AUTHORIZING  
REMOVAL FROM INVENTORY**

**WHEREAS**, the Polk City Community Library is the owner of certain items of property more particularly described in the list attached hereto as Exhibit "A"; and

**WHEREAS**, it has been determined that aforesaid items are no longer of any value to the Library, do not serve a useful function, and are not required for the continued effective operation of the business of the Library; and

**WHEREAS**, the Library Board is of the opinion that the items shown on the attached Exhibit "A" are indeed surplus property and that same should be disposed of accordingly.

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

**SECTION 1.** That the items listed on the attached Exhibit "A" are in fact surplus property, of no value to the Library, and are no longer needed for the effective functioning of the Library and conducting of Library business.

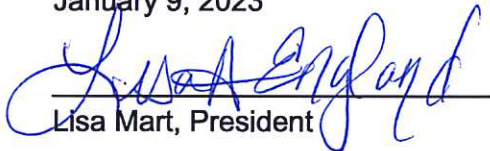
**SECTION 2.** That said items may be removed from the Library's inventory of fixed assets and disposed of accordingly.

**EXHIBIT "A"**

9 6' tables

1 table cart

January 9, 2023

  
\_\_\_\_\_  
Lisa Mart, President

  
\_\_\_\_\_  
Jamie Noack, Library Director



# 2022 Permits & Valuations



## Construction projects overview

### Year over year

2022 the city saw a slight reduction in issued permits however it was the second highest year of issued permits on record for the City at 114 just behind 2021 at 134. The permits came in valued at over \$42.5 million in both commercial and residential construction.

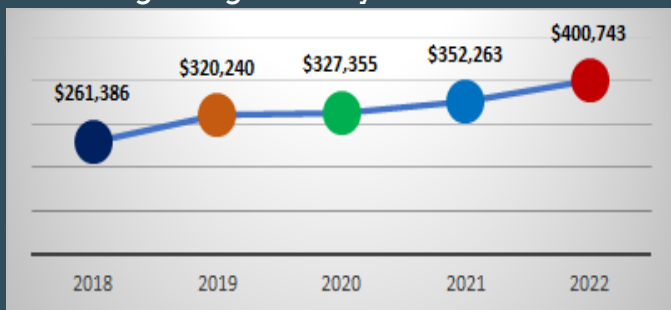
### Highlights of 2022 Construction permitted

- ❑ 3 new commercial buildings, with over \$1.2 million in total non-residential investment
- ❑ 89 new single family detached homes and 22 bi-attached homes with over \$41.3 million in residential investment
- ❑ 175 other additions, alterations and various permits issued, with over \$3 million in investment

### Future growth looks favorable for Polk City

153 acres were annexed increasing the corporate limits. City Council also approved two developments that added 15 single family detached lots and 13 bi-attached lots. Four previously platted developments started construction this year adding 104 buildable lots

## Average Single Family Residential Value



Healthy Growth in Polk City creates a stronger community with a better quality of life



## Total Taxable Valuation is on the Rise



## Breakdown of Value Added

Total	2020	2021	2022
Single Family	\$25,206,310	\$36,635,370	\$35,666,156
Bi-Attached	\$2,196,486	\$4,755,907	\$5,706,496
Commerical	\$0	\$5,891,332	\$1,209,542
<b>Total</b>	<b>\$27,402,796</b>	<b>\$47,282,609</b>	<b>\$42,582,194</b>

## Notable Construction Projects

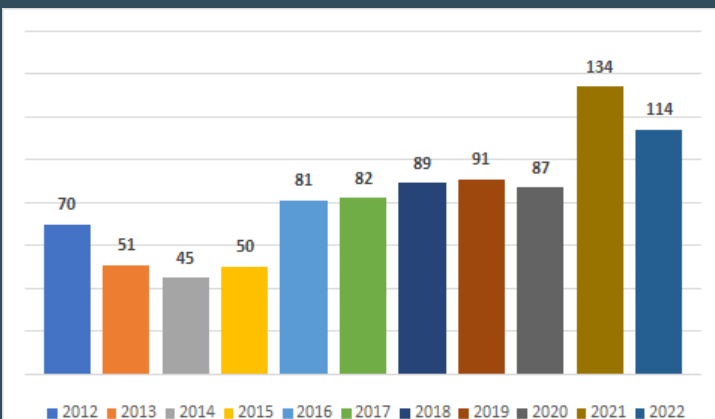
### New Builds

Big Creek Elementary School, Lakes Early Learning, Scooters, and Home State Bank

### Major Renovations

Kum & Go, La Familia Mexican Restaurant, Casey's All Seasons Vet Clinic, Rock Valley Physical Therapy, Tournament Club of Iowa

## Total New Construction Permits Issued





## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager

**Subject:** Updating certain fees charged by the City of Polk City

---

**BACKGROUND:** For the Council's consideration on Monday, is an updated fee schedule for the City of Polk City. The proposed changes include fees related to construction observation fees for developers.

Our Construction Observer, Nick Furness, is ready to begin construction observation, and charge for his oversight fees. We recommend a fee of \$140 per hour for construction observation, and an administrative fee of \$40 per hour for any administrative work related to the construction observation. These fees are in line with what the developers are currently paying when we use Snyder & Associates for Construction Observation.

**ALTERNATIVES:** Do not approve the resolution

**FINANCIAL CONSIDERATIONS:** We estimate that the financial considerations for new revenue could be \$20,000 annually for construction observation services being provided.

**RECOMMENDATION:** It is my recommendation that the Council approve the resolution updating the fees charged by the City of Polk City.

**RESOLUTION NO. 2023-06**

**A RESOLUTION UPDATING CERTAIN FEES CHARGED BY  
THE CITY OF POLK CITY**

---

**WHEREAS**, the City Council of the City of Polk City, Iowa has a Construction Observer on staff and desires to set certain fees charged by the City of Polk City for those associated City engineering services; and

**WHEREAS**, the City Council of the City of Polk City, Iowa has determined the following fees be implemented effective immediately.

Construction Observation \$140 per hour

Administrative Services \$40 per hour

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Polk City, Iowa, that the fees associated with Construction Observation be set at \$140 per hour and the fees associated with Administrative Services for the Construction Observer be set at \$40 per hour.

**PASSED AND APPROVED** the 23 day of January 2023.

---

Steve Karsjen, Mayor

Attest:

---

Jenny Coffin, City Clerk



## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager  
**Subject:** Resolution amending boundaries for Corporate Limits of City

---

**BACKGROUND:** For the City Council's consideration is a resolution, amending the corporate city limits of Polk City. In years past, after annexation has been completed, we have also amended the city limits by resolution at the suggestion of our City Engineer.

The resolution acknowledges the additions of the following annexed properties: Berggren Farms LLC, Parable Ventures LLC, James and Connie Johnson Trust, Joel and Dina Johnson, Jerry and Jean Johnson, Timbercrest Homes LLC, State of Iowa, USA, and Polk County.

**ALTERNATIVES:** Do not approve the resolution

**FINANCIAL CONSIDERATIONS:** None, the City has already annexed these properties into city limits, we are just acknowledging and adding to the existing city limits.

**RECOMMENDATION:** It is my recommendation that the Council approve the resolution amending boundaries for the corporate city limits.

**RESOLUTION NO. 2023-07**

**A RESOLUTION APPROVING THE AMENDED BOUNDARIES  
FOR THE CORPORATE LIMITS OF THE CITY OF POLK CITY, IOWA.**

**WHEREAS**, on February 9, 2009 the City Council of the City of Polk City, Iowa approved Resolution 2008-08 approving the new boundaries for the corporate limits of Polk City; and

**WHEREAS**, on November 23, 2009 the City Council approved Resolution 2009-78 amending said corporate limits to include annexed lands situated on the east side of the backwaters of the barrier dam; and

**WHEREAS**, on January 15, 2015 the City Council approved Resolution 2015-05 amending said corporate limits to include the annexed lands in Big Creek State Park and Wolf Creek Ridge; and

**WHEREAS**, on March 9, 2020 the City Council approved Resolution 2020-25 amending said corporate limits to include the annexed lands owned by MJR Developments LLC, by Sally Jensen, Berggren Farms LLC; and together by BettyLee Miller, Karla Samo, and Floyd Neal Miller; and

**WHEREAS**, on August 22, 2022 the City Council approved Amended and Substituted Resolution 2022-83 for the annexation of land owned by Berggren Farms, LLC and by Parable Ventures, LLC; such annexation and has now been filed with the Iowa Secretary of State; and

**WHEREAS**, on September 26, 2022 the City Council approved Resolution 2022-110 for the annexation of land owned by James and Connie Johnson Trust, Joel and Dina Johnson, Jerry and Jean Johnson, Timbercrest Homes LLC, State of Iowa, United States of America, and Polk County, Iowa; such annexation was approved by the City Development Board and has now been filed with the Iowa Secretary of State; and

**WHEREAS**, the City Council of the City of Polk City deems it appropriate to approve the amended boundaries for the City to City of Polk City evidencing the recent annexation of lands owned by Berggren Farms, LLC; Parable Ventures, LLC; James and Connie Johnson Trust; Joel and Dina Johnson; Jerry and Jean Johnson; Timbercrest Homes, LLC; State of Iowa; United States of America; and Polk County, Iowa.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Polk City, Iowa, as follows:

1. The boundaries for the corporate limits for the City of Polk City, which has been amended to include recently annexed areas lands owned by Berggren Farms, LLC; Parable Ventures, LLC; James and Connie Johnson Trust; Joel and Dina Johnson; Jerry and Jean Johnson; Timbercrest Homes, LLC; State of Iowa; United States of America; and Polk County, Iowa; and which has been legally described and attached hereto as “Exhibit A”; are hereby approved.

2. The City Clerk is hereby directed to file the approved boundaries with the Polk County Recorder.

**DATED THIS** 23 day of January 2023.

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Steve Karsjen, Mayor

ATTEST:

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Jenny Coffin, City Clerk

**EXHIBIT "A"**

**CITY OF POLK CITY, IOWA  
CORPORATE LIMIT DESCRIPTION  
REVISED JANUARY 1, 2023**

BEGINNING AT THE SOUTH 1/4 CORNER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5TH P.M., POLK COUNTY, IOWA; THENCE EAST ALONG THE SOUTH LINE OF SAID SECTION 36 TO THE SOUTHWEST CORNER OF THE EAST 60 ACRES OF THE SOUTHEAST 1/4 OF SAID SECTION 36; THENCE NORTH PERPENDICULAR TO THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 36, A DISTANCE OF 424 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 36 TO A POINT ON THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 36; THENCE NORTH TO THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF SECTION 36; THENCE WEST ALONG THE NORTH LINE OF SAID SOUTHEAST 1/4 AND ALONG THE NORTH LINE OF THE SOUTHWEST 1/4 OF SAID SECTION 36 TO A POINT BEING 488.15 FEET WEST OF THE CENTER OF SAID SECTION 36, SAID POINT ALSO BEING ON THE WESTERLY LINE OF THE VACATED RAILROAD RIGHT OF WAY; THENCE NORTHEASTERLY ALONG SAID LINE, 106.6 FEET; THENCE WEST ALONG A LINE BEING 82.5 FEET NORTH OF AND PARALLEL WITH SAID NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 36, TO A POINT ON THE CENTERLINE OF N.W. SHELDAHL DRIVE; THENCE SOUTHERLY ALONG SAID LINE, 82.8 FEET TO A POINT ON SAID NORTH LINE OF THE SOUTHWEST 1/4 OF SECTION 36; THENCE WEST ALONG SAID NORTH LINE OF THE SOUTHWEST 1/4 TO THE NORTHWEST CORNER OF SAID SOUTHWEST 1/4 OF SECTION 36; THENCE NORTH ALONG THE WEST LINE OF THE NORTHWEST 1/4 OF SAID SECTION 36 TO A POINT ON THE CENTERLINE OF HUGG DRIVE; THENCE NORTHWESTERLY ALONG SAID CENTERLINE TO A POINT ON THE EAST LINE OF THE SOUTHWEST 1/4 OF SECTION 26, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA; THENCE SOUTH ALONG SAID EAST LINE TO THE NORTH 1/4 CORNER OF SECTION 35 TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA; THENCE WEST ALONG THE NORTH LINE OF LOT 7 OF THE OFFICIAL PLAT OF SAID SECTION 35 AS RECORDED IN PLAT BOOK B, PAGES 476 OF THE RECORDS OF POLK COUNTY, IOWA, TO THE NORTHWEST CORNER OF SAID LOT 7; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 7 TO THE NORTHEAST CORNER OF LOT 10 OF SAID OFFICIAL PLAT; THENCE WEST ALONG THE NORTH LINE OF LOTS 10 AND 12 OF SAID OFFICIAL PLAT, TO THE NORTHWEST CORNER OF SAID LOT 12; THENCE SOUTH ALONG THE WEST LINE OF SAID LOT 12 TO A POINT LYING ON THE WEST LINE OF SAID LOT 12, SAID POINT BEING THE EXTENSION OF THE NORTH LINE OF LOT 14 OF SAID OFFICIAL PLAT; THENCE WEST ALONG THE EXTENSION OF THE NORTH LINE OF SAID LOT 14 AND ALONG THE NORTH LINE OF SAID LOT 14, TO A POINT LYING ON THE NORTH LINE OF SAID LOT 14, A DISTANCE OF 280 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 14; THENCE SOUTH TO A POINT LYING ON THE NORTH LINE OF LOT 16 OF SAID OFFICIAL PLAT, 280 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 16; THENCE SOUTHWESTERLY TO A POINT LYING 450 FEET NORTH AND 225 FEET EAST OF THE SOUTHWEST CORNER OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF SAID SECTION 35; THENCE WESTERLY 225 FEET TO THE WEST LINE OF SAID SECTION 35; THENCE SOUTH ALONG THE WEST LINE OF SAID SECTION 35, TO A POINT LYING 239 FEET NORTH OF THE NORTH RIGHT OF WAY LINE OF COUNTY ROAD V (W. JESTER PARK DR.); THENCE NORTHWESTERLY 108 FEET; THENCE SOUTHWESTERLY 292 FEET; THENCE SOUTHERLY TO A POINT ON THE NORTH RIGHT OF WAY LINE OF SAID COUNTY ROAD V (W. JESTER PARK DR.); THENCE EASTERLY ALONG SAID NORTH RIGHT OF WAY LINE 308 FEET TO SAID WEST LINE OF SECTION 35; THENCE SOUTH ALONG SAID WEST LINE OF SECTION 35 TO THE SOUTHWEST CORNER OF SAID SECTION 35; THENCE EAST ALONG THE NORTH LINE OF SECTION 2, TOWNSHIP 80 NORTH, RANGE 25, WEST OF THE 5TH P.M., POLK COUNTY, IOWA TO A POINT ON THE NORTH LINE OF LOT 30 OF THE OFFICIAL PLAT OF THE NORTH HALF OF SECTION 2, TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5TH P.M., AS RECORDED IN PLAT BOOK B, PAGE 380 OF THE RECORDS OF POLK COUNTY, IOWA



LYING 270 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 30; THENCE SOUTH TO A POINT ON THE NORTH LINE OF LOT 31 OF SAID OFFICIAL PLAT OF THE NORTH HALF OF SECTION 2, SAID POINT BEING 270 FEET EAST OF THE NORTHWEST CORNER OF SAID LOT 31; THENCE EAST ALONG THE NORTH LINE OF SAID LOT 31 TO THE NORTHEAST CORNER THEREOF; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOT 31, AND THE EXTENSION THEREOF TO THE SOUTH LINE OF LOT 36 OF SAID OFFICIAL PLAT; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 36 TO A POINT ON THE SOUTH LINE, BEING THE EXTENSION OF A LINE RUNNING PARALLEL WITH AND 666 FEET EAST OF THE WEST LINE OF LOT 44 OF SAID OFFICIAL PLAT; THENCE SOUTHERLY TO THE NORTHWEST CORNER OF LOT 53 OF THE OFFICIAL PLAT OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SAID SECTION 2, AS RECORDED IN PLAT BOOK E, PAGE 25 OF THE RECORDS OF POLK COUNTY, IOWA; THENCE EAST ALONG THE NORTH LOT LINE OF LOT 53 AND THE NORTH LINE OF LOT 54 OF SAID OFFICIAL PLAT OF SECTION 2 AND ALONG THE NORTH LINE OF LOTS 55, 58 AND 59 OF THE OFFICIAL PLAT OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SAID SECTION 2, AS RECORDED IN PLAT BOOK E, PAGE 27 OF THE RECORDS OF POLK COUNTY, IOWA TO THE NORTHEAST CORNER OF SAID LOT 59; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 59 AND THE EXTENSION SOUTH THEREOF TO A POINT ON THE SOUTH LINE OF LOT 60 OF SAID OFFICIAL PLAT OF SECTION 2; THENCE EAST ALONG THE SOUTH LINE OF SAID LOT 60 TO THE SOUTHEAST CORNER IN SAID SECTION 2; THENCE NORTH 89°44' EAST (THIS BEARING REFERRED TO THE IOWA COORDINATE SYSTEM, SOUTH ZONE - GRID NORTH 00°08' WEST OF TRUE NORTH) ALONG THE NORTH LINE OF SECTION 12, TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA 285.2 FEET; THENCE SOUTH 19°00' EAST, 41.0 FEET; THENCE SOUTH 71°00' WEST, 120.0 FEET; THENCE SOUTH 25°45' EAST, 430.2 FEET; THENCE SOUTH 44°48' EAST, 474.1 FEET; THENCE SOUTH 57°16' EAST, 751.1 FEET; THENCE SOUTH 18°30' WEST, 66.0 FEET TO THE BEGINNING OF A CIRCULAR CURVE; THENCE EASTERLY 282.4 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE NORTHERLY, THE RADIUS OF WHICH IS 1,885.86 FEET AND CENTRAL ANGLE OF 8°34'48", TO THE POINT OF TANGENCY; THENCE SOUTH 80°05' EAST, 4,314.0 FEET; THENCE NORTH 09°55' EAST, 76.0 FEET; THENCE SOUTH 79°13' EAST, 609.3 FEET; THENCE SOUTH 69°10' EAST, 381.8 FEET; THENCE NORTH 02°17' WEST, 280.2 FEET; THENCE NORTH 87°43' EAST, 45.0 FEET; THENCE SOUTH 23°44' EAST, 432.0 FEET; THENCE SOUTH 63°43' EAST, 200.0 FEET; THENCE SOUTH 50°35' EAST, TO THE SOUTH LINE OF LOT 4 OF THE OFFICIAL PLAT OF THE SOUTH 1/2 OF THE NORTHWEST ¼ AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA AS RECORDED IN PLAT BOOK C, PAGE 104 OF THE POLK COUNTY RECORDS; THENCE EASTERLY ALONG SAID SOUTH LINE TO THE SOUTHEAST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE EAST LINE OF SAID LOT 4 TO THE NORTHEAST CORNER OF SAID LOT 4; THENCE NORTHWESTERLY ALONG THE IRREGULAR NORTH LINE TO THE NORTHWEST CORNER OF SAID LOT 4; THENCE NORTHERLY ALONG THE EAST LINE OF LOT 2 OF SAID OFFICIAL PLAT TO THE NORTHEAST CORNER THEREOF; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 2 TO THE WESTERLY RIGHT-OF-WAY LINE OF N.W. 55<sup>TH</sup> STREET (FORMERLY HIGHWAY 415); THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE TO THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF THE SOUTH 100 FEET OF LOT 1 SAID OFFICIAL PLAT; THENCE WEST ALONG SAID NORTHERLY LINE TO THE NORTHWEST CORNER OF SAID SOUTH 100 FEET OF SAID LOT 1; THENCE NORTHWESTERLY TO THE SOUTHEAST CORNER OF THE NORTHWEST 1/4, NORTHEAST 1/4 OF SAID SECTION 12; THENCE NORTH ALONG THE EAST LINE OF SAID NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 12, TO THE NORTH LINE OF SAID SECTION 12; THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 12 TO A POINT LYING 1,190 FEET WEST OF THE SOUTHEAST CORNER OF SECTION 1, TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA; THENCE NORTH 30°30' WEST (THIS BEARING REFERRED TO THE IOWA COORDINATE SYSTEM, SOUTH ZONE - GRID NORTH 00°08' WEST OF TRUE NORTH) A DISTANCE OF 900 FEET; THENCE NORTHWESTERLY TO A POINT ON THE WEST LINE OF THE SOUTHWEST ¼ OF SAID SECTION 1, BEING 310 FEET SOUTH OF THE NORTHWEST CORNER OF THE SOUTHWEST 1/4 OF SAID

SOUTHEAST 1/4 OF SECTION 1; THENCE NORTH, ALONG THE WEST LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4 OF SECTION 1 TO THE NORTHWEST CORNER THEREOF; THENCE EAST ALONG THE NORTH LINE OF SAID SOUTHWEST 1/4 OF THE SOUTHEAST 1/4, A DISTANCE OF 134 FEET; THENCE SOUTH 44 1/2° EAST, 309 FEET; THENCE SOUTH 79° EAST 360 FEET; THENCE NORTH 4° EAST 969 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID HIGHWAY NO. 415 (BROADWAY); THENCE NORTHWESTERLY ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE TO A POINT ON THE WEST LINE OF SAID SOUTHEAST 1/4 OF SECTION 1; THENCE NORTH, ALONG SAID WEST LINE AND ALONG THE WEST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 1 TO THE POINT OF BEGINNING.

AND

PARCEL "H" AND "I" AS SHOWN ON A PLAT OF SURVEY RECORDED IN BOOK 12831, PAGE 173-174 OF THAT PART OF LOT 3 OF THE OFFICIAL PLAT OF THE SOUTH 1/2 OF THE NORTHWEST 1/4 AND THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 7, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA. (Note: Corporate Limits City Resolution No. 2009-08 Recorded in Book 12925, Page 505-509)

AND

A PART OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST AND A PART OF SECTION 31, TOWNSHIP 81 NORTH, RANGE 24 WEST AND A PART OF SECTIONS 6 AND 7 IN TOWNSHIP 80 NORTH, RANGE 24 WEST AND A PART OF SECTIONS 1, 11 AND 12 IN TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS.

BEGINNING AT THE SOUTH 1/4 CORNER OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA; THENCE EAST ALONG THE SOUTH LINE OF SAID SECTION 36 TO THE SOUTHWEST CORNER OF THE EAST 60 ACRES OF THE SOUTHEAST 1/4 OF SAID SECTION 36; THENCE NORTH PERPENDICULAR TO THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 36, A DISTANCE OF 424 FEET; THENCE EAST PARALLEL WITH THE SOUTH LINE OF SAID SOUTHEAST 1/4 OF SECTION 36 TO A POINT ON THE EAST LINE OF SAID SOUTHEAST 1/4 OF SECTION 36; THENCE NORTH TO THE NORTHEAST CORNER OF SAID SOUTHEAST 1/4 OF SECTION 36; THENCE EAST ALONG THE NORTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SAID SECTION 31, TOWNSHIP 81 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF SAID NORTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 AND ALONG THE EAST LINE OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SAID SECTION 31, A DISTANCE OF 1343.85 FEET; THENCE SOUTHWEST 908.24 FEET; THENCE SOUTH 648.25 FEET TO A POINT ON THE NORTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF SAID SECTION 6, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA; THENCE EAST ALONG SAID NORTH LINE TO THE NORTH 1/4 CORNER OF SAID SECTION 6; THENCE CONTINUING EAST ALONG THE NORTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SAID SECTION 6 TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF SAID NORTHWEST FRACTIONAL 1/4 OF THE NORTHEAST FRACTIONAL 1/4 TO THE SOUTHEAST CORNER THEREOF; THENCE WEST ALONG THE SOUTH LINE OF SAID NORTHWEST FRACTIONAL 1/4 OF THE NORTHEAST FRACTIONAL 1/4 TO THE SOUTHWEST CORNER THEREOF; THENCE CONTINUING WEST ALONG SOUTH LINE OF THE NORTHEAST FRACTIONAL 1/4 OF THE NORTHWEST FRACTIONAL 1/4 AND ALONG THE SOUTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF THE NORTHWEST FRACTIONAL 1/4 OF SAID SECTION 6 TO THE SOUTHWEST CORNER OF SAID NORTHWEST FRACTIONAL 1/4 OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 6; THENCE CONTINUING WEST ALONG THE SOUTH LINE OF THE NORTHEAST

FRACTIONAL 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SAID SECTION 1, TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5TH P.M., POLK COUNTY, IOWA TO A POINT BEING 840 FEET EAST OF THE SOUTHWEST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF THE WEST 840 FEET OF THE SOUTHEAST 1/4 OF THE NORTHEAST FRACTIONAL 1/4 OF SAID SECTION 1 TO A POINT ON THE NORTH LINE OF THE SOUTHEAST 1/4 OF SAID SECTION 1; THENCE EAST ALONG SAID NORTH LINE TO THE WEST 1/4 CORNER OF SAID SECTION 6; THENCE CONTINUING EAST ALONG THE NORTH LINE OF THE NORTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SAID SECTION 6 TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF SAID NORTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 TO A POINT 82 RODS NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SAID SECTION 6; THENCE WEST 1 ROD; THENCE SOUTH PARALLEL TO THE EAST LINE OF SAID SOUTHWEST FRACTIONAL 1/4 OF THE SOUTHWEST FRACTIONAL 1/4 OF SAID SECTION 6 TO A POINT ON THE CENTERLINE OF NW 110<sup>TH</sup> PLACE; THENCE WESTERLY ALONG SAID CENTERLINE OF NW 110<sup>TH</sup> PLACE AND ALONG THE CENTERLINE OF NW 55<sup>TH</sup> STREET TO A POINT PERPENDICULAR FROM SAID CENTERLINE OF NW 55<sup>TH</sup> STREET TO THE SOUTHWEST CORNER OF THE PROPERTY LOCATED AT 5550 NW 110<sup>TH</sup> PLACE AS ESTABLISHED BY QUIT CLAIM DEED RECORDED IN BOOK 6839, PAGE 49 BEING A PART OF LOT 4 OF THE OFFICIAL PLAT OF THE SOUTH 1/2 OF THE SOUTHEAST 1/4, EXCEPT 7 ACRES IN THE NORTHEAST CORNER OF THE SAME, AND THE SOUTHEAST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 6, TOWNSHIP 80, RANGE 24 ALSO THE WEST 1/2 OF THE NORTHEAST 1/4, AND THE NORTH FRACTIONAL 1/2 OF THE NORTHWEST 1/4 OF SECTION 7, TOWNSHIP 80, RANGE 24 WEST OF 5<sup>TH</sup> P.M. AS RECORDED IN BOOK E, PAGE 99 OF THE POLK COUNTY RECORDS; THENCE EASTERLY TO SAID SOUTHWEST CORNER AND CONTINUING ALONG SAID SOUTHERLY PROPERTY LINE TO THE SOUTHEAST CORNER OF SAID PROPERTY LOCATED AT 5550 NW 110<sup>TH</sup> PLACE AND BEING A POINT ON THE WEST LINE OF LOT 5 OF SAID OFFICIAL PLAT RECORDED IN BOOK E PAGE 99; THENCE SOUTH ALONG SAID WEST LINE TO THE NORTHWEST CORNER OF THE SOUTH 80 FEET OF THE NORTH 320 FEET OF THE WEST 207.1 FEET OF SAID LOT 5; THENCE EAST ALONG THE NORTH LINE OF SAID SOUTH 80 FEET OF THE NORTH 320 FEET OF THE WEST 207.1 FEET OF LOT 5, A DISTANCE OF 207.1 FEET TO THE NORTHEAST CORNER THEREOF; THENCE SOUTH ALONG THE EAST LINE OF SAID SOUTH 80 FEET OF THE NORTH 320 FEET OF THE WEST 207.1 FEET OF LOT 5, A DISTANCE OF 80 FEET TO THE SOUTHEAST CORNER THEREOF; THENCE WEST ALONG THE SOUTH LINE OF SAID SOUTH 80 FEET OF THE NORTH 320 FEET OF THE WEST 207.1 FEET OF LOT 5, A DISTANCE OF 207.1 FEET TO THE SOUTHWEST CORNER THEREOF; THENCE SOUTH ALONG SAID WEST LINE OF LOT 5 TO A POINT ON THE CENTERLINE OF NW 110<sup>TH</sup> AVENUE; THENCE EAST ALONG THE CENTERLINE OF SAID NW 110<sup>TH</sup> AVENUE TO THE NORTHEAST CORNER OF SAID SECTION 7; THENCE SOUTH ALONG THE EAST LINE OF THE NORTHEAST 1/4 OF SAID SECTION 7 TO THE EAST 1/4 CORNER OF SAID SECTION 7; THENCE WEST ALONG THE SOUTH LINE OF SAID NORTHEAST 1/4 OF SECTION 7 TO THE SOUTHWEST CORNER THEREOF AND BEING THE SOUTHEAST CORNER OF LOT 1 OF WINDING CREEK ESTATES PLAT 1 RECORDED IN BOOK 12831, PAGE 80-92 OF THE POLK COUNTY RECORDERS; THENCE NORTH ALONG THE EAST LINE OF SAID LOT 1 AND ALONG THE EAST LINE OF PARCEL "J" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 12831, PAGE 176-177 OF THE POLK COUNTY RECORDER TO THE NORTHEAST CORNER THEREOF; THENCE NORTHWESTERLY ALONG THE NORTHEASTERLY LINE OF SAID PARCEL "J" TO THE NORTHWEST CORNER THEREOF AND BEING THE SOUTHEAST CORNER OF PARCEL "I" AS SHOWN IN A PLAT OF SURVEY RECORDED IN BOOK 12831, PAGE 173-175 OF THE POLK COUNTY RECORDS; THENCE NORTHWEST ALONG THE EAST LINE OF SAID PARCEL "I" AND ALONG THE EAST LINE OF PARCEL "H" OF SAID PLAT OF SURVEY RECORDED IN BOOK 12831, PAGE 173-175 TO THE NORTHEAST CORNER OF SAID PARCEL "H"; THENCE WEST ALONG THE NORTH LINE OF SAID PARCEL "H" TO THE NORTHWEST CORNER THEREOF AND BEING THE NORTHEAST CORNER OF LOT 7 OF SAID WINDING CREEK ESTATES PLAT 1 AND BEING THE NORTHEAST CORNER OF LOT 2 OF SAID OFFICIAL PLAT RECORDED IN BOOK C, PAGE 104; THENCE WESTERLY ALONG THE NORTH LINE OF SAID LOT 7, TO THE WESTERLY LINE OF S. 14<sup>TH</sup> STREET (FORMALLY KNOWN AS NW 55<sup>TH</sup> STREET, NW

POLK CITY ROAD AND HIGHWAY 415); THENCE SOUTHEASTERLY ALONG SAID WESTERLY LINE TO THE POINT OF INTERSECTION OF THE NORTHERLY LINE OF THE SOUTH 100 FEET OF LOT 1 SAID OFFICIAL PLAT RECORDED IN BOOK C, PAGE 104; THENCE WEST ALONG SAID NORTHERLY LINE TO THE NORTHWEST CORNER OF SAID SOUTH 100 FEET OF SAID LOT 1; THENCE NORTHWESTERLY TO THE SOUTHEAST CORNER OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 12; THENCE NORTH ALONG THE EAST LINE OF THE NORTHWEST ¼ OF THE NORTHEAST ¼ OF SAID SECTION 12 TO THE NORTHEAST CORNER THEREOF; THENCE EAST ALONG THE NORTH LINE OF SAID SECTION 12 TO THE INTERSECTION OF THE EAST LINE OF PINE RIDGE ESTATES PLAT 4 RECORDED IN BOOK 10542, PAGE 250-257 OF THE POLK COUNTY RECORDER EXTENDED SOUTHEASTERLY; THENCE NORTHWESTERLY ALONG SAID EXTENDED LINE AND ALONG SAID EASTERLY LINE OF PINE RIDGE ESTATES PLAT 4 TO THE NORTHEAST CORNER OF LOT 14 OF SAID PINE RIDGE ESTATES PLAT 4; THENCE NORTHWESTERLY ALONG THE NORTHERLY LINE OF SAID PINE RIDGE ESTATES PLAT 4 TO A CORNER ON THE EAST LINE OF LOT 3 BEING 3.13' WEST OF THE NORTHWEST CORNER OF LOT 4 OF SAID PINE RIDGE ESTATES PLAT 4; THENCE NORTH ALONG SAID EAST LINE OF LOT 3 TO THE NORTHEAST CORNER THEREOF AND BEING THE NORTHWEST CORNER OF SAID SOUTHWEST ¼ OF THE SOUTHEAST ¼ OF SECTION 1; THENCE EAST 134 FEET; THENCE SOUTH 44 1/2° EAST, 309 FEET; THENCE SOUTH 79° EAST 360 FEET; THENCE NORTH 4° EAST 969 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF SAID HIGHWAY NO. 415; THENCE NORTHWESTERLY ALONG THE SAID SOUTHERLY RIGHT OF WAY LINE TO A POINT ON THE WEST LINE OF SAID SOUTHEAST ¼ OF SECTION 1; THENCE NORTH ALONG SAID WEST LINE AND ALONG THE WEST LINE OF THE NORTHEAST ¼ OF SAID SECTION 1 TO THE POINT OF BEGINNING. (Note: Corporate Limits City Resolution No. 2009-78 Recorded in Book 13293, Page 247-255)

AND

BEGINNING AT THE NORTHWEST CORNER OF SAID SECTION 12; THENCE NORTH 89°44' EAST (THIS BEARING REFERRED TO THE IOWA COORDINATE SYSTEM, SOUTH ZONE - GRID NORTH 00°08' WEST OF TRUE NORTH) ALONG THE NORTH LINE THEREOF, 285.2 FEET; THENCE SOUTH 19°00' EAST, 41.0 FEET; THENCE SOUTH 71°00' WEST, 120.0 FEET; THENCE SOUTH 25°45' EAST, 430.2 FEET; THENCE SOUTH 44°48' EAST, 474.1 FEET; THENCE SOUTH 57°16' EAST, 751.1 FEET; THENCE SOUTH 18°30' WEST, 66.0 FEET TO THE BEGINNING OF A CIRCULAR CURVE; THENCE EASTERLY 282.4 FEET ALONG THE ARC OF A CIRCULAR CURVE CONCAVE NORTHERLY, THE RADIUS OF WHICH IS 1885.86 FEET AND CENTRAL ANGLE OF 8°34'48", TO THE POINT OF TANGENCY; THENCE SOUTH 80°05' EAST, 4314.0 FEET; THENCE NORTH 09°55' EAST, 76.0 FEET; THENCE SOUTH 79°13' EAST, 609.3 FEET; THENCE SOUTH 69°10' EAST, 381.8 FEET; THENCE NORTH 02°17' WEST, 280.2 FEET; THENCE NORTH 87°43' EAST, 45.0 FEET; THENCE SOUTH 23°44' EAST, 432.0 FEET; THENCE SOUTH 63°43' EAST, 200.0 FEET; THENCE SOUTH 50°35' EAST, 308.0 FEET; THENCE SOUTH 26°17' WEST, 60.0 FEET; THENCE NORTH 75°01' WEST, 204.0 FEET; THENCE NORTH 64°16' WEST, 692.8 FEET; THENCE NORTH 74°37' WEST, 383.3 FEET; THENCE NORTH 80°05' WEST, 400.0 FEET; THENCE NORTH 9°55' EAST, 56.0 FEET; THENCE NORTH 80°05' WEST, 4314.0 FEET TO THE BEGINNING OF A CIRCULAR CURVE; THENCE WESTERLY ALONG THE ARC OF A CIRCULAR CURVE CONCAVE NORTHERLY, THE RADIUS OF WHICH IS 1933.86 FEET AND CENTRAL ANGLE OF 8°34'48", A DISTANCE OF 289.6 FEET; THENCE SOUTH 18°30' WEST, 76.0 FEET; THENCE NORTH 68°17' WEST, 531.4 FEET; THENCE NORTH 49°00' WEST, 535.1 FEET; THENCE NORTH 28°05' WEST, 321.6 FEET; THENCE NORTH 25°00' WEST, 522.1 FEET; THENCE NORTH 11°11' WEST TO THE NORTH LINE OF SAID SECTION 11; THENCE EASTERLY ALONG THE NORTH LINE THEREOF TO THE PLACE OF BEGINNING (Note: Corporate Limits City Resolution No. 2009-78 Recorded in Book 13293, Page 247-255)

AND

THAT PART OF THE NORTHEAST ¼ OF THE SOUTHWEST ¼ OF SAID SECTION 7 LYING NORTHERLY OF THE FOLLOWING DESCRIBED LINE; BEGINNING AT A POINT ON THE EAST LINE OF SAID NORTHEAST ¼ OF THE SOUTHWEST ¼ AND WHICH IS 190 FEET NORMALLY DISTANT SOUTHWESTERLY FROM THE CENTERLINE OF RELOCATED PRIMARY ROAD NO. IA. 415; THENCE NORTHWESTERLY TO A POINT ON THE CENTERLINE OF FORMERLY PRIMARY ROAD NO. IA. 415 WHICH IS 180 FEET NORMALLY DISTANT SOUTHWESTERLY FROM THE CENTERLINE OF RELOCATED PRIMARY ROAD NO. IA. 415; THENCE CONTINUING NORTHWESTERLY TO THE WESTERLY ROADWAY EASEMENT LINE OF SAID FORMERLY PRIMARY ROAD NO. IA. 415; THENCE NORTHWESTERLY ALONG SAID ROADWAY EASEMENT LINE TO THE EAST LINE OF THE ABOVE DESCRIBED PARCEL BEING THE POINT OF TERMINUS OF THE DESCRIBED LINE. (Note: Corporate Limits City Resolution No. 2009-78 Recorded in Book 13293, Page 247-255)

AND

A PART OF LOTS 53 & 54 OF THE OFFICIAL PLAT OF THE SOUTH ½ OF THE SOUTHWEST ¼ AND A PART OF LOTS 55, 58 & 59 OF THE OFFICIAL PLAT OF THE SOUTH ½ OF THE SOUTHWEST ¼ ALL IN SECTION 2, TOWNSHIP 80 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 53; THENCE EAST ALONG THE NORTH LOT LINE OF SAID LOTS 53, 54, 55, 58 AND 59 TO THE NORTHEAST CORNER OF SAID LOT 59; THENCE SOUTH ALONG THE EAST LINE OF SAID LOT 59 TO THE SOUTH RIGHT OF WAY LINE OF W. BRIDGE ROAD; THENCE WEST ALONG SAID SOUTH RIGHT OF WAY LINE TO THE WEST LINE OF SAID LOT 53; THENCE NORTH ALONG SAID WEST LINE TO THE POINT OF BEGINNING. (Note: Corporate Limits City Resolution No. 2009-78 Recorded in Book 13293, Page 247-255)

AND

A PART OF SECTIONS 15, 22, 23, 26, AND 27 IN TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA AND DESCRIBED AS FOLLOWS.

BEGINNING AT THE SW CORNER OF THE SE ¼ OF THE SW ¼ OF SAID SECTION 26; THENCE EAST ALONG THE SOUTH LINE OF SAID SE ¼ OF THE SW ¼ OF SECTION 26 TO THE SE CORNER THEREOF; THENCE NORTH ALONG THE EAST LINE OF SAID SW ¼ OF SECTION 26 TO THE NE CORNER OF THE S 15 ACRES OF THE NE ¼ OF THE SW ¼ OF SAID SECTION 26; THENCE WEST 66 FEET; THENCE NORTH PARALLEL TO AND 66 FEET WEST OF SAID EAST LINE OF THE SW ¼ OF SECTION 26 AND PARALLEL TO AND 66 FEET WEST OF THE EAST LINE OF THE NW ¼ OF SAID SECTION 26 TO THE NORTH LINE OF SAID NW ¼ OF SECTION 26 AND BEING 66 FEET WEST OF THE NE CORNER THEREOF; THENCE WEST ALONG THE NORTH LINE OF SAID NW ¼ OF SECTION 26 TO THE NW CORNER OF THE NE ¼ OF THE NW ¼ OF SAID SECTION 26; THENCE NORTH ALONG THE EAST LINE OF THE WEST ½ OF THE SW ¼ OF SAID SECTION 23 AND ALONG THE EAST LINE OF THE WEST ½ OF THE NW ¼ OF SAID SECTION 23 TO A POINT THAT IS 70 FEET SOUTH OF THE NORTH LINE OF SAID NW ¼ OF SECTION 23; THENCE WEST PARALLEL TO AND 70 FEET SOUTH OF SAID NORTH LINE OF THE NW ¼ OF SECTION 23, A DISTANCE OF 285 FEET; THENCE SOUTH 90 FEET; THENCE WEST PARALLEL TO AND 160 FEET SOUTH OF SAID NORTH LINE OF THE NW ¼ OF SECTION 23 TO A POINT 145 FEET WEST OF THE WEST LINE OF SECTION 23; THENCE NORTH PARALLEL TO AND 145 FEET WEST OF SAID WEST LINE OF SECTION 23 AND PARALLEL TO AND 145 FEET WEST OF THE EAST LINE OF SAID SECTION 15 TO THE CENTER OF AN EXISTING CREEK LYING IN THE SE ¼ OF THE NE ¼ OF SAID SECTION 15; THENCE SOUTHWESTERLY ALONG SAID CENTERLINE OF AN EXISTING CREEK TO THE EASTERLY SHORELINE OF BIG CREEK LAKE; THENCE SOUTHERLY ALONG THE SHORELINE OF BIG CREEK LAKE TO THE POINT WHERE THE SHORELINE INTERSECTS THE WEST LINE OF SAID SE ¼ OF THE SW ¼ OF SECTION 26; THENCE SOUTH ALONG THE WEST LINE OF SAID SE ¼ OF THE SW ¼ OF SECTION 26 TO THE

POINT OF BEGINNING. (Note: Annexation City Resolution No. 2013-043 Big Creek State Park.)

AND

A PART OF LOTS 2, 6, 7, AND 8 IN P. WERUM'S SUBDIVISION OF THE E1/2 OF NE1/4 OF SECTION 35 & W1/2 OF NW1/4 OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M. POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SE CORNER OF SAID LOT 8; THENCE WEST ALONG THE SOUTH LINE OF SAID LOT 8 TO THE SW CORNER OF SAID LOT 8; THENCE NORTH ALONG THE WEST LINE OF SAID LOTS 8, 7, 6, AND 2 TO THE NW CORNER OF SAID LOT 2; THENCE EASTERLY ALONG THE NORTH LINE OF SAID LOT 2 TO THE SOUTH LINE OF NW HUGG DRIVE; THENCE SOUTHEASTERLY 225.6 FEET ALONG THE SOUTH LINE OF NW HUGG DRIVE; THENCE NORTHEASTERLY 33 FEET TO THE CENTERLINE OF NW HUGG DRIVE; THENCE SOUTHEASTERLY 278.8 FEET ALONG SAID CENTERLINE TO A POINT; THENCE SOUTHERLY ALONG THE EAST LINE OF SAID LOTS 6, 7, AND 8 TO THE POINT OF BEGINNING. (Note: Annexation City Resolution No. 2013-90 Wolf Creek Ridge Phase 1)

AND

A PART OF LOT 3 IN P. WERUM'S SUBDIVISION, AN OFFICIAL PLAT, AND A PORTION OF THE NW HUGG DRIVE RIGHT-OF- WAY ADJACENT TO LOT 'A', WOLF CREEK RIDGE, AN OFFICIAL PLAT, ALL IN SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M. POLK COUNTY, IOWA, AND DESCRIBED AS FOLLOWS:

BEGINNING AT THE SW CORNER OF SAID LOT 3; THENCE NORTH ALONG THE WEST LINE OF SAID LOT 3 TO THE CENTERLINE OF NW HUGG DRIVE; THENCE SOUTHEASTERLY 410 FEET ALONG SAID CENTERLINE TO A POINT; THENCE SOUTHWESTERLY 33' TO A POINT ON THE NORTH LINE OF SAID LOT 'A'; THENCE NORTHWESTERLY 226 FEET ALONG SAID NORTH LINE TO A POINT; SAID POINT ALSO BEING ON THE SOUTH LINE OF SAID LOT 3; THENCE WEST ALONG SAID NORTH LINE OF LOT 'A', AND THE NORTH LINE OF LOT 1 OF SAID WOLF CREEK RIDGE, AND SAID SOUTH LINE OF LOT 3 TO THE POINT OF BEGINNING. (Note: Annexation City Resolution No. 2013-118 Wolf Creek Ridge Phase 2 – Hugg Drive Right-of-way)

AND

THE WEST HALF OF THE SOUTHEAST QUARTER OF SECTION 26, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING NORTH OF THE CENTERLINE OF NW HUGG DRIVE AS IT PRESENTLY EXISTS; EXCEPT THE WEST 24.75 FEET OF THAT PORTION OF THE NORTH 3,405 FEET OF THE EAST HALF OF SAID SECTION 26 WHICH LIES WITHIN SAID WEST HALF OF THE SOUTHEAST QUARTER; EXCEPT THE WEST 33 FEET OF THAT PORTION OF THE EAST HALF OF SAID SECTION 26 LYING SOUTH OF THE NORTH 3,405 FEET OF SAID EAST HALF OF SECTION 26; AND EXCEPT PARCEL B AS DESCRIBED IN RURAL SURVEY FILED MARCH 10, 2015 AND RECORDED IN BOOK 15493 PAGE 802. (Note: Annexation City Resolution No. 2016-80 Jensen – MJR Annexation)

AND

PARCEL B AS DESCRIBED IN RURAL SURVEY FILED MARCH 10, 2015 AND RECORDED IN BOOK 15493 PAGE 802. (Note: Annexation City Resolution No. 2016-80 Jensen – MJR Annexation)

AND

THE EAST ½ OF THE SOUTHEAST ¼ OF SECTION 26, TOWNSHIP 81 NORTH, RANGE 25 WEST OF

THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA. (Note: Annexation City Resolution No. 2019-66 – Berggren Farms LLC Annexation)

AND

ALL THAT PART OF THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING NORTH OF THE PUBLIC HIGHWAY. (Note: Annexation City Resolution No. 2019-66 – Berggren Farms LLC Annexation)

AND

ABUTTING NW HUGG DRIVE RIGHT-OF-WAY LYING IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING NORTH OF THE NW HUGG DRIVE CENTERLINE. (Note: Annexation City Resolution No. 2019-66 – Berggren Farms LLC Annexation)

AND

ABUTTING NW 72<sup>ND</sup> STREET RIGHT-OF-WAY LYING IN THE EAST ½ OF THE NORTHEAST ¼ OF SECTION 35, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING WEST OF THE NW 72<sup>ND</sup> STREET CENTERLINE. (Note: Annexation City Resolution No. 2019-66 – Berggren Farms LLC Annexation)

AND

THE SOUTH 20.34 ACRES OF THE EAST 25 ACRES OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING SOUTH OF THE PUBLIC HIGHWAY, OVER AND ACROSS SAID 25 ACRES, A/K/A LOT 1 LYING SOUTH OF HUGG DRIVE, P. WERUMS SUBDIVISION, POLK COUNTY, IOWA, LOCALLY KNOWN AS 12370 NW HUGG DRIVE, POLK CITY, IOWA. (Note: Annexation City Resolution No. 2019-67 – Miller Annexation)

AND

THE SOUTHWEST 12.69 ACRES OF THE SOUTHEAST QUARTER (SE1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, SUBJECT TO EASEMENTS OF RECORD. (Note: Annexation City Resolution No. 2019-67 – Miller Annexation)

AND

THAT PART OF THE NW1/4 OF THE NE1/4 OF SECTION 35, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA, LYING NORTH OF THE CENTERLINE OF NW HUGG DRIVE AS IT PRESENTLY EXISTS. (Note: Associated with the Annexation City Resolution No. 2016-80 Jensen – MJR Annexation)

AND

THAT PART OF THE EXISTING RIGHT-OF-WAY IN THE EAST 25 ACRES OF THE SOUTHWEST QUARTER (SW1/4) OF THE NORTHWEST QUARTER (NW1/4) OF SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5TH P.M., POLK COUNTY, IOWA, LYING SOUTH OF THE CENTERLINE OF NW HUGG DRIVE AS IT PRESENTLY EXISTS. (Note: Associated with the Annexation City Resolution No. 2019-67 – Miller Annexation)

AND

THAT PART OF THE SOUTH 50 ACRES OF THE EAST ½ OF THE NORTHWEST ¼ LYING EAST OF NORTH 3RD STREET (ALSO KNOWN AS NW SHELDAHL DRIVE), EXCEPT THE SOUTH 5 RODS THEREOF LYING EAST OF SAID NORTH 3RD STREET AND LYING WEST OF THE FORMER NORTHWESTERLY RIGHT-OF-WAY LINE OF THE ABANDONED C & N.W. RAILROAD, BEING THE TRACT DESCRIBED IN THE DEED RECORDED IN BOOK 345, PAGE 481, ALL IN SECTION 36, TOWNSHIP 81 NORTH, RANGE 25 WEST OF THE 5TH P.M., POLK COUNTY, IOWA, SUBJECT TO THE RIGHTS OF THE PUBLIC IN ALL HIGHWAYS; (Note: Associated with the Annexation City Resolution No. 2022-83 – Berggren Annexation)

AND

THE EAST HALF OF THE EXISTING ROADWAY EASEMENT OF NORTH 3RD STREET (ALSO KNOWN AS NW SHELDAHL DRIVE) LYING IN THE SOUTH 50 ACRES OF THE EAST ½ OF THE NORTHWEST ¼, EXCEPT THE SOUTH 5 RODS THEREOF, OF SECTION 36, TOWNSHIP 81, NORTH, RANGE 25 WEST OF THE 5TH P.M., POLK COUNTY, IOWA. (Note: Associated with the Annexation City Resolution No. 2022-83 – Berggren Annexation)

AND

THE NORTH HALF (N1/2) OF THE NORTHEAST QUARTER (NE1/4) OF SECTION THIRTY-SIX (36) IN TOWNSHIP EIGHTY-ONE (81) NORTH OF RANGE TWENTY-FIVE (25), WEST OF THE 5<sup>TH</sup> P.M., POLK COUNTY, IOWA. (Note: Associated with the Annexation City Resolution No. 2022-83 – Parable Ventures LLC Annexation)

AND

THAT PART OF THE SOUTHEAST ¼ OF SECTION 7, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, LYING NORTHERLY OF THE CENTERLINE OF NW POLK CITY DR (HIGHWAY 415) AND LYING WESTERLY OF THE CENTERLINE OF NW 44TH STREET, BEGINNING AT THE INTERSECTION OF SAID CENTERLINE OF NW POLK CITY DR (HIGHWAY 415) AND PROCEEDING NORTHERLY ALONG SAID CENTERLINE OF NW 44TH STREET TO THE EAST LINE OF SAID SOUTHEAST ¼ OF SECTION 7; (Note: Associated with the Annexation City Resolution No. 2022-110 – Johnson/Larson Annexation)

AND

THAT PART OF THE SOUTHEAST ¼ OF SECTION 7, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, LYING SOUTHWESTERLY OF THE CENTERLINE OF NW POLK CITY DR (HIGHWAY 415) AND LYING EAST OF THE WEST LINE OF OUTLOT Y OF JOHNSON/HALL PLAT 1, AN OFFICIAL PLAT, AND LYING EAST OF SAID WEST LINE OF OUTLOT Y EXTENDED NORTH TO THE CENTERLINE OF SAID CENTERLINE OF NW POLK CITY DR (HIGHWAY 415); (Note: Associated with the Annexation City Resolution No. 2022-110 – Johnson/Larson Annexation)



AND

THAT PART OF THE EXISTING RIGHT-OF-WAY OF NW POLK CITY DRIVE (HIGHWAY 415) IN THE SOUTHEAST 1/4 OF SECTION 7, TOWNSHIP 80 NORTH, RANGE 24 WEST OF THE 5TH P.M., INCLUDED IN AND FORMING A PART OF POLK COUNTY, IOWA, LYING SOUTHERLY OF THE CENTERLINE OF NW POLK CITY DR (HIGHWAY 415) AND LYING WEST OF THE WEST LINE OF OUTLOT Y OF JOHNSON/HALL PLAT 1, AN OFFICIAL PLAT, EXTENDED NORTH TO THE CENTERLINE OF SAID NW POLK CITY DR (HIGHWAY 415).

ALL CONTAINING 114.53 ACRES, MORE OR LESS. (Note: Associated with the Annexation City Resolution No. 2022-110 – Johnson/Larson Annexation)



## City of Polk City, Iowa City Council Agenda Communication

**Date:** January 23, 2023  
**To:** Mayor, City Council, & City Manager  
**From:** Karla Hogrefe – Fire Chief  
**Subject:** AFG Grant

---

**BACKGROUND:** The Fire Department would like to apply for the Assistance to Firefighters Grant through FEMA to assist with the purchase of our new ambulance. The ambulance is scheduled to be replaced FY2025.

We would also like to apply for 15 sets of structural firefighting bunker gear, 20 helmets, and 10 pairs of structural firefighting boots. We have multiple sets of gear, helmets, and boots that are expired or close to expiring.

The Assistance to Firefighters Grant assists with needed resources that equip and train emergency personnel to standards, enhance operational efficiencies, foster interoperability, and support community resilience.

**ALTERNATIVES:** N/A

**FINANCIAL CONSIDERATIONS:** We have received an estimate for the ambulance of \$345,000, as of 1/16/2023. The estimated amount for the fire equipment is \$67,110.00. We are also seeking assistance from a grant writer, who has experience writing AFG and has a high percentage of success obtaining AFG. We plan to incorporate the grant writing fee into the application but are unsure of the total amount. We may not have that available with the 3-week gap between council meetings. We would apply for the amount of the ambulance, the fire gear, and the grant writing fee. We will be requesting 95% of the total cost of the project, the City will be responsible for 5%.

**RECOMMENDATION:** Approve the Fire Department to apply for the Assistance to Firefighters Grant. The grant closes February 10, 2023.

**RESOLUTION NO. 2023-08**

**A RESOLUTION GIVING AUTHORIZATION TO APPLY FOR ASSISTANCE TO  
FIREFIGHTERS GRANT (AFG)**

---

**WHEREAS**, the Polk City Fire Department is desirous to apply for funding from the Assistance to Firefighters Grant (AFG); and

**WHEREAS**, the AFG funding is designed to enhance the health and safety of public and firefighting personnel and to provide support for emergency responders regarding fire, medical, and all hazard events; and

**WHEREAS**, the Polk City Fire Department will need the assistance, endorsement, application, and 5% local match from the City Council of Polk City for said grant; and

**WHEREAS**, the City of Polk City reserves the right to accept or deny a successful AFG grant.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Polk City, Iowa to authorize the signature of either the City Manager or Fire Chief on the Assistance to Firefighters Grant (AFG) application for the Polk City Fire Department, reserving the right to accept or deny said grant.

**PASSED AND APPROVED** the 23 day of January 2023.

---

Steve Karsjen, Mayor

Attest:

---

Jenny Coffin, City Clerk

**RESOLUTION NO. 2023-09**

**A RESOLUTION AUTHORIZING THE CERTIFICATION OF LIENS TO THE POLK COUNTY TREASURER FOR PURPOSES OF ASSESSING DELINQUENT ACCOUNT BALANCES AGAINST PROPERTY**

---

**WHEREAS**, those property owners listed on the attached Exhibit “A” have outstanding balances with the City of Polk City for the cost of nuisance abatement; and

**WHEREAS**, notice has been sent to each property owner requesting payment within 30 days of said notice; and

**WHEREAS**, in the event that a property owner fails to make payment within the required notice period the Iowa law allows for a lien to be placed upon that account holder’s property; and

**WHEREAS**, the City now wishes to authorize assessment of a lien against the property of a delinquent property owner upon the expiration of the 30 day notice period.

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Polk City, Iowa hereby authorizes and directs the assessment of a lien against the property of any property owner listed on Exhibit “A” which charges are to be collected and returned in the same manner as other taxes.

**PASSED AND APPROVED** the 23 day of January 2023.

---

Steve Karsjen, Mayor

ATTEST:

---

Jenny Coffin, City Clerk





## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023  
**To:** Mayor, City Council, and City Manager  
**From:** Karla Hogrefe – Fire Chief  
**Subject:** December 2022 Monthly Report

---

**BACKGROUND:** There were 99 calls for service in the month of December, which was 35 calls up from November. There were three calls that we did not have staffing for. We had paramedic coverage 27 nights out of 31. There was one day shift and one night shift where Chief covered. There were six shifts that our two full-time members picked up for overtime.

Part-time FF/EMT TJ (Tyler) Ahrens, FF/Paramedic Tad Watson, and FF/Paramedic Rob Zahnd were all cleared from orientation and ran as a second on shift. FF/Paramedic Cory Brooks returned from deployment and began working shifts the end of the month, picking up 36 hours around Christmas which helped tremendously!

We received two applications and interviewed two paid on call Polk City residents in December, they will be starting in January.

Part-Time Firefighter/EMT Mark Voyek finished his Firefighter II certification.

**Lieutenant David Llewellyn and his wife gave birth to a baby boy, Ty Llewellyn on December 8.**



**Our Facebook Firefighter Spotlight featured, FF/EMT Tyler Pedersen.**



How long have you been in the Fire/EMS?

Almost 2 months

How long have you been at the Polk City Fire Department?

Almost 2 months

What drew you to the Polk City Fire Department?

Close to home, great community, and wanting to gain experience in Fire/EMS

What drew you to the Fire/EMS?

I wasn't sure that this is what I wanted to do when I first started training at DMACC but quickly realized that putting out fires and EMS is what I wanted to do. I just fell in love with it and look forward to coming to work or going to Paramedic class everyday.

Tell us something about yourself.

My uncle is a hot air balloon pilot and so was my grandfather before him so when it's warm out, my family and I like to go flying. I aspire to become a hot air balloon pilot once I begin working on a department full time.

What is your favorite fire department apparatus?

Gator 468

**The Fire and Police Departments did a joint food/supplies drive for NP Cupboard and made a significant donation on December 23<sup>rd</sup>.**





Members worked for 3 months to update the PCFD Patch, below is a picture of before and after. We also changed our Mission Statement to, “Protect and preserve the life and property of the people we serve.”



Old



New

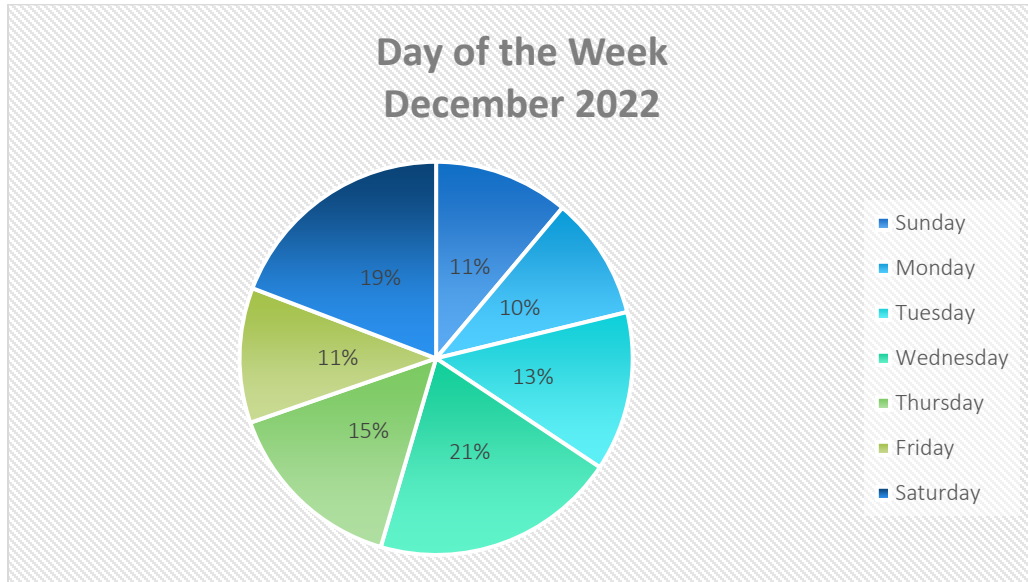
**TRAINING:** We conducted 3 training classes during the month of December. December 6 – EMS Training – Crew Resource Management with two continuing education hours. December 13 – Fire – Rapid Intervention Crew Training. We utilized the acquired house for this training, practicing downed firefighter rescues. December 20 – We combined EMS Training with the Department Meeting – EMS At Risk Populations with two CEUs offered.

**Below are pictures from our RIC Fire Training on December 13.**



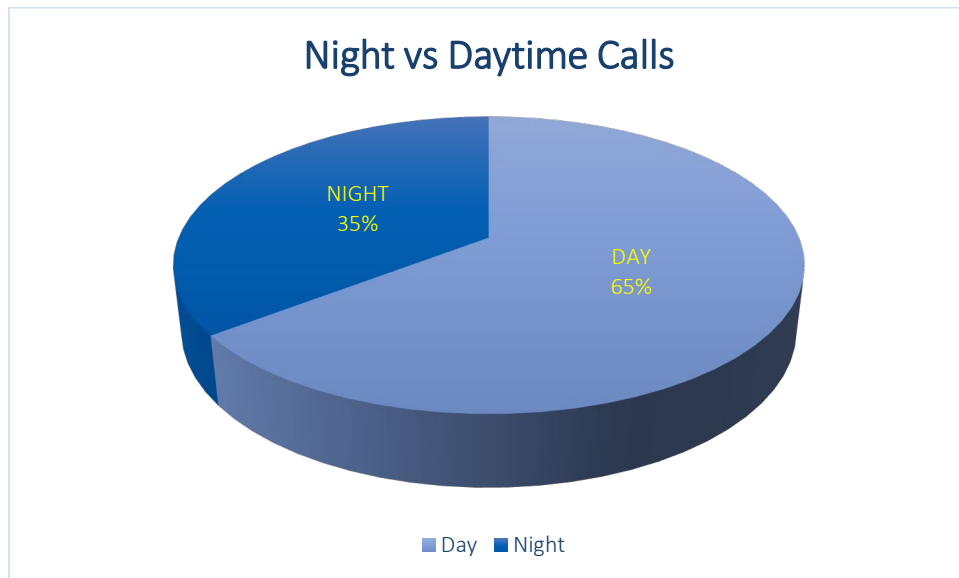


The busiest day of the week was Wednesday at 20 calls for service:



Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday	TOTAL
11	10	13	20	15	11	19	99

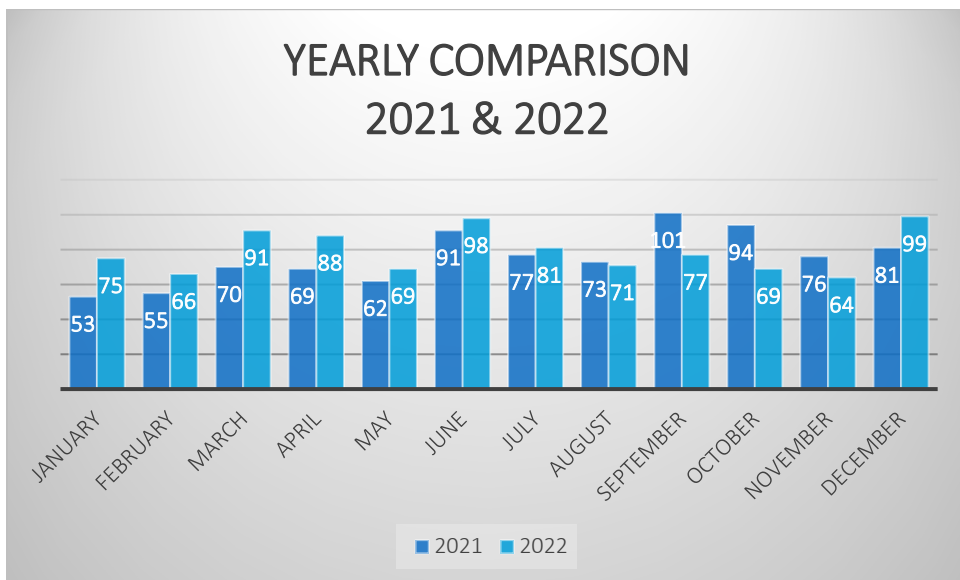
64 calls were during the day shift, between 06:00 hours (6:00 AM) and 18:00 hours (6:00 PM). 35 calls were during the night shift, between 18:00 hours (6:00 PM) and 06:00 hours (6:00 AM):



The “Incident Type” of calls was predominately EMS related and assisting our mutual aid departments.



December 2022 had 18 more calls for service than December 2021.





**ANNUAL REPORT**  
**2022**

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- ❖ 2022 Achievements
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- ❖ Training
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# MISSION STATEMENT

*“Protect and preserve the life and property of the people we serve.”*

## NOTE FROM CHIEF

2022 was a very busy year for the Polk City Fire Department with a big focus of adding more staffing to guarantee rapid response 24/7. Halfway through the year we transitioned Fire Chief's, added a second full-time FF/Paramedic, and added 12 part-time members to our staff in 2022. We responded to 948 calls, which was 46 more calls than 2021. Our focus, as always, is our community and those we serve. We put a lot of time and effort into Public Relations this year and look forward to doing more in 2023.

I am very grateful for the support that the Polk City Fire Department has from the community, City Council, Mayor, City Manager, and Department Heads. It is with great pride to share our achievements and highlights from 2022 with you.

- Chief Karla Hogrefe

# 2022 ACHIEVEMENTS

- Hired second full-time Firefighter/Paramedic in July
- Hired 12 part-time members
- Promoted 6 officers
- Received 2 new Stryker power load cots from Polk City Foundation donation
- Received 23 sets of new bunker gear
- Received 2 new cardiac monitors
- New C450 Tahoe - handed down old C461 to Public Works Department
- Hired a new Medical Director
- Updated Policy & Procedures and SOGs
- Updated medical Protocols
- Added AEMT to scope of practice
- Built and ordered a Pierce Enforcer Top Mount Pumper
- Received \$4500 from DNR Grant for new hoods and structural firefighter gloves
- Updated mission statement and logo
- Hired a Chaplain
- Received \$26,690 from Firehouse Subs Public Safety Foundation Grant for 2 new thermal imaging cameras



# PUBLIC RELATIONS

- Attended DMACC Career Fair in the Spring, gained 2 new hires from attending
- Summer Kick Off on the square
- 4 Seasons Festival Parade
- Creative Cubs Daycare station visit
- Library Summer Reading Program - Firetruck rides for the winners
- DMACC Explore Fire and EMS Day
- North Polk Homecoming Parade
- Storytime with a Firefighter at the Library
- Lakes Early Learning Daycare Visit
- 1<sup>st</sup> Annual Police and Fire Association Golf Outing (over 20 teams participated)
- Pancake drive-thru breakfast (600 meals served)
- Tender Years Daycare visit
- Fire Prevention presentation at North Polk West Elementary
- West Elementary Fling at Big Creek
- Papa's Pizza delivery and smoke detector checks
- Trunk or Treat
- Light Up Polk City delivery of Santa Claus by the fire engine
- North Polk HS Girls' Soccer state escort with the rescue truck
- Iowa Games Triathlon stand-by
- Vacation bible school @ Lakeside Church water spray
- VBS water spray @ Beautiful Savior Church

# PR PHOTOS





NP Soccer on to State!





Summer kick off dunk tank, FF/EMT Joe Culham



We presented Chief Mitchell with an axe plaque for his 4 years of service.







Tender Years Daycare Visit



NP Comet Cupboard Donation

# TRAINING

The training division completed a schedule for the entire year. The department meets every Tuesday night from 1900-2100 hours. We alternated each week with EMS and Fire training. The third Tuesday of the month is reserved for our department meetings. EMTs and Paramedics must recertify every two years and require continuing education hours that you have to apply for. The state of Iowa requires 20 hours for EMTs and 30 hours for Paramedics. If you hold a National certification, EMTs are required 30 hours and Paramedics 40 hours for recertification. Polk City applied for and provided 34 hours of EMS continuing education in 2022. The schedule provided 36 hours of fire training for 2022.



**Water rescue training - June**



**Low angle rescue training at Saylorville**





Acquired structure rescue training - July



Forceable entry training @ DMACC - August





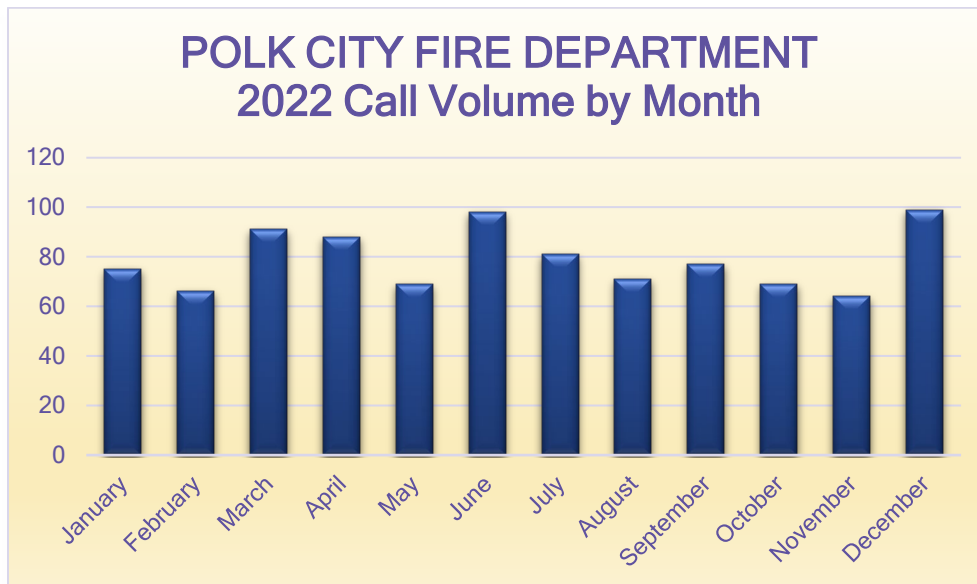
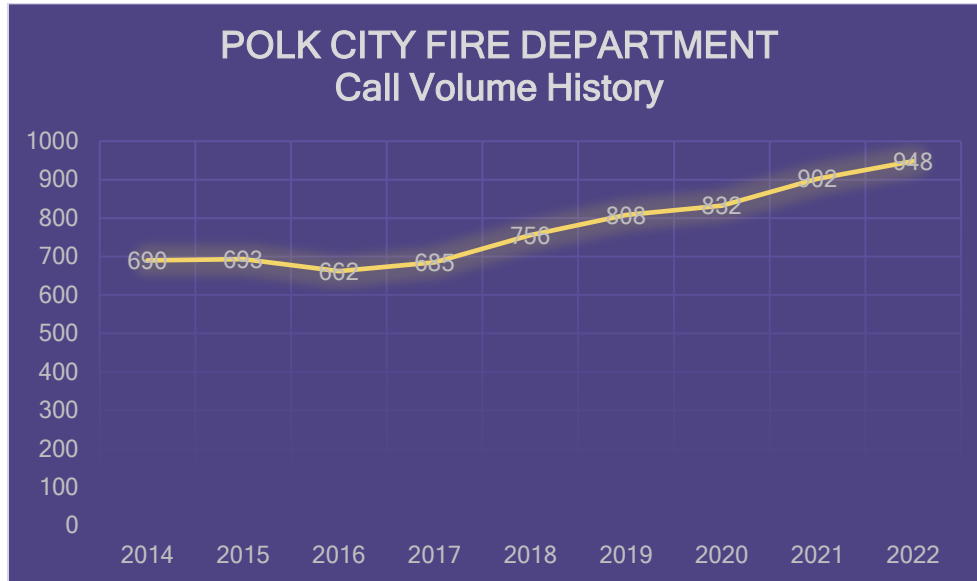
Extrication Training - November

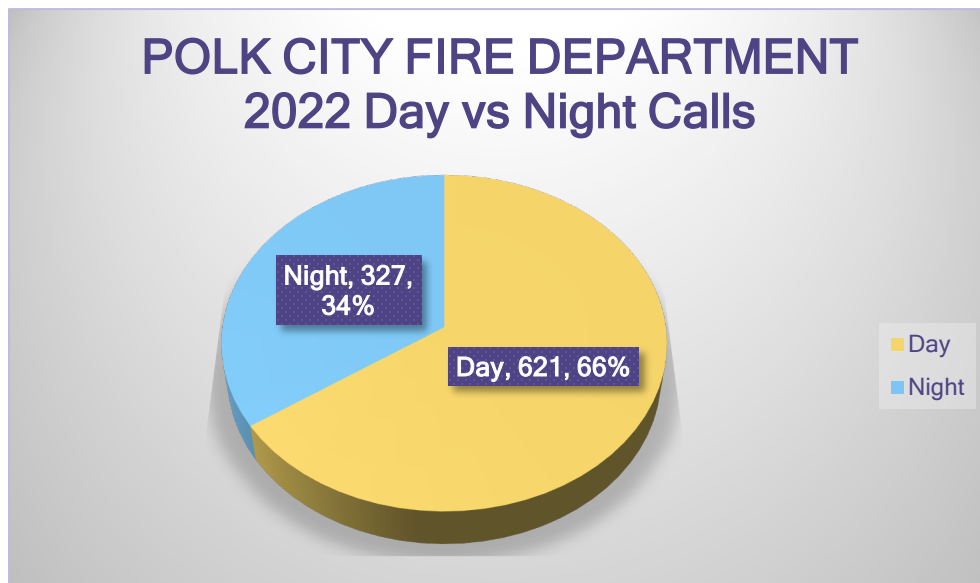
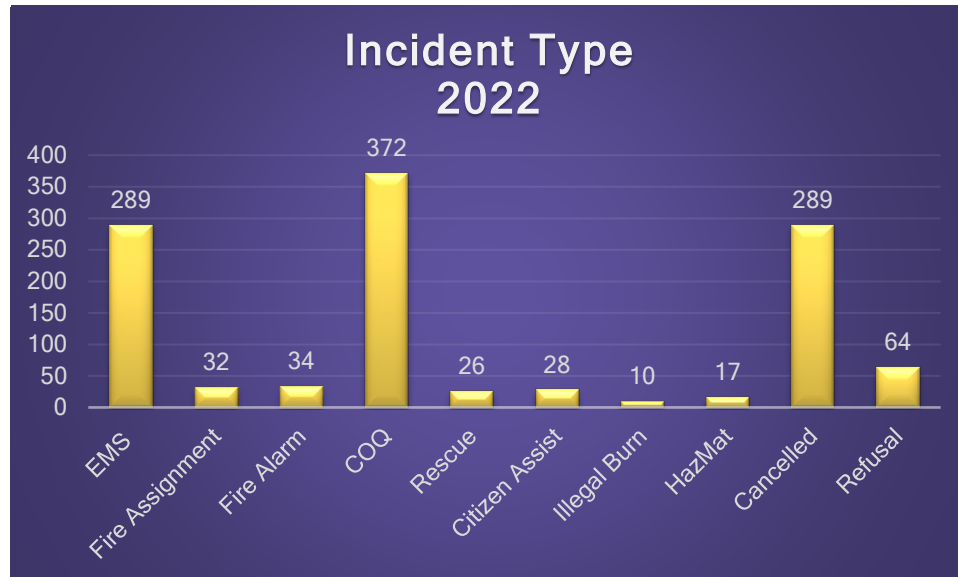


Training in the snow acquired structure - December

# RESPONSE/CALLS

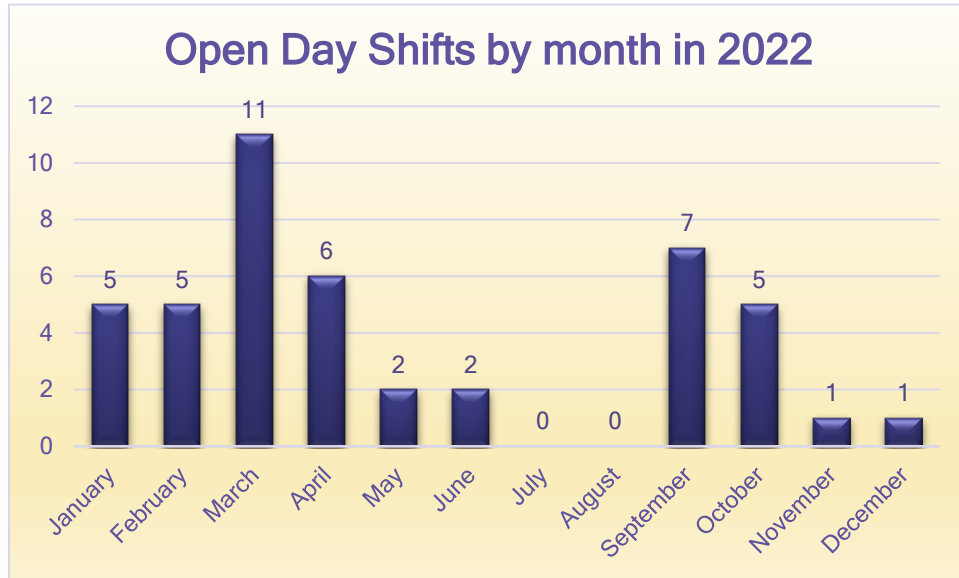
- The Polk City Fire Department responded to 948 calls in 2022, compared to 902 in 2021. 372 of those calls in 2022 were change of quarters to Ankeny's district. As you know, we have gotten out of that agreement, but I am predicting that those turn into EMS calls and transports in 2023.



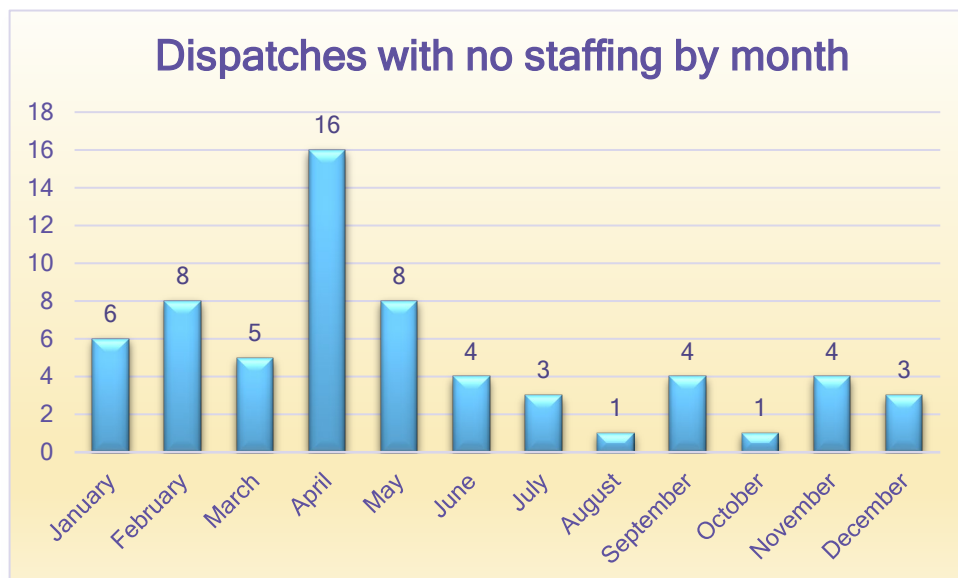


# STAFFING

- Our coverage and staffing has gotten better throughout the year by adding more staff and allowing to staff two people 24 hours a day. It also helped to get our second full-time paramedic.



- Below shows how many calls we got dispatched to that we didn't have staffing. We need two for an ambulance call and three for a fire engine response.





## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023  
**To:** Mayor, City Council, City Manager  
**From:** Karla Hogrefe – Fire Chief  
**Subject:** Wage Decrease & Self-Demotion

---

**BACKGROUND:** Brian Hanson has voluntarily demoted himself from Lieutenant to Firefighter/EMT. Brian is very busy at home and with his other jobs that he does not have the time to commit for officer duties. Brian would like to remain on the department as a Firefighter/EMT and serve as a Duty Officer when needed. See attached letter from Brian Hanson.

**ALTERNATIVES:** N/A

**FINANCIAL CONSIDERATIONS:** The following is the adjustment in hourly pay according to the pay scale approved by Council for the 2022-2023 fiscal year:

Brian Hanson, Lieutenant rate of \$18.50 to Firefighter/EMT rate of \$17.50.

**RECOMMENDATION:** Approve pay rate adjustment.

**From:** [Brian Hanson](#)  
**To:** [Karla Hogrefe](#)  
**Subject:** Voluntary demotion  
**Date:** Saturday, January 14, 2023 7:35:23 AM

---

Chief Hogrefe,

Please accept this email as my voluntary demotion from Lieutenant to Firefighter. I don't have the time needed to effectively be an officer for the Polk City Fire Department. I would like to remain as an active member with the department moving forward. The department has seen a great amount of positive improvement since you have taken over as Chief, and I would like to continue to be a contributor to the growth.

Respectfully,  
Brian Hanson

Sent from my iPhone



## City of Polk City, Iowa City Council Agenda Communication

**Date:** January 23, 2023  
**To:** Mayor, City Council, and City Manager  
**From:** Karla Hogrefe – Fire Chief  
**Subject:** New PT Hire Pay Rate Approval

---

**BACKGROUND:** We have the opportunity to hire a part-time Paramedic, Alyssa Wallace. Alyssa is currently serving as a medic in the Army and has her Paramedic Certification. She is interested in getting into the fire service and is looking forward to getting her firefighter certifications. We will be putting on a firefighter 1 course starting in February for two other members who need their certification. We will require that Alyssa gets her firefighter certification within 6 months of the class starting.

**ALTERNATIVES:** None

**FINANCIAL CONSIDERATIONS:** The only impact this will have is wages during orientation. Once a new employee is oriented, they will only work available shifts.

**RECOMMENDATION:** To hire Alyssa Wallace as a Paramedic with the listed stipulation(s) and request approval of the pay rate:

Alyssa Wallace, part-time Paramedic position at a rate of \$19.00 per hour. Once certified as a firefighter, pay would go to \$22.00 per hour.





## City of Polk City, Iowa City Council Agenda Communication

**Date:** January 23, 2023  
**To:** Mayor, City Council, & City Manager  
**From:** Karla Hogrefe – Fire Chief  
**Subject:** Prairie Meadows Community Betterment Grant

---

**BACKGROUND:** The Fire Department would like to apply for the Prairie Meadows Community Betterment Grant for new extrication tools. The community betterment grant funds small-to-medium sized projects with grants ranging from \$100 to \$99,999. Our current extrication equipment is roughly twenty years old. Through the years extrication equipment has come up with more reliable tools and have made battery-operated tools. Our current tools require to be hooked by hoses and a generator which restricts the distance for where we can go with our tools. We believe it is time to replace these tools and we would like to do so by applying for this grant. The total for the tools that we will be applying for is, \$31,860.00

**ALTERNATIVES:** Budget and purchase on our own.

**FINANCIAL CONSIDERATIONS:** This is not a match grant, so no financial considerations.

**RECOMMENDATION:** Approve the Fire Department to apply for the Prairie Meadows Community Betterment Grant for new extrication tools. The grant closes February 24, 2023.

**RESOLUTION NO. 2023-10**

**A RESOLUTION GIVING AUTHORIZATION TO APPLY FOR THE  
PRAIRIE MEADOWS COMMUNITY BETTERMENT GRANT**

---

**WHEREAS**, the City of Polk City has identified a need for replacing the extrication tools in the amount of \$31,860; and

**WHEREAS**, the City of Polk City is desirous to apply for funding from the Prairie Meadows Community Betterment Grant in the amount of \$31,860.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Polk City, Iowa to authorize application to the Prairie Meadows Community Betterment Grant for the proposed purchase of extrication tools in the amount of \$31,860.

**PASSED AND APPROVED** the 23<sup>rd</sup> day of January 2023.

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Steve Karsjen, Mayor

Attest:

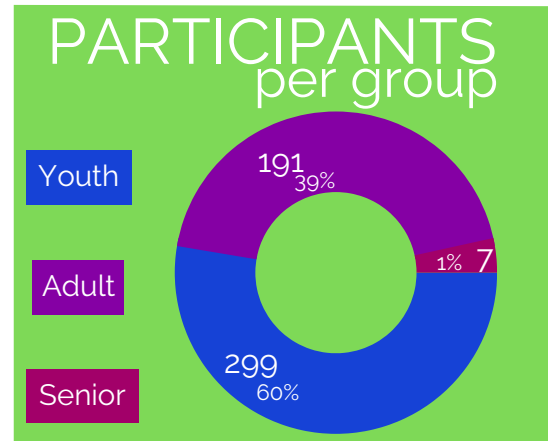
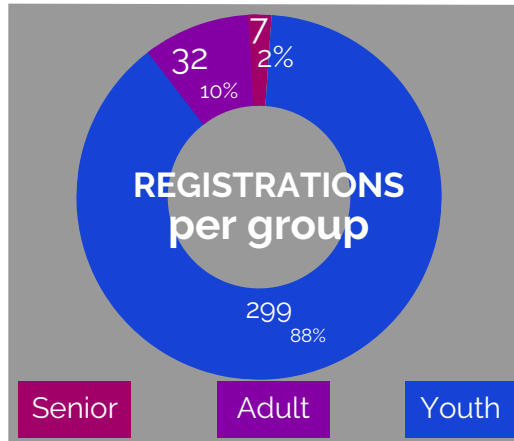
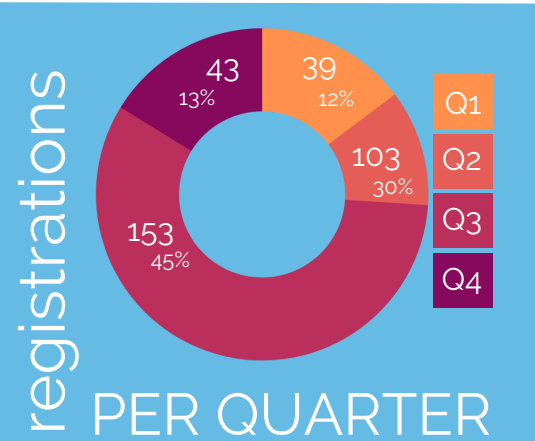
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Jenny Coffin, City Clerk

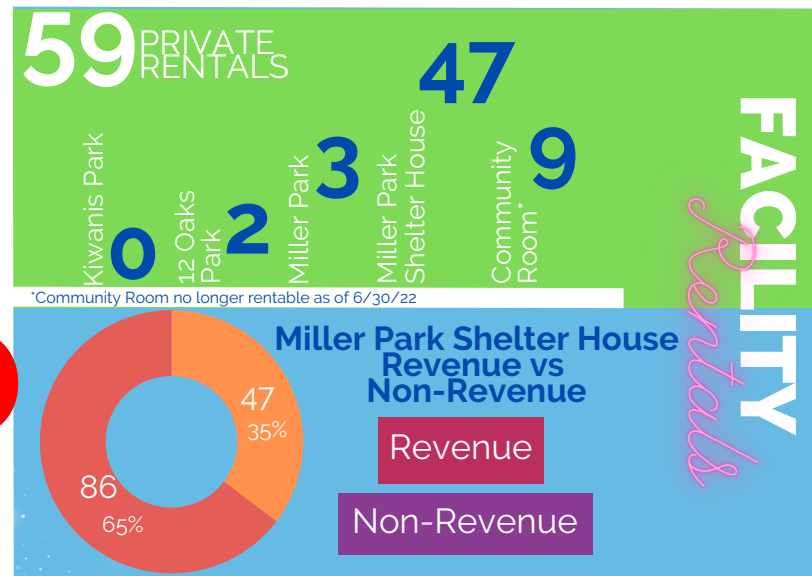
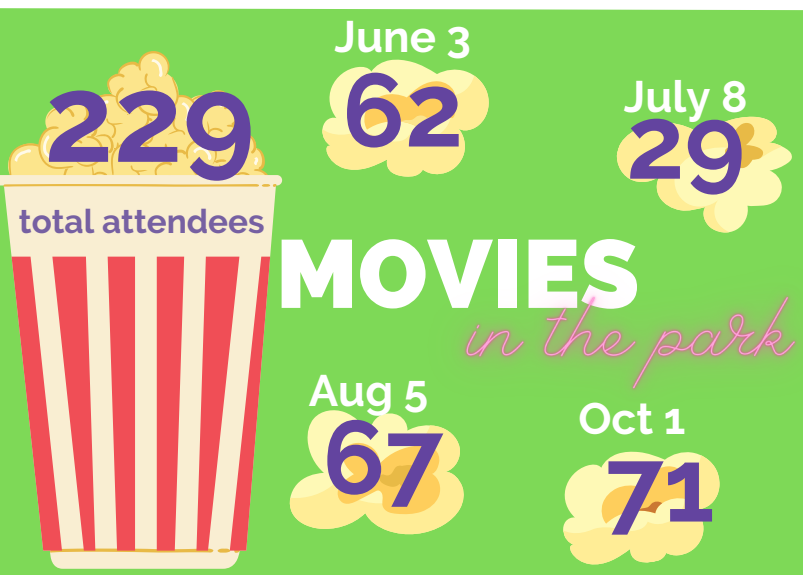
**497** total program participants

**PROGRAM** *participants*

**47%** ↑ from 2021



# 2022 POLK CITY PARKS & RECREATION





## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager

**Subject:** Polk County Community Development Grant application

---

**BACKGROUND:** The Polk County Supervisors annually accept grant applications for a number of projects throughout Polk County. We would like to apply to the Community Development grant fund for the City Hall/Community Center Project. The application is due January 31, 2023. Polk County will award up to \$100,000 for a Community Center project. We will submit an application request for \$100,000.

**ALTERNATIVES:** Do not approve the resolution

**FINANCIAL CONSIDERATIONS:** The financial considerations for this project are \$100,000 in potential revenue. The considerations for applying and receiving this grant, would be less money we would have to borrow for.

**RECOMMENDATION:** It is my recommendation that the Council approve the resolution to apply for the Community Development Grant application.

**RESOLUTION NO. 2023-11**

**A RESOLUTION GIVING AUTHORIZATION TO APPLY FOR POLK COUNTY  
COMMUNITY DEVELOPMENT GRANT**

---

**WHEREAS**, the City of Polk City is desirous to apply for funding from the Polk County Community Development Grant for the City Hall/Community Center Project; and

**WHEREAS**, Polk City will submit an application for the maximum amount of \$100,000 for a Community Center Project.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Polk City, Iowa to authorize application for the Polk County Community Development Grant for the City Hall/Community Center Project.

**PASSED AND APPROVED** the 23 day of January 2023.

---

Steve Karsjen, Mayor

Attest:

---

Jenny Coffin, City Clerk



## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager

**Subject:** Prairie Meadows Legacy grant application

---

**BACKGROUND:** Prairie Meadows annually accepts grant applications for a number of projects that benefit their giving territory. The Fire Department is planning to submit an application for the Community Betterment grant, where the maximum request is \$99,999 and can include equipment. We would also like to apply for the Prairie Meadows Legacy grant, which is due February 24, 2023. Prairie Meadows Legacy grant provides financial resources for large-scale, signature projects in central Iowa. This grant is very specific to enhancing resources in the community. The program provides resources in the range of \$100,000-\$1 million.

The program requires that 50% of the project budget be secured, and allows entities to request a total of 25% of the project budget. We would like to apply for \$250,000 for our trail project to connect Polk City to the High Trestle Trail. Again, I am working with Snyder & Associates to update the cost estimate for the trail connection from the Polk City square to city limits, however, our estimate today which includes the Northside Drive intersection realignment is estimated at roughly \$2.3 million. Prairie Meadows will not fund street projects, and I am estimating the trail connection cost at \$1 million.

**ALTERNATIVES:** Do not approve the resolution

**FINANCIAL CONSIDERATIONS:** The financial considerations for this project are \$250,000 in potential revenue. The considerations for applying and receiving this grant, would be less money we would have to borrow for.

**RECOMMENDATION:** It is my recommendation that the Council approve the resolution to apply for the Prairie Meadows Legacy Grant.

**RESOLUTION NO. 2023-12**

**A RESOLUTION GIVING AUTHORIZATION TO APPLY FOR PRAIRIE MEADOWS  
LEGACY GRANT**

---

**WHEREAS**, the City of Polk City is desirous to apply for funding from the Prairie Meadows Legacy Grant; and

**WHEREAS**, this funding is intended for large-scale, signature projects in Central Iowa and allows entities to request a total of 25% of the project budget; and

**WHEREAS**, the City of Polk City will submit an application request for \$250,000 for our High Trestle Trail Connection Project.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Polk City, Iowa to authorize application to the Prairie Meadows Legacy.

**PASSED AND APPROVED** the 23 day of January 2023.

---

Steve Karsjen, Mayor

Attest:

---

Jenny Coffin, City Clerk



## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager  
**Subject:** Wellmark Large Grant application

---

**BACKGROUND:** The Wellmark Foundation has a large grant application due February 15<sup>th</sup> for wellness programs and amenities. The maximum request accepted for this program is \$100,000, and requires a match of 1:1, with 50% of the match being cash. We would like to apply for \$100,000 for our trail project to connect Polk City to the High Trestle Trail. I am working with Snyder & Associates to update the cost estimate for the trail connection from the Polk City square to city limits, however, our estimate today which includes the Northside Drive intersection realignment is estimated at roughly \$2.3 million.

The City has recently applied to the Wellmark Small grant program, and was awarded \$25,000 for Lost Lakes playground equipment.

**ALTERNATIVES:** Do not approve the resolution

**FINANCIAL CONSIDERATIONS:** The financial considerations for this project are \$100,000 in potential revenue. The considerations for applying and receiving this grant, would be less money we would have to borrow for.

**RECOMMENDATION:** It is my recommendation that the Council approve the resolution to apply for the Wellmark large grant program.



**RESOLUTION NO. 2022-13**

**A RESOLUTION GIVING AUTHORIZATION TO APPLY FOR THE  
WELLMARK LARGE MATCH GRANT**

---

**WHEREAS**, the City of Polk City is desirous to apply for funding from the Wellmark Foundation Large Match grant; and

**WHEREAS**, this program grant is intended for wellness programs and amenities and requires a commitment of a financial contribution of a local match of 50% towards the implementation of the proposed project; and

**WHEREAS**, the City of Polk City would like to apply for \$100,000 for our High Trestle Trail Connection Project.

**NOW, THEREFORE BE IT RESOLVED**, by the City Council of the City of Polk City, Iowa to authorize application to the Wellmark Large Match Grant for the proposed High Trestle Trail Connection Project.

**PASSED AND APPROVED** the 23 day of January 2023.

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Steve Karsjen, Mayor

Attest:

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Jenny Coffin, City Clerk



## City of Polk City, Iowa

### City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager  
**Subject:** RFP for Audit Services

---

**BACKGROUND:** On Monday, I am asking the Council to approve sending out a request for proposal (RFP) for audit services. We are required by state law to complete an annual examination. In previous years, an annual examination has cost approximately \$12,000-\$13,500. We sent out a 3-year request for proposals in early 2020, and that contract expired with fiscal year ending June 30, 2022. We have been very happy with the firm we have used for auditing our previous 3 years, however, we will try to get multiple proposals.

The RFP outlines a 3-year contract, with options for a 4<sup>th</sup> and 5<sup>th</sup> year. I would like to evaluate after years 1-3, and make a recommendation to the City Council if we would opt into years 4 and 5, or if we would put out another RFP.

**ALTERNATIVES:** Do not approve the RFP

**FINANCIAL CONSIDERATIONS:** There are no financial considerations to send out an RFP, but there is the possibility of a cost savings by bidding out services.

**RECOMMENDATION:** It is my recommendation that the Council approve the RFP for auditing services. Bids will be reviewed at the March 13, 2023 City Council meeting.



# Request for Audit services for The City of Polk City

PO Box 426  
Polk City, Iowa 50226

PH: 515-984-6233  
FX: 515-984-6177

The City of Polk City, Iowa is seeking competitive proposals for the public improvement hereafter described. Contractors qualified to perform the work are invited to submit competitive proposals, pursuant to the requirements of Section 26.14 of the Iowa Code.

## **1. Description of the Public Improvement Work to be performed Pursuant to This Solicitation.**

The City of Polk City is requesting proposals for audit services relating to the audit for the fiscal years ending June 30, 2023, June 30, 2024, and June 30, 2025. After the 3-year period, the City will consider extending the contract agreement for the fiscal years ending June 30, 2026, and June 30, 2027. Attached is information relating to minimum specifications of services, data, to be included in the proposal, evaluation criteria, and selected information relating to the City of Polk City. The City's audited financial statements can be obtained for your information.

### **Specific Requirements:**

The Audits should be in accordance with the following:

1. U.S. generally accepted auditing standards
2. The standards for financial audits contained in Government Auditing Standards issued by the Comptroller General of the United States
3. The Single Audit Act Amendments of 1996 and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

The audit reports should conform to the following:

1. Reporting formats specified by the Auditor of State's office
2. AICPA Audit guidelines
3. Governmental Accounting Standards Board reporting requirements
4. The requirements of the Single Audit Act Amendments of 1996 and OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations

The Audit reports should contain the following information:

1. Table of contents
2. Listing of City Officials
3. Independent Auditor's report
4. Management's Discussion and analysis
5. Basic Financial Statements:
  - a. Government Wide-Statement of activities and net assets-cash basis
  - b. Governmental Fund-Statement of cash receipts, disbursements and changes in cash balances



# Request for Audit services for The City of Polk City

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- c. Proprietary Fund-Statement of cash receipts, disbursements and changes in cash balances
- d. Fiduciary Fund-Statement of changes in fiduciary assets and liability-Agency fund
- e. Notes to financial statements
6. Supplementary Information
  - a. Budgetary Comparison schedule of receipts, disbursements and changes in balances-budget and actual (cash basis)-All Governmental Funds and Proprietary Funds
  - b. Notes to required supplementary information-Budget reporting
7. Other Supplementary information:
  - a. Schedule of cash receipts, disbursements and changes in cash balances-Non-major Governmental Funds
  - b. Schedule of Indebtedness
  - c. Bond and Note maturities
  - d. Schedule of receipts by source and disbursements by Function-all Governmental Funds
8. Independent Auditor's Report on Internal Control over financial reporting and on compliance and other matters based on an Audit of Financial Statements performed in accordance with Government Auditing Standards
9. Schedule of findings

Five (5) bound copies, of the reports, are required to be typed and reproduced by the firm accepting the contract in a quantity sufficient to meet the needs of the City. An electronic version of the report should also be provided. The audit report should also include a letter, which includes recommendations affecting the financial statements, internal control, accounting systems, and compliance issues.

Three (3) bound copies of the reports, including the management letter, a detailed per diem audit bill, and a copy of the news release shall be provided to the Auditor of State upon release of the reports to the City.

The City of Polk City may request a representative of the firm to appear at a City Council meeting to present the annual audit report.

The City of Polk City will provide sufficient staff and resources while on-site. Information requested ahead of arrival is highly recommended.

The City of Polk City reserves the right to reject any and all proposals received.



# Request for Audit services for The City of Polk City

PO Box 426  
Polk City, Iowa 50226

PH: 515-984-6233  
FX: 515-984-6177

## Data to be included in proposal:

In order to simplify the review process and to obtain the maximum degree of comparability, it is requested that the proposals include the following items and be organized in a manner specified below.

### 1. Letter of transmittal:

A letter of transmittal briefly outlining the proposer's understanding of the work and general information regarding the firm and individuals to be involved is permitted, if it is limited to not more than two pages. If a transmittal letter is presented, it should clearly set forth the local address of the office to be performing the work, the telephone number, and the name and title of the contact person.

### 2. Table of contents:

Include a table of contents, which identifies the material by section, page number, and a reference to the following information to be contained in the proposal. If a transmittal letter is not submitted, please include on the table of contents the local address of the office to be performing the work, the telephone number, and the name of the contact person.

### 3. Profile of firm proposing:

- a. State whether the firm is a local, national, or international firm and brief description of the size of the firm.
- b. State whether the firm is in compliance with the registration requirements to engage in the practice of public accounting within Iowa.
- c. State whether the firm is independent of the entity to be audited in accordance with government Auditing Standards.
- d. Describe the local office from which the work is to be performed.
  - i. Location of the office
  - ii. Current size of office
  - iii. The size of professional staff by level, such as partner, manager and supervisor, senior, and other professional staff.
  - iv. Number of CPA's in the office.
  - v. Submit any other information required to describe the office, which will be performing the work.

### 4. Qualifications:

- a. Describe the recent local office auditing experience in similar types of audits to which the proposal relates. If appropriate, include regional experience in auditing similar types of entities.



# Request for Audit services for The City of Polk City

PO Box 426  
Polk City, Iowa 50226

PH: 515-984-6233  
FX: 515-984-6177

- b. Include resumes of all key professional members who will be assigned to the audit. Resumes should be included for all members of the audit team from the audit partner through at least the on-site in-charge accountant. The resumes should include:
  - i. The amount of experience the individual has had in the auditing profession
  - ii. A summary of similar audits on which the individual has worked.
  - iii. A summary of the continuing professional education the individual has had that relates directly to governmental accounting and auditing during the past two years.
  - iv. A statement as to whether the individual is independent, as defined by Government Auditing Standards.
- c. Describe the firm's policy on notification of changes in key personnel anticipated to be assigned to the audit.
- d. Describe a listing of, or the number of, professionals in the office who are experienced in governmental auditing.
- e. Describe the availability of individuals within the firm, who are primarily involved in governmental auditing and reporting, with which the audit team may consult.
- f. Briefly describe the firm's system of quality control to ensure that the audit is adequately performed.

## 5. **Scope of Service and Proposed Project Schedule:**

- a. Briefly describe your understanding of the scope of services to be provided.
- b. Indicate a proposed time schedule for completing the work, assuming the contract will be issued on the date given in this request, and for each year thereafter.
- c. This proposal should include the approximate dates you would perform fieldwork for year 1, and estimates for year 2, year 3, year 4, and year 5.
- d. Report preparation and the delivery date of the final report should be submitted by the end of those respective years.

## 6. **Fees and Compensation:**

- a. Estimated total hours
- b. Estimated out-of-pocket expenses
- c. Hourly rate by staff classifications
- d. All-inclusive maximum fee and out-of-pocket expenses, which will not be exceeded
- e. Frequency and timing of your billing process

## 2. **Site Visit or request for additional information.**

Interested firms are further advised that a site visit or phone call may be arranged by contacting Jenny Coffin at City Hall at 515-984-6233, or by emailing [jcoffin@polkcityia.gov](mailto:jcoffin@polkcityia.gov). If additional information is needed, please contact Jenny.



# Request for Audit services for The City of Polk City

PO Box 426  
Polk City, Iowa 50226

PH: 515-984-6233  
FX: 515-984-6177

### 3. Time, Place and Manner for Filing Competitive Proposals.

- a. Competitive sealed proposals for the work described above shall be filed in the office of the City Clerk, 112 3<sup>rd</sup> Street, Polk City, Iowa 50226 **on or before 1:00 p.m. on Wednesday, March 8, 2023.** Those submitting sealed proposals should indicate on the outside of the envelope in the lower left-hand corner that it is a sealed proposal for Audit services and the name of the firm submitting the proposal. Proposals must be dated and signed by an authorized official to bind the firm submitting a proposal. The City staff will review and recommend approval at the City Council meeting on Monday, March 13, 2023 at 6:00 PM at City Hall.
- b. Competitive proposals (2 copies) shall be filed with the City Clerk by –
  - i. placing them in the United States Mail, appropriately stamped and addressed to the City Clerk's office at:  
City of Polk City  
PO Box 426  
Polk City, Iowa 50226
  - ii. filing them in person / in hand at the office of the City Clerk at:  
112 3<sup>rd</sup> Street  
Polk City, IA 50226
  - iii. e-mailing them as an e-mail attachment, addressed to the City Clerk's e-mail address, [jcoffin@polkcityia.gov](mailto:jcoffin@polkcityia.gov)
- c. If a competitive proposal is delivered by U.S. Mail or by in-hand delivery, it shall be placed in a sealed envelope addressed to the City Clerk at the address stated above. Competitive proposals received after the time stated above will not be considered and the quoting contractor will be so notified.

### 4. All information must be included with proposal as outlined in this RFP.

**All information must be included on time, otherwise the bid will be rejected by the City.** Competitive proposals which are filed in any other form shall be determined to be non-responsive and shall be rejected by the City.

The fees quoted in a proposal and included in the contract must be the maximum paid in total, unless both parties complete an amendment to the agreement. The agreement will be for a three (3) year period, with an option to extend for Year 4 and Year 5.



# Request for Audit services for The City of Polk City

PO Box 426  
Polk City, Iowa 50226

PH: 515-984-6233  
FX: 515-984-6177

## 5. Evaluation of Competitive Proposals.

The proposal will be evaluated by the City of Polk City based upon the following criteria. Therefore, it is important that your proposal be responsive to the data requested.

- a. Qualifications
  - i. Organizational Structure and size of firm
  - ii. Organizational structure and size of the office performing the audit
  - iii. Recent experience in similar type of audits
  - iv. Qualifications of the audit team and number of individuals experience in governmental auditing
  - v. Individuals with whom the audit team may consult
  - vi. Understanding of work and timetable to complete the audit

- b. Cost

Overall cost, including out-of-pocket expenses for the performance of the audit.



\_\_\_\_\_ introduced the following resolution entitled  
**“RESOLUTION ADOPTING PLANS, SPECIFICATIONS, FORM OF CONTRACT AND  
OPINION OF PROBABLE CONSTRUCTION COST”** and moved that the same be adopted.  
\_\_\_\_\_ seconded the motion to adopt. The roll was called, and the vote was:

AYES: \_\_\_\_\_

NAYES: \_\_\_\_\_

Whereupon, the Mayor declared the following Resolution duly adopted:

**RESOLUTION NO. 2023-14**

**RESOLUTION ADOPTING PLANS, SPECIFICATIONS, FORM OF  
CONTRACT AND OPINION OF PROBABLE CONSTRUCTION COST.**

**WHEREAS** on the 14 day of December 2022, plans, specifications, form of contract and opinion of probable cost were filed with the Clerk for the construction of certain public improvements described in general as the Fire Station Remodel Project; and

**WHEREAS**, notice of hearing on plans, specifications, form of contract and estimate of cost for said public improvements was published as required by law:

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF POLK CITY, IOWA:**

Section 1. That the said plans, specifications, form of contract and opinion of probable cost are hereby approved as the plans, specifications, form of contract and estimate of cost for said public improvements, as described in the preamble of this Resolution.

**PASSED AND APPROVED** this 23 day of January 2023.

\_\_\_\_\_  
Steve Karsjen, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Coffin, City Clerk

\_\_\_\_\_ introduced the following resolution entitled “**RESOLUTION MAKING AWARD OF CONSTRUCTION CONTRACT**” and moved that the same be adopted. \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYES: \_\_\_\_\_

Whereupon, the Mayor declared the following Resolution duly adopted:

**RESOLUTION NO. 2023-15**

**RESOLUTION MAKING AWARD OF CONSTRUCTION CONTRACT.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, IOWA:**

Section 1. That the following bid for the construction of certain public improvements described in general as the Fire Station Remodel Project, described in the plans and specifications heretofore adopted by this Council on January 23, 2023, be and are hereby accepted, the same being the lowest responsible bid received for said work, as follows:

Contractor: GTG Construction LLC

Amount of bid: \$1,105,000 base bid  
\$66,000 alternate #1  
\$1,171,000 = Total

Portion of project: All Construction Work

Section 2. That the Mayor and Clerk are hereby directed to execute contract with the contractor for the construction of said public improvements, said contract not to be binding on the City until approved by this Council.

**PASSED AND APPROVED** this 23 day of January 2023.

\_\_\_\_\_  
Steve Karsjen, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Coffin, City Clerk

\_\_\_\_\_ introduced the following resolution entitled “**RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BOND**” and moved that the same be adopted. \_\_\_\_\_ seconded the motion to adopt. The roll was called and the vote was:

AYES: \_\_\_\_\_

\_\_\_\_\_

NAYES: \_\_\_\_\_

\_\_\_\_\_

Whereupon, the Mayor declared the following Resolution duly adopted:

**RESOLUTION NO. 2023-16**

**RESOLUTION APPROVING CONSTRUCTION CONTRACT AND BOND.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF POLK CITY, IOWA:**

Section 1. That the following bid for the construction of certain public improvements described in general as the Fire Station Remodel Project, described in the plans and specifications heretofore adopted by this Council on January 23, 2023, by Resolution 2023-14, be and are hereby accepted, the same being the lowest responsible, responsive bid received for said work, as follows:

- Contractor: GTG Companies
- Date of contract: January 23, 2023
- Amount of contract: \$1,105,000 base bid  
\$66,000 alternate #1  
\$1,171,000 = Total
- Bond surety: Old Republic Surety Company
- Date of bond: January 23, 2023
- Portion of project: All construction Work

**PASSED AND APPROVED** this 23 day of January 2023.

\_\_\_\_\_  
Steve Karsjen, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Coffin, City Clerk

**AIA A312 Performance Bond**

*Bond #7446669*

**CONTRACTOR:**

*(Name, legal status and address)*

**GTG Construction LLC**  
an Iowa Limited Liability Company  
6505 Merle Hay Rd  
Johnston IA 50131

**SURETY:**

*(Name, legal status and principal place of business)*

**Old Republic Surety Company**  
a WI Corporation  
445 S Moorland Rd Ste 200  
Brookfield WI 53005

**OWNER:**

*(Name, legal status and address)*

**City of Polk City IA**  
112 N 3rd St  
Polk City IA 50226

**CONSTRUCTION CONTRACT**

Date: 1/23/2023

Amount: \$1,171,000.00

Description: **Polk City Fire Department Renovation**  
*(Name and location)*

**BOND**

Date: 1/19/2023

*(Not earlier than Construction Contract Date)*

Amount: **\$1,171,000.00**

Modifications to this Bond:       None       See Section 16

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*  
**GTG Construction LLC**

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*  
**Old Republic Surety Company**

Signature: \_\_\_\_\_

Name Jessica L Reynolds  
and Title: Owner

*(Any additional signatures appear on the last page of this Performance Bond.)*

Signature: \_\_\_\_\_

Name Kara O Skinner  
and Title: Attorney-in-Fact



This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.  
Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.  
This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

*(FOR INFORMATION ONLY— Name, address and telephone)*

**AGENT or BROKER:**

Integrity Surety LLC  
17544 Midvale Ave N #300  
Seattle WA 98133  
206-546-1397 jen@integritysurety.com

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*



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§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and



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- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

Company:

*(Corporate Seal)*

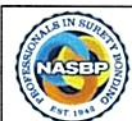
**SURETY**

Company:

*(Corporate Seal)*

Signature: \_\_\_\_\_ N/A \_\_\_\_\_  
Name and Title:

Signature: \_\_\_\_\_ N/A \_\_\_\_\_  
Name and Title:



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**AIA A312 Payment Bond**

Bond #7446669

**CONTRACTOR:**

*(Name, legal status and address)*

**GTG Construction LLC**  
An Iowa Limited Liability Company  
6505 Merle Hay Rd  
Johnston IA 50131

**SURETY:**

*(Name, legal status and principal place of business)*

**Old Republic Surety Company**  
a WI Corporation  
445 S Moorland Rd Ste 200  
Brookfield WI 53005

**OWNER:**

*(Name, legal status and address)*

**City of Polk City IA**  
112 N 3rd St  
Polk City IA 50226

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.  
Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.  
This document combines two separate bonds, a Performance Bond and a Payment Bond, into one form. This is not a single combined Performance and Payment Bond.

**CONSTRUCTION CONTRACT**

Date: 1/23/2023

Amount: \$1,171,000.00

Description: Polk City Fire Department Renovation  
*(Name and location)*

**BOND**

Date: 1/19/2023

*(Not earlier than Construction Contract Date)*

Amount: \$1,171,000.00

Modifications to this Bond:       None       See Section 18

**CONTRACTOR AS PRINCIPAL**

Company: \_\_\_\_\_ *(Corporate Seal)*  
**GTG Construction LLC**

Signature: \_\_\_\_\_  
Name                    Jessica L Reynolds  
and Title:                    Owner  
*(Any additional signatures appear on the last page of this Payment Bond.)*

**SURETY**

Company: \_\_\_\_\_ *(Corporate Seal)*  
**Old Republic Surety Company**

Signature: \_\_\_\_\_  
Name                    Kara O Skinner  
and Title: Attorney-in-Fact



*(FOR INFORMATION ONLY — Name, address and telephone)*

**AGENT or BROKER:**

Integrity Surety LLC  
17544 Midvale Ave N #300  
Seattle WA 98133  
206-546-1397    jen@integritysurety.com

**OWNER'S REPRESENTATIVE:**

*(Architect, Engineer or other party:)*



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§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5. 1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this Bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any Claimant under this Bond, and



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shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

#### § 16 Definitions

§ 16.1 **Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 **Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of this Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 16.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 17 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.



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§ 18 Modifications to this bond are as follows:

*(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)*

**CONTRACTOR AS PRINCIPAL**

**SURETY**

Company: \_\_\_\_\_  
*(Corporate Seal)*

Company: \_\_\_\_\_  
*(Corporate Seal)*

Signature: \_\_\_\_\_ N/A  
Name and Title:  
Address:

Signature: \_\_\_\_\_ N/A  
Name and Title:  
Address:



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POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That OLD REPUBLIC SURETY COMPANY, a Wisconsin stock insurance corporation, does make, constitute and appoint:

Kara O. Skinner, Cameron L. Huntsucker of Seattle, WA

its true and lawful Attorney(s)-in-Fact, with full power and authority for and on behalf of the company as surety, to execute and deliver and affix the seal of the company thereto (if a seal is required), bonds, undertakings, recognizances or other written obligations in the nature thereof, (other than bail bonds, bank depository bonds, mortgage deficiency bonds, mortgage guaranty bonds, guarantees of installment paper and note guaranty bonds, self-insurance workers compensation bonds guaranteeing payment of benefits, or black lung bonds), as follows:

ALL WRITTEN INSTRUMENTS

and to bind OLD REPUBLIC SURETY COMPANY thereby, and all of the acts of said Attorneys-in-Fact, pursuant to these presents, are ratified and confirmed. This appointment is made under and by authority of the board of directors at a special meeting held on February 18, 1982.

This Power of Attorney is signed and sealed by facsimile under and by the authority of the following resolutions adopted by the board of directors of the OLD REPUBLIC SURETY COMPANY on February 18, 1982.

RESOLVED that, the president, any vice-president or assistant vice president, in conjunction with the secretary or any assistant secretary, may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the company to execute and deliver and affix the seal of the company to bonds, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any Power of Attorney previously granted to such person.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company

- (i) when signed by the president, any vice president or assistant vice president, and attested and sealed (if a seal be required) by any secretary or assistant secretary; or
(ii) when signed by the president, any vice president or assistant vice president, secretary or assistant secretary, and countersigned and sealed (if a seal be required) by a duly authorized attorney-in-fact or agent; or
(iii) when duly executed and sealed (if a seal be required) by one or more attorneys-in-fact or agents pursuant to and within the limits of the authority evidenced by the Power of Attorney issued by the company to such person or persons.

RESOLVED FURTHER that the signature of any authorized officer and the seal of the company may be affixed by facsimile to any Power of Attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the company; and such signature and seal when so used shall have the same force and effect as though manually affixed.

IN WITNESS WHEREOF, OLD REPUBLIC SURETY COMPANY has caused these presents to be signed by its proper officer, and its corporate seal to be affixed this 22nd day of September, 2022.

Karen J. Haffner
Assistant Secretary



OLD REPUBLIC SURETY COMPANY

Alan Pavlic
President

STATE OF WISCONSIN, COUNTY OF WAUKESHA - SS

On this 22nd day of September, 2022, personally came before me, Alan Pavlic and Karen J Haffner, to me known to be the individuals and officers of the OLD REPUBLIC SURETY COMPANY who executed the above instrument, and they each acknowledged the execution of the same, and being by me duly sworn, did severally depose and say: that they are the said officers of the corporation aforesaid, and that the seal affixed to the above instrument is the seal of the corporation, and that said corporate seal and their signatures as such officers were duly affixed and subscribed to the said instrument by the authority of the board of directors of said corporation.



Kathryn R. Pearson
Notary Public

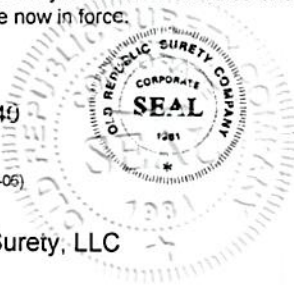
My Commission Expires: September 28, 2026

(Expiration of notary's commission does not invalidate this instrument)

CERTIFICATE

I, the undersigned, assistant secretary of the OLD REPUBLIC SURETY COMPANY, a Wisconsin corporation, CERTIFY that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore, that the Resolutions of the board of directors set forth in the Power of Attorney, are now in force.

78 9249



Signed and sealed at the City of Brookfield, WI this 19th day of January, 2023.

Karen J. Haffner
Assistant Secretary

ORSC 22262 (3-05)

 **AIA**® Document A101® – 2017**Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum**

**AGREEMENT** made as of the 23 day of January in the year 2023  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:  
(Name, legal status, address and other information)

City of Polk City, Iowa  
112 S 3rd St  
Polk City, IA 50226  
Telephone Number: (515) 984-6233

and the Contractor:  
(Name, legal status, address and other information)

GTG Companies, Limited Liability Company  
6505 Merle Hay Rd  
Johnston, IA 50131  
Telephone Number: (515) 528-8178

for the following Project:  
(Name, location and detailed description)

2022213.01 Polk City Fire Dept Reno

The Architect:  
(Name, legal status, address and other information)

FEH Design  
604 East Grand Avenue  
Des Moines, Iowa 50309  
Telephone Number: 515.288.2000

The Owner and Contractor agree as follows.

**ADDITIONS AND DELETIONS:**

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

The parties should complete A101®–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201®–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

Init.

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**User Notes:**

(3B9ADA46)

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- 1 THE CONTRACT DOCUMENTS
- 2 THE WORK OF THIS CONTRACT
- 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- 4 CONTRACT SUM
- 5 PAYMENTS
- 6 DISPUTE RESOLUTION
- 7 TERMINATION OR SUSPENSION
- 8 MISCELLANEOUS PROVISIONS
- 9 ENUMERATION OF CONTRACT DOCUMENTS

### EXHIBIT A INSURANCE AND BONDS

#### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

#### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

#### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:  
(Check one of the following boxes.)

- The date of this Agreement.
- A date set forth in a notice to proceed issued by the Owner.
- Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:

Init.

(Check one of the following boxes and complete the necessary information.)

Not later than ( ) calendar days from the date of commencement of the Work.

By the following date: November 17, 2023

**§ 3.3.2** Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
N/A	

**§ 3.3.3** If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

**§ 4.1** The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million One Hundred Seventy One Thousand Dollars (\$ 1,171,000 ), subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

**§ 4.2.1** Alternates, if any, included in the Contract Sum:

Item	Price
#1 - ADD Station Alerting System	\$66,000

**§ 4.2.2** Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. (Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)

Item	Price	Conditions for Acceptance
None		

**§ 4.3** Allowances, if any, included in the Contract Sum: (Identify each allowance.)

Item	Price
None	

**§ 4.4** Unit prices, if any: (Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item	Units and Limitations	Price per Unit (\$0.00)
None		

**§ 4.5** Liquidated damages, if any: (Insert terms and conditions for liquidated damages, if any.)

**§ 4.6** Other: (Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

None

Init.

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

Five (5) percent

Init.

**§ 5.1.7.1.1** The following items are not subject to retainage:  
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

**§ 5.1.7.2** Reduction or limitation of retainage, if any, shall be as follows:  
(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)

**§ 5.1.7.3** Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:  
(Insert any other conditions for release of retainage upon Substantial Completion.)

**§ 5.1.8** If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor additional amounts in accordance with Article 9 of AIA Document A201–2017.

**§ 5.1.9** Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## **§ 5.2 Final Payment**

**§ 5.2.1** Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

**§ 5.2.2** The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

## **§ 5.3 Interest**

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

(Insert rate of interest agreed upon, if any.)

0 % Zero Percent

## **ARTICLE 6 DISPUTE RESOLUTION**

### **§ 6.1 Initial Decision Maker**

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.  
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)



**§ 6.2 Binding Dispute Resolution**

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

Arbitration pursuant to Section 15.4 of AIA Document A201–2017

Litigation in a court of competent jurisdiction

Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

**ARTICLE 7 TERMINATION OR SUSPENSION**

**§ 7.1** The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

**§ 7.1.1** If the Contract is terminated for the Owner’s convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

*(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner’s convenience.)*

None

**§ 7.2** The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

**ARTICLE 8 MISCELLANEOUS PROVISIONS**

**§ 8.1** Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

**§ 8.2** The Owner’s representative:

*(Name, address, email address, and other information)*

Steve Karsjen  
112 S 3rd St  
Polk City, IA 50226  
Telephone Number: (515) 984-6233

**§ 8.3** The Contractor’s representative:

*(Name, address, email address, and other information)*

Jessica Reynolds  
6505 Merle Hay Rd  
Johnston, IA 50131  
Telephone Number: (515) 528-8178

Init.

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

### § 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

§ 8.7 Other provisions:

None

## ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 AIA Document A101™-2017, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:  
*(Insert the date of the E203-2013 incorporated into this Agreement.)*

.5 Drawings

Number	Title	Date
See Drawing Sheet Index - Exhibit B attached		

.6 Specifications

Section	Title	Date	Pages
See Table of Contents - Exhibit C attached			

.7 Addenda, if any:

Number	Date	Pages
Addendum 1	December 20, 2022	5
Addendum 2	January 6, 2022	31
Addendum 3	January 6, 2022	8

Init.

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

**.8 Other Exhibits:**

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:  
(Insert the date of the E204-2017 incorporated into this Agreement.)

The Sustainability Plan:

Title	Date	Pages
-------	------	-------

Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
----------	-------	------	-------

**.9 Other documents, if any, listed below:**

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor’s bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

This Agreement entered into as of the day and year first written above.

\_\_\_\_\_  
**OWNER** *(Signature)*

Steve Karsjen, Mayor  
\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
**CONTRACTOR** *(Signature)*

Jessica Reynolds, Owner, Senior Project Manager  
\_\_\_\_\_  
*(Printed name and title)*

# **Additions and Deletions Report for** **AIA® Document A101® – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:18:43 ET on 01/19/2023.

## **PAGE 1**

**AGREEMENT** made as of the 23 day of January in the year 2023

...

City of Polk City, Iowa  
112 S 3rd St  
Polk City, IA 50226  
Telephone Number: (515) 984-6233

...

GTG Companies, Limited Liability Company  
6505 Merle Hay Rd  
Johnston, IA 50131  
Telephone Number: (515) 528-8178

...

2022213.01 Polk City Fire Dept Reno

...

FEH Design  
604 East Grand Avenue  
Des Moines, Iowa 50309  
Telephone Number: 515.288.2000

## **PAGE 2**

The date of this Agreement.

## **PAGE 3**

By the following date: November 17, 2023

...

N/A

...

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be One Million One Hundred Seventy One Thousand Dollars (\$ 1,171,000 ), subject to additions and deductions as provided in the Contract Documents.

...

#1 - ADD Station Alerting System                      \$66,000

...

None

...

None

...

None

...

None

**PAGE 4**

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the ~~month, or as follows:~~month

...

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the last day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the last day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than thirty ( 30 ) days after the Architect receives the Application for Payment.

...

Five (5) percent

**PAGE 5**

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor ~~any~~ additional amounts in accordance with Article 9 of AIA Document A201-2017.

...

0 % Zero Percent

**PAGE 6**

[ X ] Litigation in a court of competent jurisdiction

...

None

...

Steve Karsjen  
112 S 3rd St  
Polk City, IA 50226  
Telephone Number: (515) 984-6233

...

Jessica Reynolds  
6505 Merle Hay Rd  
Johnston, IA 50131  
Telephone Number: (515) 528-8178

**PAGE 7**

None

...

See Drawing Sheet Index - Exhibit B attached

...

See Table of Contents - Exhibit C attached

...

<u>Addendum 1</u>	<u>December 20, 2022</u>	<u>5</u>
<u>Addendum 2</u>	<u>January 6, 2022</u>	<u>31</u>
<u>Addendum 3</u>	<u>January 6, 2022</u>	<u>8</u>

**PAGE 8**

Steve Karsjen, Mayor

Jessica Reynolds, Owner, Senior Project Manager

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:18:43 ET on 01/19/2023 under Order No. 3104237882 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ - 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



---

*(Signed)*

**CORY W. SHARP, AIA; PRINCIPAL ARCHITECT**

---

*(Title)*

**JANUARY 23, 2023**

---

*(Dated)*

 **AIA® Document A201® – 2007****General Conditions of the Contract for Construction****for the following PROJECT:***(Name and location or address)*

2022213.01 Polk City Fire Dept Reno

**THE OWNER:***(Name, legal status and address)*

City of Polk City, Iowa, Other

112 S 3rd St

Polk City, IA 50226

**THE ARCHITECT:***(Name, legal status and address)*

FEH Design

604 East Grand Avenue

Des Moines, Iowa 50309

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This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Init.

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**User Notes:**

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## **ARTICLE 1 GENERAL PROVISIONS**

### **§ 1.1 BASIC DEFINITIONS**

#### **§ 1.1.1 THE CONTRACT DOCUMENTS**

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding requirements.

#### **§ 1.1.2 THE CONTRACT**

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

#### **§ 1.1.3 THE WORK**

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

#### **§ 1.1.4 THE PROJECT**

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by separate contractors.

#### **§ 1.1.5 THE DRAWINGS**

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules and diagrams.

#### **§ 1.1.6 THE SPECIFICATIONS**

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

#### **§ 1.1.7 INSTRUMENTS OF SERVICE**

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

#### **§ 1.1.8 INITIAL DECISION MAKER**

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2 and certify termination of the Agreement under Section 14.2.2.

### **§ 1.2 CORRELATION AND INTENT OF THE CONTRACT DOCUMENTS**

**§ 1.2.1** The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.



**§ 1.2.2** Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

**§ 1.2.3** Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

### **§ 1.3 CAPITALIZATION**

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles or (3) the titles of other documents published by the American Institute of Architects.

### **§ 1.4 INTERPRETATION**

In the interest of brevity the Contract Documents frequently omit modifying words such as “all” and “any” and articles such as “the” and “an,” but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

### **§ 1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE**

**§ 1.5.1** The Architect and the Architect’s consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and will retain all common law, statutory and other reserved rights, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the Architect’s or Architect’s consultants’ reserved rights.

**§ 1.5.2** The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce the Instruments of Service provided to them solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers may not use the Instruments of Service on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner, Architect and the Architect’s consultants.

### **§ 1.6 TRANSMISSION OF DATA IN DIGITAL FORM**

If the parties intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions, unless otherwise already provided in the Agreement or the Contract Documents.

## **ARTICLE 2 OWNER**

### **§ 2.1 GENERAL**

**§ 2.1.1** The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner’s approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term “Owner” means the Owner or the Owner’s authorized representative.

**§ 2.1.2** The Owner shall furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic’s lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner’s interest therein.

### **§ 2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER**

**§ 2.2.1** Prior to commencement of the Work, the Contractor may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner’s obligations under the Contract. Thereafter, the Contractor may only request such evidence if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) a change in the Work materially changes the Contract Sum; or (3) the Contractor identifies in writing a reasonable concern regarding the Owner’s ability to make payment when due. The Owner shall furnish such evidence as a condition precedent to commencement or continuation of the Work or

the portion of the Work affected by a material change. After the Owner furnishes the evidence, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

**§ 2.2.2** Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

**§ 2.2.3** The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

**§ 2.2.4** The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

**§ 2.2.5** Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

### **§ 2.3 OWNER'S RIGHT TO STOP THE WORK**

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

### **§ 2.4 OWNER'S RIGHT TO CARRY OUT THE WORK**

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of written notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order shall be issued deducting from payments then or thereafter due the Contractor the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect or failure. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect. If payments then or thereafter due the Contractor are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner.

## **ARTICLE 3 CONTRACTOR**

### **§ 3.1 GENERAL**

**§ 3.1.1** The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

**§ 3.1.2** The Contractor shall perform the Work in accordance with the Contract Documents.

**§ 3.1.3** The Contractor shall not be relieved of obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

### **§ 3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR**

**§ 3.2.1** Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

**§ 3.2.2** Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.2.3, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

**§ 3.2.3** The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

**§ 3.2.4** If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

### **§ 3.3 SUPERVISION AND CONSTRUCTION PROCEDURES**

**§ 3.3.1** The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor shall evaluate the jobsite safety thereof and, except as stated below, shall be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely written notice to the Owner and Architect and shall not proceed with that portion of the Work without further written instructions from the Architect. If the Contractor is then instructed to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner shall be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

**§ 3.3.2** The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

**§ 3.3.3** The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

### **§ 3.4 LABOR AND MATERIALS**

**§ 3.4.1** Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other

facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

**§ 3.4.2** Except in the case of minor changes in the Work authorized by the Architect in accordance with Sections 3.12.8 or 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

**§ 3.4.3** The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

### **§ 3.5 WARRANTY**

The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

### **§ 3.6 TAXES**

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

### **§ 3.7 PERMITS, FEES, NOTICES AND COMPLIANCE WITH LAWS**

**§ 3.7.1** Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

**§ 3.7.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

**§ 3.7.3** If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

**§ 3.7.4 Concealed or Unknown Conditions.** If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 21 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor in writing, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may proceed as provided in Article 15.

**§ 3.7.5** If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume

the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

### **§ 3.8 ALLOWANCES**

**§ 3.8.1** The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

**§ 3.8.2** Unless otherwise provided in the Contract Documents,

- .1** Allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3** Whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

**§ 3.8.3** Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

### **§ 3.9 SUPERINTENDENT**

**§ 3.9.1** The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

**§ 3.9.2** The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the name and qualifications of a proposed superintendent. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to the proposed superintendent or (2) that the Architect requires additional time to review. Failure of the Architect to reply within the 14 day period shall constitute notice of no reasonable objection.

**§ 3.9.3** The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

### **§ 3.10 CONTRACTOR'S CONSTRUCTION SCHEDULES**

**§ 3.10.1** The Contractor, promptly after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work.

**§ 3.10.2** The Contractor shall prepare a submittal schedule, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, and shall submit the schedule(s) for the Architect's approval. The Architect's approval shall not unreasonably be delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

**§ 3.10.3** The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

### **§ 3.11 DOCUMENTS AND SAMPLES AT THE SITE**

The Contractor shall maintain at the site for the Owner one copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and one copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These shall be available to the Architect and shall be delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

### **§ 3.12 SHOP DRAWINGS, PRODUCT DATA AND SAMPLES**

**§ 3.12.1** Shop Drawings are drawings, diagrams, schedules and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

**§ 3.12.2** Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

**§ 3.12.3** Samples are physical examples that illustrate materials, equipment or workmanship and establish standards by which the Work will be judged.

**§ 3.12.4** Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents. Their purpose is to demonstrate the way by which the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

**§ 3.12.5** The Contractor shall review for compliance with the Contract Documents, approve and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of separate contractors.

**§ 3.12.6** By submitting Shop Drawings, Product Data, Samples and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

**§ 3.12.7** The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been approved by the Architect.

**§ 3.12.8** The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples or similar submittals by the Architect's approval thereof.

**§ 3.12.9** The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such written notice, the Architect's approval of a resubmission shall not apply to such revisions.

**§ 3.12.10** The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. The Contractor shall not be

required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

### **§ 3.13 USE OF SITE**

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

### **§ 3.14 CUTTING AND PATCHING**

**§ 3.14.1** The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting and patching shall be restored to the condition existing prior to the cutting, fitting and patching, unless otherwise required by the Contract Documents.

**§ 3.14.2** The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or separate contractors by cutting, patching or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter such construction by the Owner or a separate contractor except with written consent of the Owner and of such separate contractor; such consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold from the Owner or a separate contractor the Contractor's consent to cutting or otherwise altering the Work.

### **§ 3.15 CLEANING UP**

**§ 3.15.1** The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.

**§ 3.15.2** If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and Owner shall be entitled to reimbursement from the Contractor.

### **§ 3.16 ACCESS TO WORK**

The Contractor shall provide the Owner and Architect access to the Work in preparation and progress wherever located.

### **§ 3.17 ROYALTIES, PATENTS AND COPYRIGHTS**

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. However, if the Contractor has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

### **§ 3.18 INDEMNIFICATION**

**§ 3.18.1** To the fullest extent permitted by law the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), but only to the extent caused by the negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity that would otherwise exist as to a party or person described in this Section 3.18.

**§ 3.18.2** In claims against any person or entity indemnified under this Section 3.18 by an employee of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under Section 3.18.1 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts or other employee benefit acts.

## **ARTICLE 4 ARCHITECT**

### **§ 4.1 GENERAL**

**§ 4.1.1** The Owner shall retain an architect lawfully licensed to practice architecture or an entity lawfully practicing architecture in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

**§ 4.1.2** Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

**§ 4.1.3** If the employment of the Architect is terminated, the Owner shall employ a successor architect as to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

### **§ 4.2 ADMINISTRATION OF THE CONTRACT**

**§ 4.2.1** The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

**§ 4.2.2** The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.

**§ 4.2.3** On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of and will not be responsible for acts or omissions of the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.



#### **§ 4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION**

Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall endeavor to communicate with each other through the Architect about matters arising out of or relating to the Contract. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and material suppliers shall be through the Contractor. Communications by and with separate contractors shall be through the Owner.

**§ 4.2.5** Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

**§ 4.2.6** The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 4.2.7** The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5 and 3.12. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 4.2.8** The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

**§ 4.2.9** The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

**§ 4.2.10** If the Owner and Architect agree, the Architect will provide one or more project representatives to assist in carrying out the Architect's responsibilities at the site. The duties, responsibilities and limitations of authority of such project representatives shall be as set forth in an exhibit to be incorporated in the Contract Documents.

**§ 4.2.11** The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

**§ 4.2.12** Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions rendered in good faith.

**§ 4.2.13** The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

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**§ 4.2.14** The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

## **ARTICLE 5 SUBCONTRACTORS**

### **§ 5.1 DEFINITIONS**

**§ 5.1.1** A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor.

**§ 5.1.2** A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

### **§ 5.2 AWARD OF SUBCONTRACTS AND OTHER CONTRACTS FOR PORTIONS OF THE WORK**

**§ 5.2.1** Unless otherwise stated in the Contract Documents or the bidding requirements, the Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of persons or entities (including those who are to furnish materials or equipment fabricated to a special design) proposed for each principal portion of the Work. The Architect may reply within 14 days to the Contractor in writing stating (1) whether the Owner or the Architect has reasonable objection to any such proposed person or entity or (2) that the Architect requires additional time for review. Failure of the Owner or Architect to reply within the 14-day period shall constitute notice of no reasonable objection.

**§ 5.2.2** The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

**§ 5.2.3** If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

**§ 5.2.4** The Contractor shall not substitute a Subcontractor, person or entity previously selected if the Owner or Architect makes reasonable objection to such substitution.

### **§ 5.3 SUBCONTRACTUAL RELATIONS**

By appropriate agreement, written where legally required for validity, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may

be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

#### **§ 5.4 CONTINGENT ASSIGNMENT OF SUBCONTRACTS**

**§ 5.4.1** Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor in writing; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

**§ 5.4.2** Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

**§ 5.4.3** Upon such assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

### **ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS**

#### **§ 6.1 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS**

**§ 6.1.1** The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and to award separate contracts in connection with other portions of the Project or other construction or operations on the site under Conditions of the Contract identical or substantially similar to these including those portions related to insurance and waiver of subrogation. If the Contractor claims that delay or additional cost is involved because of such action by the Owner, the Contractor shall make such Claim as provided in Article 15.

**§ 6.1.2** When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

**§ 6.1.3** The Owner shall provide for coordination of the activities of the Owner's own forces and of each separate contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with other separate contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to the construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, separate contractors and the Owner until subsequently revised.

**§ 6.1.4** Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces, the Owner shall be deemed to be subject to the same obligations and to have the same rights that apply to the Contractor under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6 and Articles 10, 11 and 12.

#### **§ 6.2 MUTUAL RESPONSIBILITY**

**§ 6.2.1** The Contractor shall afford the Owner and separate contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

**§ 6.2.2** If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a separate contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly report to the Architect apparent discrepancies or defects in such other construction that would render it unsuitable for such proper execution and results. Failure of the Contractor so to report shall constitute an acknowledgment that

the Owner's or separate contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work, except as to defects not then reasonably discoverable.

**§ 6.2.3** The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a separate contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a separate contractor's delays, improperly timed activities, damage to the Work or defective construction.

**§ 6.2.4** The Contractor shall promptly remedy damage the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or separate contractors as provided in Section 10.2.5.

**§ 6.2.5** The Owner and each separate contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

### **§ 6.3 OWNER'S RIGHT TO CLEAN UP**

If a dispute arises among the Contractor, separate contractors and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

## **ARTICLE 7 CHANGES IN THE WORK**

### **§ 7.1 GENERAL**

**§ 7.1.1** Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

**§ 7.1.2** A Change Order shall be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone.

**§ 7.1.3** Changes in the Work shall be performed under applicable provisions of the Contract Documents, and the Contractor shall proceed promptly, unless otherwise provided in the Change Order, Construction Change Directive or order for a minor change in the Work.

### **§ 7.2 CHANGE ORDERS**

**§ 7.2.1** A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

### **§ 7.3 CONSTRUCTION CHANGE DIRECTIVES**

**§ 7.3.1** A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

**§ 7.3.2** A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

**§ 7.3.3** If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or

.4 As provided in Section 7.3.7.

**§ 7.3.4** If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

**§ 7.3.5** Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

**§ 7.3.6** A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

**§ 7.3.7** If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the method and the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.7 shall be limited to the following:

- .1 Costs of labor, including social security, old age and unemployment insurance, fringe benefits required by agreement or custom, and workers' compensation insurance;
- .2 Costs of materials, supplies and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use or similar taxes related to the Work; and
- .5 Additional costs of supervision and field office personnel directly attributable to the change.

**§ 7.3.8** The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

**§ 7.3.9** Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

**§ 7.3.10** When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

#### **§ 7.4 MINOR CHANGES IN THE WORK**

The Architect has authority to order minor changes in the Work not involving adjustment in the Contract Sum or extension of the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes will be effected by written order signed by the Architect and shall be binding on the Owner and Contractor.

## **ARTICLE 8 TIME**

### **§ 8.1 DEFINITIONS**

**§ 8.1.1** Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

**§ 8.1.2** The date of commencement of the Work is the date established in the Agreement.

**§ 8.1.3** The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

**§ 8.1.4** The term “day” as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

### **§ 8.2 PROGRESS AND COMPLETION**

**§ 8.2.1** Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

**§ 8.2.2** The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance.

**§ 8.2.3** The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

### **§ 8.3 DELAYS AND EXTENSIONS OF TIME**

**§ 8.3.1** If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work; or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor’s control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

**§ 8.3.2** Claims relating to time shall be made in accordance with applicable provisions of Article 15.

**§ 8.3.3** This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

## **ARTICLE 9 PAYMENTS AND COMPLETION**

### **§ 9.1 CONTRACT SUM**

The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

### **§ 9.2 SCHEDULE OF VALUES**

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit to the Architect, before the first Application for Payment, a schedule of values allocating the entire Contract Sum to the various portions of the Work and prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor’s Applications for Payment.

### **§ 9.3 APPLICATIONS FOR PAYMENT**

**§ 9.3.1** At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or material supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage and transportation to the site for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, material suppliers, or other persons or entities making a claim by reason of having provided labor, materials and equipment relating to the Work.

#### § 9.4 CERTIFICATES FOR PAYMENT

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data comprising the Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion and to specific qualifications expressed by the Architect. The issuance of a Certificate for Payment will further constitute a representation that the Contractor is entitled to payment in the amount certified. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

#### § 9.5 DECISIONS TO WITHHOLD CERTIFICATION

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

- .3 failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a separate contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.3 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or material or equipment suppliers to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Architect will reflect such payment on the next Certificate for Payment.

## § 9.6 PROGRESS PAYMENTS

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor no later than seven days after receipt of payment from the Owner the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.

§ 9.6.5 Contractor payments to material and equipment suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors and suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, shall create any fiduciary liability or tort liability on the part of the Contractor for breach of trust or shall entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

## § 9.7 FAILURE OF PAYMENT

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' written notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended



appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shut-down, delay and start-up, plus interest as provided for in the Contract Documents.

## **§ 9.8 SUBSTANTIAL COMPLETION**

**§ 9.8.1** Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

**§ 9.8.2** When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

**§ 9.8.3** Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

**§ 9.8.4** When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion, shall establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

**§ 9.8.5** The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in such Certificate. Upon such acceptance and consent of surety, if any, the Owner shall make payment of retainage applying to such Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

## **§ 9.9 PARTIAL OCCUPANCY OR USE**

**§ 9.9.1** The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer as required under Section 11.3.1.5 and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

**§ 9.9.2** Immediately prior to such partial occupancy or use, the Owner, Contractor and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

**§ 9.9.3** Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

## **§ 9.10 FINAL COMPLETION AND FINAL PAYMENT**

**§ 9.10.1** Upon receipt of the Contractor's written notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection and, when the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect

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will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

**§ 9.10.2** Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect and will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner, (3) a written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment and (5), if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts, releases and waivers of liens, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien. If such lien remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees.

**§ 9.10.3** If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of claims.

**§ 9.10.4** The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- .1 liens, Claims, security interests or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents; or
- .3 terms of special warranties required by the Contract Documents.

**§ 9.10.5** Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

## **ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY**

### **§ 10.1 SAFETY PRECAUTIONS AND PROGRAMS**

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract.

### **§ 10.2 SAFETY OF PERSONS AND PROPERTY**

**§ 10.2.1** The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody or control of the Contractor or the Contractor's Subcontractors or Sub-subcontractors; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures and utilities not designated for removal, relocation or replacement in the course of construction.

**§ 10.2.2** The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities bearing on safety of persons or property or their protection from damage, injury or loss.

**§ 10.2.3** The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations and notifying owners and users of adjacent sites and utilities.

**§ 10.2.4** When use or storage of explosives or other hazardous materials or equipment or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

**§ 10.2.5** The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

**§ 10.2.6** The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

**§ 10.2.7** The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

#### **§ 10.2.8 INJURY OR DAMAGE TO PERSON OR PROPERTY**

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, shall be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

#### **§ 10.3 HAZARDOUS MATERIALS**

**§ 10.3.1** The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and report the condition to the Owner and Architect in writing.

**§ 10.3.2** Upon receipt of the Contractor's written notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of such material or substance or who are to perform the task of removal or safe containment of such material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased in the amount of the Contractor's reasonable additional costs of shut-down, delay and start-up.

**§ 10.3.3** To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss or expense is due to the fault or negligence of the party seeking indemnity.

**§ 10.3.4** The Owner shall not be responsible under this Section 10.3 for materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

**§ 10.3.5** The Contractor shall indemnify the Owner for the cost and expense the Owner incurs (1) for remediation of a material or substance the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

**§ 10.3.6** If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall indemnify the Contractor for all cost and expense thereby incurred.

#### **§ 10.4 EMERGENCIES**

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

### **ARTICLE 11 INSURANCE AND BONDS**

#### **§ 11.1 CONTRACTOR'S LIABILITY INSURANCE**

**§ 11.1.1** The Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located such insurance as will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's operations and completed operations under the Contract and for which the Contractor may be legally liable, whether such operations be by the Contractor or by a Subcontractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

**§ 11.1.2** The insurance required by Section 11.1.1 shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to the Contractor's completed operations coverage, until the expiration of the period for correction

of Work or for such other period for maintenance of completed operations coverage as specified in the Contract Documents.

**§ 11.1.3** Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage on account of revised limits or claims paid under the General Aggregate, or both, shall be furnished by the Contractor with reasonable promptness.

**§ 11.1.4** The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, the Architect and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

## **§ 11.2 OWNER'S LIABILITY INSURANCE**

The Owner shall be responsible for purchasing and maintaining the Owner's usual liability insurance.

## **§ 11.3 PROPERTY INSURANCE**

**§ 11.3.1** Unless otherwise provided, the Owner shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made as provided in Section 9.10 or until no person or entity other than the Owner has an insurable interest in the property required by this Section 11.3 to be covered, whichever is later. This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project.

**§ 11.3.1.1** Property insurance shall be on an "all-risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss.

**§ 11.3.1.2** If the Owner does not intend to purchase such property insurance required by the Contract and with all of the coverages in the amount described above, the Owner shall so inform the Contractor in writing prior to commencement of the Work. The Contractor may then effect insurance that will protect the interests of the Contractor, Subcontractors and Sub-subcontractors in the Work, and by appropriate Change Order the cost thereof shall be charged to the Owner. If the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain insurance as described above, without so notifying the Contractor in writing, then the Owner shall bear all reasonable costs properly attributable thereto.

**§ 11.3.1.3** If the property insurance requires deductibles, the Owner shall pay costs not covered because of such deductibles.

**§ 11.3.1.4** This property insurance shall cover portions of the Work stored off the site, and also portions of the Work in transit.

**§ 11.3.1.5** Partial occupancy or use in accordance with Section 9.9 shall not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or

otherwise. The Owner and the Contractor shall take reasonable steps to obtain consent of the insurance company or companies and shall, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

#### **§ 11.3.2 BOILER AND MACHINERY INSURANCE**

The Owner shall purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which shall specifically cover such insured objects during installation and until final acceptance by the Owner; this insurance shall include interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work, and the Owner and Contractor shall be named insureds.

#### **§ 11.3.3 LOSS OF USE INSURANCE**

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

**§ 11.3.4** If the Contractor requests in writing that insurance for risks other than those described herein or other special causes of loss be included in the property insurance policy, the Owner shall, if possible, include such insurance, and the cost thereof shall be charged to the Contractor by appropriate Change Order.

**§ 11.3.5** If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

**§ 11.3.6** Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 30 days' prior written notice has been given to the Contractor.

#### **§ 11.3.7 WAIVERS OF SUBROGATION**

The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and (2) the Architect, Architect's consultants, separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, shall require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

**§ 11.3.8** A loss insured under the Owner's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.10. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

**§ 11.3.9** If required in writing by a party in interest, the Owner as fiduciary shall, upon occurrence of an insured loss, give bond for proper performance of the Owner's duties. The cost of required bonds shall be charged against proceeds received as fiduciary. The Owner shall deposit in a separate account proceeds so received, which the

Owner shall distribute in accordance with such agreement as the parties in interest may reach, or as determined in accordance with the method of binding dispute resolution selected in the Agreement between the Owner and Contractor. If after such loss no other special agreement is made and unless the Owner terminates the Contract for convenience, replacement of damaged property shall be performed by the Contractor after notification of a Change in the Work in accordance with Article 7.

**§ 11.3.10** The Owner as fiduciary shall have power to adjust and settle a loss with insurers unless one of the parties in interest shall object in writing within five days after occurrence of loss to the Owner's exercise of this power; if such objection is made, the dispute shall be resolved in the manner selected by the Owner and Contractor as the method of binding dispute resolution in the Agreement. If the Owner and Contractor have selected arbitration as the method of binding dispute resolution, the Owner as fiduciary shall make settlement with insurers or, in the case of a dispute over distribution of insurance proceeds, in accordance with the directions of the arbitrators.

#### **§ 11.4 PERFORMANCE BOND AND PAYMENT BOND**

**§ 11.4.1** The Owner shall have the right to require the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in bidding requirements or specifically required in the Contract Documents on the date of execution of the Contract.

**§ 11.4.2** Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

### **ARTICLE 12 UNCOVERING AND CORRECTION OF WORK**

#### **§ 12.1 UNCOVERING OF WORK**

**§ 12.1.1** If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

**§ 12.1.2** If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement shall, by appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, such costs and the cost of correction shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

#### **§ 12.2 CORRECTION OF WORK**

##### **§ 12.2.1 BEFORE OR AFTER SUBSTANTIAL COMPLETION**

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

##### **§ 12.2.2 AFTER SUBSTANTIAL COMPLETION**

**§ 12.2.2.1** In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.4.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

### § 12.3 ACCEPTANCE OF NONCONFORMING WORK

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

## ARTICLE 13 MISCELLANEOUS PROVISIONS

### § 13.1 GOVERNING LAW

The Contract shall be governed by the law of the place where the Project is located except that, if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

### § 13.2 SUCCESSORS AND ASSIGNS

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make such an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate such assignment.

### § 13.3 WRITTEN NOTICE

Written notice shall be deemed to have been duly served if delivered in person to the individual, to a member of the firm or entity, or to an officer of the corporation for which it was intended; or if delivered at, or sent by registered or certified mail or by courier service providing proof of delivery to, the last business address known to the party giving notice.

### § 13.4 RIGHTS AND REMEDIES

§ 13.4.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights and remedies otherwise imposed or available by law.

§ 13.4.2 No action or failure to act by the Owner, Architect or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach there under, except as may be specifically agreed in writing.



## § 13.5 TESTS AND INSPECTIONS

§ 13.5.1 Tests, inspections and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of (1) tests, inspections or approvals that do not become requirements until after bids are received or negotiations concluded, and (2) tests, inspections or approvals where building codes or applicable laws or regulations prohibit the Owner from delegating their cost to the Contractor.

§ 13.5.2 If the Architect, Owner or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection or approval not included under Section 13.5.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection or approval by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.5.3, shall be at the Owner's expense.

§ 13.5.3 If such procedures for testing, inspection or approval under Sections 13.5.1 and 13.5.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure including those of repeated procedures and compensation for the Architect's services and expenses shall be at the Contractor's expense.

§ 13.5.4 Required certificates of testing, inspection or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.5.5 If the Architect is to observe tests, inspections or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.5.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

## § 13.6 INTEREST

Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.

## § 13.7 TIME LIMITS ON CLAIMS

The Owner and Contractor shall commence all claims and causes of action, whether in contract, tort, breach of warranty or otherwise, against the other arising out of or related to the Contract in accordance with the requirements of the final dispute resolution method selected in the Agreement within the time period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all claims and causes of action not commenced in accordance with this Section 13.7.

## ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

### § 14.1 TERMINATION BY THE CONTRACTOR

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency that requires all Work to be stopped;

- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor promptly, upon the Contractor's request, reasonable evidence as required by Section 2.2.1.

**§ 14.1.2** The Contractor may terminate the Contract if, through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, repeated suspensions, delays or interruptions of the entire Work by the Owner as described in Section 14.3 constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

**§ 14.1.3** If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, including reasonable overhead and profit, costs incurred by reason of such termination, and damages.

**§ 14.1.4** If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor or a Subcontractor or their agents or employees or any other persons performing portions of the Work under contract with the Contractor because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' written notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

#### **§ 14.2 TERMINATION BY THE OWNER FOR CAUSE**

**§ 14.2.1** The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

**§ 14.2.2** When any of the above reasons exist, the Owner, upon certification by the Initial Decision Maker that sufficient cause exists to justify such action, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' written notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

**§ 14.2.3** When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

**§ 14.2.4** If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

#### **§ 14.3 SUSPENSION BY THE OWNER FOR CONVENIENCE**

**§ 14.3.1** The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as the Owner may determine.

**§ 14.3.2** The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay or interruption as described in Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was or would have been so suspended, delayed or interrupted by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

#### **§ 14.4 TERMINATION BY THE OWNER FOR CONVENIENCE**

**§ 14.4.1** The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

**§ 14.4.2** Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

**§ 14.4.3** In case of such termination for the Owner's convenience, the Contractor shall be entitled to receive payment for Work executed, and costs incurred by reason of such termination, along with reasonable overhead and profit on the Work not executed.

### **ARTICLE 15 CLAIMS AND DISPUTES**

#### **§ 15.1 CLAIMS**

##### **§ 15.1.1 DEFINITION**

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim.

##### **§ 15.1.2 NOTICE OF CLAIMS**

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

##### **§ 15.1.3 CONTINUING CONTRACT PERFORMANCE**

Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents. The Architect will prepare Change Orders and issue Certificates for Payment in accordance with the decisions of the Initial Decision Maker.

##### **§ 15.1.4 CLAIMS FOR ADDITIONAL COST**

If the Contractor wishes to make a Claim for an increase in the Contract Sum, written notice as provided herein shall be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

##### **§ 15.1.5 CLAIMS FOR ADDITIONAL TIME**

**§ 15.1.5.1** If the Contractor wishes to make a Claim for an increase in the Contract Time, written notice as provided herein shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

**§ 15.1.5.2** If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated and had an adverse effect on the scheduled construction.

### § 15.1.6 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.6 shall be deemed to preclude an award of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

### § 15.2 INITIAL DECISION

§ 15.2.1 Claims, excluding those arising under Sections 10.3, 10.4, 11.3.9, and 11.3.10, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim arising prior to the date final payment is due, unless 30 days have passed after the Claim has been referred to the Initial Decision Maker with no decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of such request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of an initial decision, demand in writing that the other party file for mediation within 60 days of the initial decision. If such a demand is made and the party receiving the demand fails to file for mediation within the time required, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

### § 15.3 MEDIATION

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.6 shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

### § 15.4 ARBITRATION

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

### § 15.4.4 CONSOLIDATION OR JOINDER

§ 15.4.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an

additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

**§ 15.4.4.3** The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Contractor under this Agreement.



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# **Additions and Deletions Report for** **AIA® Document A201® – 2007**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 09:30:22 ET on 01/19/2023.

## **PAGE 1**

2022213.01 Polk City Fire Dept Reno  
City of Polk City, Iowa, Other  
112 S 3rd St  
Polk City, IA 50226

...

FEH Design  
604 East Grand Avenue  
Des Moines, Iowa 50309

## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, , hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 09:30:22 ET on 01/19/2023 under Order No. 3104237882 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A201™ - 2007, General Conditions of the Contract for Construction, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.



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*(Signature)*

**CORY W. SHARP, AIA; PRINCIPAL ARCHITECT**

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*(Title)*

**JANUARY 23, 2023**

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*(Dated)*



**SECTION 00 7210  
SUPPLEMENTARY CONDITIONS**

**PART 1 GENERAL**

**1.01 SUMMARY**

- A. These Supplementary Conditions amend and supplement the General Conditions defined in Document 00 72 00 - General Conditions and other provisions of the Contract Documents as indicated below. Provisions that are not so amended or supplemented remain in full force and effect.
- B. The terms used in these Supplementary Conditions that are defined in the General Conditions have the meanings assigned to them in the General Conditions.

**1.02 RELATED SECTIONS**

- A. Section 00 50 00 - Contracting Forms and Supplements.
- B. Section 01 42 16 - Definitions.

**1.03 MODIFICATIONS TO GENERAL CONDITIONS**

- A. Article 1 General Provisions
  - 1. Change Paragraph 1.1 as follows
    - a. 1.1.1 The Contract Documents
      - 1) Delete the last sentence of Paragraph 1.1.1 and replace with the following
        - (a) The Contract Documents also include the bidding requirements (Notice to Bidders and Instruction to Bidders). Unless specifically enumerated in the agreements, the Contract Documents do not include sample forms and the Contractor's Bid Form. The Contract Documents executed or identified in accordance with Subparagraph 1.5.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers.
    - b. 1.1.2 The Contract
      - 1) Create subparagraph 1.1.2.1
        - (a) The Contract Documents shall be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect shall identify such unsigned Documents. No Contract shall be formed between parties until all Contract Documents are executed by both parties.
    - c. Modify the second sentence in Section 1.1.8 to read as follows
      - 1) The Initial Decision Maker shall not be liable for results of interpretations or decisions rendered in good faith.
    - d. Add Section 1.1.9
      - 1) Terms The terms indicated below shall be defined as having the meanings assigned to them as follows
        - (a) .1 Products Means new material, machinery, components, equipment, fixtures, and systems forming the Work, but does not include machinery and equipment used for preparation, fabrication, conveying and erection of the Work. Products may also include existing materials or components required for reuse.
        - (b) .2 Furnish To supply and deliver, unload, inspect for damage.
        - (c) .3 Install To unpack, assemble, erect, apply, place, finish, cure, protect, clean, and make ready for use.
        - (d) .4 Provide To furnish and install.
        - (e) .5 Substitute the word Architect Engineer for Architect each time the latter word appears.
  - 2. Add the following sentences to the end of Section 1.2.1
    - a. In the case of an inconsistency between Drawings and Specifications, or within either Document itself, not clarified by Addendum, the better quality or greater quantity of

Work shall be provided in accordance with the Architect's interpretation. In any case of discrepancy, the facts are to be brought to the attention of the Architect for a decision or interpretation.

3. Add Section 1.2.4
    - a. Sections of Division 1 - General Requirements govern the execution of the Work of all sections of the specifications.
  4. Add Paragraph 1.4.1 to Paragraph 1.4
    - a. 1.4.1 In the event of conflict among the various provisions of the Contract Documents, the terms shall be interpreted in the following order of propriety
      - 1) Modifications to the Contract
      - 2) The Contract
      - 3) Special Conditions
      - 4) General Conditions
  5. Section 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service
    - a. Delete Section 1.5.1 and substitute the following
      - 1) Design Documents or other Instruments of Service are Owner's exclusive property. Owner retains all common law, statutory and other reserved rights in the Design Documents or other Instruments of Service, including all copyrights in and to Design Documents and other Instruments of Service. Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers shall not own or claim copyright in Design Documents or other Instruments of Service. Submittal or distribution to meet official regulatory requirements, or for other purposes in connection with Project are not to be construed as publication in derogation of Owner's reserved rights.
  6. 1.7 Digital Data Use and Transmission
    - a. Delete Section 1.7.1 and substitute the following
      - 1) The Architect Engineer may, with the concurrence of the Owner, furnish to the Contractor versions of Instruments of Service in electronic form. The Contract Documents executed or identified in accordance with Subparagraph 1.5.1 shall prevail in case of an inconsistency with subsequent versions made through manipulatable electronic operations involving computers.
- B. Article 2 Owner
1. Delete Sections 2.1.2 and 2.2.
  2. 2.3 Information and Services Required Of The Owner
    - a. Modify Section 2.3.3 to read as follows
      - 1) If the employment of the Architect terminates, the Owner shall employ a successor whose status under the Contract Documents shall be that of the Architect.
    - b. Add the following language to the end of Paragraph 2.3.4
      - 1) The Contractor shall compare information furnished by the Owner (including surveys and soil tests with observable physical conditions) and the Contract Documents and on the basis of such review, shall report to the Owner and Architect any conflicts, errors or omissions. Contractor shall be responsible for any additional costs, delays and damages resulting from the Contractor's failure to immediately report any such errors, inconsistencies or omissions.
    - c. Delete Section 2.3.6 and substitute the following
      - 1) The Owner will furnish the Contractor, free of charge, as many copies of Contract Documents as can be allocated for this use from quantities returned by Bidders. Contractor may purchase additional copies at the cost of reproduction, postage, and handling.
  3. Change Paragraph 2.5 by deleting the current language and replacing with the following
    - a. Create subparagraph 2.5.1
      - 1) If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents, and fails within a seven (7) day period, or such shorter time period as may be reasonable under circumstances, after receipt of written

notice from the Owner to the Contractor, to commence and continue correction of such default or neglect with diligence and promptness, the Owner may notify the Surety and request it to assume the obligations of the Contractor within seven (7) days following receipt by Contractor and Surety of written notice or the Owner may, without prejudice to any other remedies the Owner may have, correct such deficiencies. In such case an appropriate Change Order or Construction Change Directive shall be issued deducting from the payments then or thereafter due the Contractor, the cost of correction of such deficiencies, including reasonable attorney's fees and compensation for the Architect Engineer's additional services incurred as result of such default, neglect or failure. Such action by Owner, and amounts charged to the Contractor are both subject to prior concurrence with Architect Engineer. If current or future payments thereafter due Contractor are not sufficient to cover such amounts, Contractor, or Surety, shall pay difference to Owner.

C. Article 3 Contractor

1. Add the following at the end of Paragraph 3.1.1
  - a. Contractor shall at request of Owner prior to execution of Agreement and promptly from time to time as requested by the Owner, thereafter furnish Owner an update and current financial statement and or Contractor Qualification Statement on AIA Document A305.
2. Add Sub-paragraph 3.1.2.1 as follows
  - a. 3.1.2.1 The Contractor shall supervise and direct Work in excellent and workmanlike manner, complete the work and everything properly incidental thereto as stated in the Project Manual and Drawings or reasonably implied therefrom and otherwise in accordance with Contract Documents.
3. Add at the end of Paragraph 3.1.3 as follows
  - a. The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor. To the extent permitted by law, the Contractor waives any rights, claims, or causes of action against Owner as a result of activities or duties or intentional or negligent misconduct by the Architect in the Architect's administration of the Contract, or representations made by Architect Engineer in Instruments of Service.
4. 3.2 Review Of Contract Documents and Field Conditions By Contractor
  - a. Add the following new language to the end of Paragraph 3.2.1
    - 1) The Contractor also represents that all Contract Documents for the Project have been examined including those intended for work of trades not normally performed by the Contractor's own forces, and that it has become thoroughly familiar with all conditions which may pertain to or affect the Work under the Contract.
  - b. Add the following language to Paragraph 3.2.2.
    - 1) Modify Section 3.2.2 to add the words
      - (a) including any ordering of materials' in line two after the word "Work .
    - 2) Any costs associated with Contractor's failure to immediately notify the Architect and the Owner of items listed above shall be borne by the Contractor.
  - c. Add to the end of Section 3.2.3 the following
    - 1) 3.2.3 The Contractor must take field measurements and verify Site conditions, and must carefully compare such field measurements and Site conditions and other information known to the Contractor with the Contract Documents, before ordering any material or doing any Work at the Site.
  - d. Delete Section 3.2.4 and substitute the following
    - 1) Contractor shall make frequent inspections during progress of Work to confirm that Work previously performed by Contractor is in compliance with Contract Documents and applicable laws and regulations bearing on performance of Work and Referenced Standards and that portion of Work previously performed

- by Contractor or by others are in proper condition to receive subsequent Work.
- e. Add the following Paragraphs 3.2.5 - 3.2.8 to Section 3.2
    - 1) 3.2.5 If the Contractor believes that any portions of the Contract Documents do not comply with applicable laws, statutes, ordinances, building codes, and rules and regulations, or any orders by code enforcement officials or the Owner or its designee acting in the capacity of building code inspectors or Referenced Standards, the Contractor must promptly notify the Owner and the Architect of the non-compliance as provided in Section 3.2.6 and request direction before proceeding with the affected Work.
    - 2) 3.2.6 Contractor shall promptly notify Owner and Architect Engineer in writing of any apparent errors, inconsistencies, omission, ambiguities, construction impracticalities or code violations discovered as result of Contractor's review of Contract Documents including any differences between actual and indicated dimensions, locations and descriptions, and shall give Owner and Architect Engineer timely notice in writing of same and any corrections, clarifications, additional Drawings or Specifications, or other information required to define Work in greater detail or to permit proper progress of Work. Contractor shall provide similar notice with respect to any variance between its review of Site and physical data and Site conditions observed.
    - 3) 3.2.7 If Contractor performs any Work involving an apparent error, inconsistency, ambiguity, construction impracticality, omission or code violation in Contract Documents of which Contractor is aware, or which could reasonably have been discovered by review required by Section 3.2, without promptly written notice to Owner and Architect Engineer and request for correction, clarification or additional information, as appropriate, Contractor does so at its own risk and expense and all claims relating thereafter are specifically waived.
    - 4) 3.2.8 The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect Engineer for evaluating and responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where the requested information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, or other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation.
  5. Change Section 3.3.1 to add the word written between the words timely and notice in line 7.
  6. Add Section 3.3.4 as follows
    - a. The Contractor acknowledges that it is Contractor's responsibility to hire all personnel for the proper and diligent prosecution of the Work and the Contractor shall use its best efforts to maintain labor peace for the duration of the Project. In the event of a labor dispute, the Contractor shall not be entitled to any increase in the Contract Sum.
  7. Change Paragraph 3.4.1 to read as follows
    - a. 3.4 Labor and Materials
      - 1) Add the following new language to the end of Paragraph 3.4.1
      - 2) Work required by the Contract Documents to be performed after working hours or work the Contractor elects to perform after hours shall be completed at no additional cost to the Owner.
  8. Add Section 3.4.2 as follows
    - a. Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.
    - b. Add Sections 3.4.2.1, 3.4.2.2 and 3.4.2.3 to Section 3.4.2
      - 1) 3.4.2.1 After the Contract has been executed, the Architect, Owner, and Contractor shall function as a team to evaluate, review and consider substitution

- of products in place of those specified under the conditions set forth by the Architect.
- 2) 3.4.2.2 After the Contract has been executed, the Owner and Architect Engineer may consider requests for the substitution of products in place of those specified. The Owner and Architect Engineer may, but are not obligated to, consider only those substitution requests that are in full compliance with the conditions set forth in the General Requirements (Division 1 of the Specifications). By making requests for substitutions, the Contractor
    - (a) .1 represents that it has personally investigated the proposed substitute product and determined that it is equal or superior in all respects to that specified
    - (b) .2 represents that it will provide the same warranty for the substitution as it would have provided for the product specified
    - (c) .3 certifies that the cost data presented is complete and includes all related costs for the substituted product and for Work that must be changed as a result of the substitution, except for the Architect Engineer's redesign costs, and waives all claims for additional costs related to the substitution that subsequently become apparent and
    - (d) .4 Agrees that it shall, if the substitution is approved, coordinate the installation of the accepted substitute, making such changes as may be required for the Work to be complete in all respects.
  - 3) 3.4.2.3 The Owner shall be entitled to reimbursement from the Contractor for amounts paid to the Architect Engineer for reviewing the Contractor's proposed substitutions and making agreed-upon changes in the Drawings and Specifications resulting from such substitutions.
9. Add the following to the end of Section 3.4.3
    - a. Persons permitted to perform Work under Contractor or any Subcontractor or Sub-Subcontractor shall meet all employment eligibility, safety training, security or drug alcohol testing requirements required by law or by Owner. Any person not complying with all such requirements shall be immediately removed from the site.
    - b. Add Section 3.4.3.1 to Section 3.4.3
      - 1) The Contractor or its Subcontractors shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A.113. In addition, the Contractor or their Subcontractors shall not permit an employee who is a registered sex offender convicted of a sex offense against a minor on real property of the Owner in accordance with Iowa Code 692A.113. The Contractor and its Subcontractors shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A.113, and shall fully execute and deliver copies of Acknowledgment and Certification to the Owner prior to execution of Agreement.
  10. Strike existing Paragraph 3.5.1 and replace with the following
    - a. 3.5.1 Contractor shall warrant to Owner that materials and equipment furnished under Contract will be of good quality and new unless otherwise required or permitted by Contract Documents, that workmanship will be free from defects not inherent in quality required or permitted, that workmanship will comply with all applicable laws, building codes, rules and regulations, and that workmanship will conform to requirements of Contract Documents.
  11. Add the following Paragraphs to 3.5
    - a. 3.5.3 The Contractor's general warranty and any additional or special warranties are not limited by the Contractor's obligations to specifically correct defective or nonconforming Work as provided in Article 12, or are they limited by any other remedies provided in the Contract Documents. The Contractor shall also be liable for any damage to property or persons (including death) including consequential and direct damages relating to any breach of the Contractor's general warranty or any additional or special warranties required by the Contract Documents.

- b. 3.5.4 The Contractor shall furnish all special warranties required by the Contract Documents to the Owner no later than Substantial Completion. The Owner may require additional special warranties in connection with the approval of "Or-Equals" or Substitutions, Allowance items, Work that is defective or nonconforming, or the acceptance of nonconforming Work pursuant to Article 12.
  - c. 3.5.5 In case of work performed by Subcontractors and where warranties are required, secure warranties from said Subcontractors addressed to and in favor of the Owner. Deliver copies of same to Architect upon completion of work. Delivery of said warranties shall not relieve the Contractor from any obligations assumed under any other provision of contract.
12. Delete Section 3.6 text and add Sections 3.6.1 through 3.6.7 to Section 3.6
- a. 3.6.1 Iowa Use Taxes shall be paid on all supplies and materials used in, and made component parts of, the Project.
  - b. 3.6.2 Iowa Sales Taxes shall not be paid on qualified building materials purchased, or withdrawn from inventory, which will be incorporated into real property for Project.
  - c. 3.6.3 The Owner is a designated exempt entity and will complete an online application to register this Contract with the Iowa Department of Revenue and Finance. The Owner will distribute Tax Exemption Certificates and Authorization Letters to the Contractor and all Subcontractors who have been identified at, or before filing of the Performance Bond. Refer to Iowa Department of Revenue and Finance publications available at <http://www.state.ia.us/tax/business/Contr-ExEnt-Index.html>.
  - d. 3.6.4 At or before the time the Performance Bond is filed, Contractor shall provide a listing to the Owner identifying all Subcontractors. Listing shall indicate company name, address, telephone number, fax number, contact name, and Employer ID for Contractor and each Subcontractor. Contractor and Subcontractors shall make copies of the Tax Exemption Certificate and provide to each supplier providing construction material, a copy of the Tax Exemption Certificate. This Certificate will allow the Contractor and Subcontractors to purchase qualified building materials free from sales tax for the Project. The Tax Exemption Certificate and Authorization Letter have been developed exclusively for this purpose and are applicable only for the specific Project under this Contract.
  - e. 3.6.5 Contractor shall be responsible for informing themselves of tax laws, requirements, regulations, and interpretations as they apply to this Project.
  - f. 3.6.6 Contractor shall maintain all records, invoices, receipts, or other accounting data regarding material purchases and shall allow, upon written request of Owner, and within reasonable time frame after receipt of such request, Owner to audit such records to verify tax savings. If audit reveals taxes paid or savings not transferred to Owner, Contractor shall be liable to Owner for those amounts and Owner may back charge Contractor for those amounts if balance of funds due and payable remains at time of such discovery.
    - 1) .1 Contractor shall require all Subcontractors of any tier to maintain all records, invoices, receipts, or other account data regarding material purchases. Contractor shall collect such records with each application for payment if receives from its Subcontractors and shall maintain such records in same manner and location as Contractor s records.
    - 2) .2 Contractor shall ensure its Subcontractors and any lower-tier Subcontractors including these obligations in their contracts and bind themselves in same manner as Contractor is bound to Owner.
13. Change Section 3.7 as follows
- a. Delete Section 3.7.1 and substitute the following
    - 1) 3.7.1 Unless otherwise specified in the Contract Documents, the Contractor shall secure and pay for the building permit and other permits and governmental fees, licenses, and inspections, including storm water permits, necessary for proper execution and completion of the Work which are legally required when bids are received or negotiations concluded. If applicable, Contractor shall file Notice of Intent for NPDES Coverage Under General Permit, file and implement

Storm Water Pollution Prevention Plan (SWPPP), maintain pollution prevention devices, and file Notice of Discontinuation upon stabilization of site for storm water run-off associated with Project. Refer to Iowa Department of Natural Resources publications regarding storm water management available at <http://www.iowadnr.com/water/stormwater/forms.html> or call 515-281-7017 for filing requirements. Contractor shall also pay for governmental inspection fees associated with Storm Water Pollution Prevention Plan.

- b. Delete Paragraph 3.7.3 and replace as follows
  - 1) 3.7.3 If the Contractor, or any of its Subcontractors, performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.ity for such Work and shall bear the costs attributable to correction.
- c. Modify Section 3.7.4 as follows
  - 1) Add the words “, in writing,” in line 11 after the word “Contractor.”
  - 2) Add the following before the last line “Failure to properly register a claim within the 21 day period shall be grounds for denial of the claim.”
- d. Modify subparagraph 3.7.5 to read as follows
  - 1) Add the words “knowingly” and “and recognizes” on each side of the word “encounters” in the first sentence and add the words “or good faith belief of such existence” between the words “existence” and “of” in the last sentence.
- e. Add the following new Paragraph 3.7.6
  - 1) The Contractor is responsible for scheduling inspections related to the performance of its Work and ensuring Work is complete for inspections. Any costs associated with reinspections caused by irregularities, deficiencies or non-conforming Work will be borne by the responsible contractor including all Architectural and Engineering Services related to evaluation of the problem and development of an acceptable solution.
- f. Add the following new Paragraph 3.7.7
  - 1) The Contractor shall take note and comply with all governing laws, rules, and regulations affecting the Work. This may include, but is not limited to, such laws, rules, and regulations as
    - (a) .1 Licensing of Contractors for special requirements, eg hazardous waste removal.
    - (b) .2 Requirements for special construction permits.
    - (c) .3 Exemption from sales tax, if applicable.
    - (d) .4 Wage rates and employment requirements when required by law or by Owner.
    - (e) .5 Local labor requirements.
    - (f) .6 Non-discriminatory hiring practices.
- g. Add the following new Paragraph 3.7.8
  - 1) State of Iowa, its agencies, and its political subdivisions, including cities, school districts and public utilities are required by Iowa Code 73A.21 to require reciprocal resident bidder and resident labor force preference.
  - 2) Add the following new Paragraph 3.7.8.1
    - (a) Resident Bidder means person or entity authorized to transact business in State of Iowa and having place of business for transacting business with state at which it is conducting and has conducted business for at least three (3) years prior to date of first advertisement for public improvement. If another state or foreign country has more stringent definition of Resident Bidder, more stringent definition shall be applicable as to bidders from that state or foreign country.
  - 3) Add the following new Paragraph 3.7.8.2
    - (a) Resident Bidder shall be allowed preference against nonresident bidder from state or foreign country other than Iowa if that state or foreign country gives or requires any preference to bidders from that state or foreign

country, including, but not limited to, any preference to bidders, the imposition of any type of force preference, or any other form of preferential treatment to bidders or laborers from state or foreign country. Preference allowed shall be equal to preference given or required by state of foreign country in which nonresident bidder is resident.

- 4) Add the following new Paragraph 3.7.8.3
  - (a) If Contractor is nonresident bidder Contractor is required to specify in Agreement between Owner and Contractor, whether any preference is in effect in nonresident bidder's state or country at time of this bid and identify source of regulations.
14. Change Paragraph 3.9 to read as follows
  - a. Delete subparagraph 3.9.1 and replace with the following
    - 1) The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site at all times during performance of the Work, including work of the Contractor's subcontractors. Any change in superintendent personnel must be approved by the Owner. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor. Other communications shall be similarly confirmed on written request in each case. This individual shall be fluent in all languages necessary to communicate with Contractor's employees. Owner shall be furnished with the e-mail address and cell phone numbers for the Superintendent. The approved superintendent will work in this position until completion of the Work unless the superintendent shall no longer be in the Contractor's employ, or shall be released at the request of the Architect and or Owner.
  - b. Delete subparagraph 3.9.2 and replace with the following
    - 1) The Contractor shall, within three (3) business days of the Owner's notification of an intent to award the Contract, submit to the Owner, and Architect Engineer, the name and qualifications of the proposed superintendent(s) for review and approval. Within fourteen (14) days of receipt of the information, the Architect shall notify the Contractor whether the Owner or Architect has reasonable objection to the proposed superintendent. When the superintendent(s) are approved, they shall not be removed without the Owner's written approval which will not be unreasonable withheld. The responsibility of the superintendent is to supervise, schedule, coordinate, and manage field operations.
  - c. Add subparagraph 3.9.3.1 as follows
    - 1) The Superintendent or Superintendents shall be thoroughly competent with full experience in all phases of the Work to be performed under this Contract. Anyone not deemed capable of directing all trades involved in the Work shall be replaced or supplemented immediately upon request, by someone who is satisfactory. After a satisfactory superintendent has been assigned, they shall not be withdrawn without the consent of the Architect and or Owner.
15. Change Paragraph 3.10 as follows
  - a. 3.10 Contractor's Construction Schedules
    - 1) Delete Sections 3.10.1 and 3.10.2 and substitute the following
      - (a) Section 3.10.1
        - (1) The Contractor, within ten (10) days of award of Contract, shall prepare and submit in its native electronic and graphic format, Owner's and Architect Engineer's approval Contractor's baseline construction schedule for Work. Schedule shall not exceed time limits current under Contract Documents, shall be revised at appropriate intervals as required by conditions of Work and Project, shall be related to entire Project to extent required by Contract Documents, or as requested by Owner or Architect Engineer, and shall provide for expeditious and practicable execution of Work. Schedule at minimum shall demonstrate rate of work (ROW), availability dates, permits, submittals, working drawings, procurement, fabrication, delivery of



materials, construction, and other activities necessary to complete Work. Thereafter, Contractor shall prepared and update construction schedule on at least a monthly basis a current Construction Schedule, if not more frequently at Owner's or Architect's request, to be submitted to Owner in graphic and native electronic format with each Application for Payment. Each update shall include narrative including

- (2) .1 Description of status of schedule.
  - (3) .2 Discussion of current and anticipated delays.
  - (4) .3 Discussion of progress of critical path activities.
  - (5) .4 Discussion of critical path for remainder of project.
  - (6) .5 Listing and discussion of logic changes and duration changes.
- (b) Section 3.10.2
- (1) Contractor shall prepare submittal schedule within fourteen (14) days after being awarded Contract and thereafter as necessary to maintain current submittal schedule. The Contractor shall submit schedule(s) for Architect Engineer's approval. Architect Engineer's approval shall not unreasonably be delayed or withheld. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals. Submittal schedule shall
    - (2) .1 be coordinated with Contractor's construction schedule, and
    - (3) .2 allow Architect Engineer reasonable time to review submittals.
  - 2) Add subparagraph 3.10.4 as follows
    - (a) The Contractor shall furnish information concerning the Work. This information will include, but not be limited to the following
      - (1) Daily Manpower by craft.
      - (2) Weekly Two week look ahead schedule update. Delivery requirements and status of materials.
      - (3) Monthly Written report including schedule update as outlined above and cost information.
16. Delete Section 3.11 text and substitute the following
- a. Contractor shall maintain at site for Owner one copy of Drawings, Specifications, Addenda, Current Construction Schedule, Change Orders and other Modifications, in good order and marked currently to indicate field and similar required submittals. Contractor shall display current Construction Schedule at site for reference and reliance by Owner and Architect Engineer. These shall be available to Architect Engineer and shall be delivered to Architect Engineer for submittal to Owner upon completion of Work as record of Work as constructed.
17. Change Paragraph 3.12 as follows
- a. Add the following to the end of Paragraph 3.12.5 "The Contractor shall provide the Owner and the Architect with copies of all submittals made to regulatory agencies.
  - b. Add the following at end of Section 3.12.7
    - 1) Contractor shall correct at their cost, and without any adjustment in Contract time, any Work the correction of which is required due to Contractor's failure to obtain approval of submittal required to have been obtained prior to proceeding with Work, including, but not limited to, correction of any conflicts in Work resulting from such failure.
  - c. Delete subparagraph 3.12.8 and replace with the following
    - 1) The Work shall be in accordance with reviewed submittals except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's review of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has taken appropriate action relative to the specific deviation as a

- minor change in the work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omission in Shop Drawings, Product Data, Samples or similar submittals by the Architect's review thereof.
- d. Modify Section 3.12.10.1 by adding the word "reasonably" before the word "rely" in line 4.
  - e. Add Section 3.12.11 to Section 3.12
    - 1) The Architect Engineer's and Consultant's review of Contractor's submittals will be limited to examination of an initial submittal and 1 resubmittal. Architect will notify the Contractor before beginning a further review that such review will result in additional cost to the Owner which can be charged back to Contractor. The Contractor shall reimburse the Owner for amounts paid to the Architect Engineer for evaluation of additional resubmittals.
18. Change Paragraph 3.13 to read as follows
- a. 3.13 Use Of Site
    - 1) Add the following new Paragraph 3.13.2
      - (a) Contractor shall perform the Work so as to cause a minimum of inconvenience to and interruption of the Owner's operations. Any and all interruptions of the operations of the Owner necessary for the performance of the Work shall be noted in the progress schedule and the Contractor shall additionally give the Owner sufficient advance notice of such interruption as to allow the Owner to adjust operations accordingly. Contractor's failure to give the Owner timely notice of such intentions shall place the responsibility of any resulting delays or additional costs solely with the Contractor.
    - 2) Add the following new Paragraph 3.13.3
      - (a) Except as may be specifically provided in the Contract Documents, the Contractor shall provide all necessary temporary facilities, including power, water, sanitation, scaffolding, storage, and security. If Owner makes any such facilities available to Contractor, it is without representation or warranty as to their adequacy for Contractor's use, and Contractor shall indemnify, defend, and hold Owner harmless from and against any claims arising out of Contractor's use of such facilities.
    - 3) Add the following new Paragraph 3.13.4
      - (a) The Contractor shall not bring or permit any subcontractor, supplier or anyone else for whom the Contractor is responsible, to bring on the site any asbestos, PCB's petroleum, hazardous waste or radioactive materials (except for proper use in performing the Work)
19. Strike Paragraph 3.15.1 and 3.15.2 and replace with the following
- a. 3.15 CLEANING UP, WORKING HOURS AND NOISE ORDINANCE
    - 1) 3.15.1 Work will be performed in accordance with the Contract Documents, the Applicable Building Code, and other applicable law governing the Contractor's performance of the Work. No delays resulting from compliance with applicable laws or regulations may form the basis for any claim by the Contractor for delay damages or additional compensation or for any extensions of the Contract Time. The Contractor must not permit work outside of hours established in the Contract Documents on a Saturday, Sunday or State or federal holiday without the written consent of the Owner, given after prior written notice to the Architect and any other applicable consultants such consent, if given, may be conditioned upon payment by the Contractor of the Owner's, Architect's and any other applicable consultants' additional costs and fees, testing or regulatory agency costs incurred in monitoring such off-hours Work. The Contractor must notify the Owner as soon as possible if Work must be performed outside such times in the interest of the safety and protection of persons or property at the Site or adjacent thereto, or in the event of an emergency. In no event shall the Contractor permit Work to be performed at the Site without the presence of the Contractor's superintendent and person responsible for the protection of

- persons and property at the Site and compliance with all applicable laws and regulations, if different from the superintendent.
- 2) 3.15.2 The Contractor must comply with any applicable Noise Ordinances and any successor or substitute provisions covering the regulation of noise levels. It is the duty of the Contractor to familiarize itself with those provisions and perform the Work in compliance with those provisions.
  - 3) 3.15.3 The Contractor must keep the Site and adjacent areas free from accumulation of waste materials or rubbish caused by operations under the Contract, and must keep tools, construction equipment, machinery and surplus materials suitably stored when not in use. If the Contractor fails to do so in a manner reasonably satisfactory to the Owner or the Architect within forty-eight (48) hours after notice or as otherwise required by the Contract Documents, the Owner may clean the Site and back charge the Contractor for all costs associated with the cleaning. The Contractor shall keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials from and about the Project.
20. Change Paragraph 3.18 to read as follows
- a. 3.18 Indemnification
    - 1) Delete 3.18.1 in its entirety and replace with the following
      - (a) 3.18.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, and its agents, representatives, employees, and consultants from and against all claims, damages, losses, and expenses, including but not limited to attorneys fees, arising out of or resulting from or in connection with the performance of the Work, provided that any such claim, damages, loss, or expense is caused in whole or in part by any negligent act or omission of the Contractor, anyone directly or indirectly employed by it or anyone for whose acts it may be liable, regardless of whether or not it is caused in part by the negligence or fault of a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity what would otherwise exist as to any party or person described in the Agreement.
    - 2) Delete 3.18.2 in its entirety and replace with the following
      - (a) 3.18.2 In any and all Claims against the Owner or any of its agents, representatives, employees, and consultants by any employee of the Contractor, or anyone directly or indirectly employed by any of them or anyone for whose acts it may be liable, the indemnification obligation under this Section shall not be limited in any way by any limitations on the amount or types of damages, compensation or benefits payable by or for the Contractor under the workers or workmen s compensation acts, disability benefit acts, or other employee benefit acts.
  - b. Add the following subparagraphs to 3.18
    - 1) 3.18.3 Claims, damages, losses, and expenses as these words are used in this agreement shall include claims, damages, losses, or expenses of any sort whatsoever and shall also include, but not be limited to (1) injury or damage consequent upon the failure of or use or misuses by Contractor, its Subcontractors, agents, servants, or employees, of any kind of equipment, whether or not the same be owned, furnished, or loaned by Owner (2) all attorneys fees and costs incurred in bringing an action to enforce the provisions of this indemnity or any other indemnity contained in the General Conditions, as modified by the Supplementary General Conditions and (3) time expended by the parties being indemnified and employees, at their usual rates plus cost of travel, long distance telephone, and reproduction of documents.
    - 2) 3.18.4 Contractor's indemnity obligations under this Paragraph 3.18 shall also specifically include, without limitation, all fines, penalties, damages, liability,

costs, expenses (including, without limitation, reasonable attorneys' fees), and punitive damages (if any) arising out of, or in connection with, any (i) violation of or failure to comply with any law, statute, ordinance, rule, regulation, code, or requirement of a public authority that bears upon the performance of the Work by Contractor, Subcontractors, or any person or entity for whom either is responsible, (ii) means, methods, procedures, techniques, or sequences of execution or performance of the Work, and (iii) failure to secure and pay for permits, fees, approvals, licenses, and inspections as required under the Contract Documents, or any violation of any permit or other approval of a public authority applicable to the Work, by Contractor, Subcontractors, or any person or entity for whom either is responsible, but only to the extent caused by the negligent acts or omissions of Contractor, Design Consultants, Subcontractor, or any person or entity for whom either is responsible.

- 3) 3.18.5 In the event the Owner should prevail in any legal action arising out of the performance or non-performance of this Agreement, the Contractor shall pay, in addition to any damages, all expenses of such action including reasonable attorney's fees, all expert witness fees, costs, and litigation expenses incurred by the Owner, including those incurred on appeal. The term "legal action" shall be deemed to include any arbitration, administrative proceedings, and all actions at law or in equity, including appeals.

21. Article 4 Administration Of The Contract

- a. Delete Section 4.1.1 and substitute the following
  - 1) The "Architect" is defined in this Contract as the Engineer or Architect lawfully licensed by the State to practice architecture or engineering or an entity, licensed by the State to lawfully practice architecture or engineering identified as such in this Contract and as is referred to throughout the Contract documents as if singular in number. The term "Engineer," "Architect Engineer," "Engineer Architect," "Architect's authorized representative," "Engineer's authorized representative," or "Architect Engineer's authorized representative" shall mean "Architect" as defined in this paragraph.
- b. Delete Paragraph 4.2.2. and replace with the following
  - 1) The Architect, as a representative of the Owner, shall attend construction meetings and visit the site while Work is in progress not less often than as outlined in the Contract between Owner and Architect, or as otherwise mutually agreed to by the parties, to observe and evaluate the site and the Work to become familiar with the progress and quality of the Work and to determine whether the Work evaluated and observed is proceeding in accordance with the Contract Documents and construction schedule and whether there are defects or deficiencies in the Work evaluated and observed. On the basis of on-site observations and evaluations, the Architect shall keep the Owner reasonably informed of the progress and quality of the Work and its conformance with the Construction Documents and the construction schedule. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1.
- c. Add Section 4.2.2.1 to Section 4.2.2
  - 1) The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect Engineer for site visits made necessary by the fault of the Contractor or by defects and deficiencies of the Work.
- d. Delete Section 4.2.4 and substitute with the following
  - 1) Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner and Contractor shall include the Architect in communications that relate to or affect the Architect's

services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any relevant direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

- 2) Add the following subparagraphs
  - (a) 4.2.4.1 All notices, demands, requests, instructions, approvals, proposals and claims must be in writing. Any notice or demand upon the Contractor shall be sufficiently given if delivered at the office of the Contractor stated on the signature page of the agreement (or at such other office as the contractor may from time to time designate in writing to the Owner), or if deposited in the United States mail in a sealed, postage-paid envelope or delivered with charges prepaid to any telegraph company for transportation, in each case addressed to such office.
  - (b) 4.2.4.2 All papers required to be delivered to the Owner shall, unless otherwise specified in writing to the Contractor, be delivered to the office of FEH DESIGN, 604 E. Grand Avenue, Des Moines, IA 50309 and any notice to or demand upon the Owner shall be sufficiently given if so delivered, or if deposited in the United States mail in a sealed, postage prepaid envelope, or delivered with charges prepaid to any telegraph company for transmission to said Owner at such address, or to such other representatives of the Owner may subsequently specify in writing to the Contractor for such purpose.
  - (c) 4.2.4.3 Any such notice shall be deemed to have been given as of the time of actual delivery of (in the case of mailing) when the same should have been received in due course of post, or in the case of telegrams, at the time of actual receipt, as the case may be.
- 3) Add Section 4.2.7.1 to Section 4.2.7
  - (a) In no case will the Architect Engineer's review period on any submittal be less than fifteen (15) calendar days after receipt of the submittal from the Contractor.
- 4) Add Section 4.2.14.1 to Section 4.2.14
  - (a) Contractor's requests for information shall be prepared and submitted in accordance with Division 1 General Requirements sections on form acceptable to Architect Engineer. The Architect Engineer will return without action requests for information that does not conform to requirements of the Contract Documents.

22. Article 5 Subcontractors

a. 5.2 Award of Subcontracts and other Contracts for Portions of the Work

- 1) Make the following changes to paragraph 5.2.1
  - (a) Replace the words as soon as practicable (line 1) with the words within 10 days .
  - (b) Add to the end of paragraph 5.2.1
    - (1) A list of Subcontractors shall be submitted in duplicate on AIA Document G805, 2001 Edition. Contractor shall update this list throughout Project and keep Owner and Architect Engineer advised of any new subcontractors employed.
- 2) 5.2.3 Add the following language to the end of subparagraph
  - (a) Acceptance or rejection of any subcontractor shall not relieve the Contractor of performance of Work as called for under the Contract Documents, nor shall acceptance of a particular subcontractor be construed as acceptance of any particular purpose or material.
- 3) Add Paragraph 5.2.5 Manufacturers and Fabricators

- (a) Add subparagraph 5.2.5.1
  - (1) Not later than thirty (30) days after the date of commencement of the Work, the Contractor shall furnish in writing to the Owner through the Architect Engineer the names of persons or entities proposed as manufacturers or fabricators for certain products, equipment and systems identified in the General Requirements (Division 1 of the Specifications) and, where applicable the name of the installing Subcontractor. The Architect Engineer may reply within fourteen (14) days to the Contractor in writing stating 1) whether the Owner or the Architect Engineer has reasonable objection to any such proposed person or entity or 2) that the Architect Engineer requires additional time to review. Failure of the Owner or Architect Engineer to reply within the fourteen (14) day period shall constitute notice of no reasonable objection.
- (b) Add subparagraph 5.2.5.2
  - (1) The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect Engineer has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.
- (c) Add subparagraph 5.2.5.3
  - (1) If the Owner or Architect Engineer has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect Engineer has no reasonable objection. If the proposed but rejected manufacturer or fabricator was reasonable capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute manufacturer s or fabricator s Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.
- (d) Add subparagraph 5.2.5.4
  - (1) The Contractor shall not substitute a person or entity previously selected if the Owner or Architect Engineer makes reasonable objection to such substitution.
- 4) 5.4 Contingent Assignment of subcontractors
  - (a) Delete Paragraph 5.4.2 in its entirety.
- 23. Article 6 Construction by Owner or by Separate Contract
  - a. Add the following to the end of Paragraph 6.1.1
    - 1) The Contractor shall give notification of the potential of a claim in writing to Owner and or Separate Contractor within forty-eight (48) hours of the occurrence or discovery of the potential of an occurrence of the delay or action that will result in making a claim.
  - b. Delete the last sentence of Section 6.2.2 and insert the following to the end of section
    - 1) , except as to defects not then reasonably discoverable.'
- 24. Article 7 Changes in the Work
  - a. Add the following to the end of Paragraph 7.1.1
    - 1) No claim for an addition to the maximum Contract sum shall be considered a valid claim unless a written change order procedure is followed as outlined in this Section. Verbal authorization for changes must be supported by written approval before being considered valid.
  - b. Add the following Clauses to 7.1.2
    - 1) 7.1.2.1 All changes in Material or Methods as described in the Plans and Specifications must have written approval by the Owner and Architect prior to

- incorporation in the Project.
- 2) 7.1.2.2 All changes in the Plans and Specifications must be documented by a Change Order Form issued by the Architect approved by the Owner.
  - 3) 7.1.2.3 Total adjustments in Contract Amount are to reflect a reasonable markup to reflect overhead and profit, not to exceed as follows
    - 4) 7.1.2.3.1 Change executed by Subcontractor 10 by Subcontractor for overhead and profit and 5 by Contractor for coordination and profit. Subcontractor and Sub-subcontractor's total aggregate shall not exceed ten percent (10 ) percent of the cost.
    - 5) 7.1.2.3.2 Change executed by Contractor without subcontractor involvement 10 for overhead and profit.
    - 6) On Work deleted from the Contract, credit to the Owner shall be the Architect Engineer approved net cost plus one-half (□) of the overhead and profit percentage noted above.
    - 7) 7.1.2.3.3 Contractor and Sub-contractors shall provide written detailed documentation for each (sub) contractor showing their time and materials on all changes submitted for review by the Architect unless pre-approved at a fixed amount. In order to facilitate checking of quotations for extras or credits, all proposals, except those so minor that their propriety can be seen by inspection, shall be accompanied by a complete itemization of costs including labor, materials and Subcontracts. Labor and materials shall be itemized in the manner described above. Where major cost items are Subcontracts, they shall be itemized also. In no case will a change involving over 500.00 be approved without such itemization.
  - c. Add the following subparagraph 7.2.2
    - 1) 7.2.2 The forms used to process a Change Order will include AIA Document G701, Change Order
  - d. Add the following subparagraph 7.2.3
    - 1) Contractor shall submit change proposals covering contemplated Change Order within ten (10) days after request of Owner, or Architect Engineer or within ten (10) days after event giving rise to Contractor's claim for change in Contract Sum or Contract Time. No increase in Contract Sum or extension of Contract Time will be allowed Contractor for cost or time involved in making change proposals. Change proposals shall define or confirm in detail Work which is proposed to be added, deleted, or changes and shall include any adjustment which Contractor believes to be necessary in (i) Contract Sum, (ii) Contract time. Any proposed adjustment shall include detailed documentation including, but not limited to cost, properly itemized and supported by sufficient substantiating data to permit evaluation including cost of labor, materials, supplies and equipment, rental cost of machinery and equipment, additional bond cost, plus fixed fee for profit and overhead (which includes office overhead and site-specific overhead and general conditions) of ten percent (10 ) if Work is performed by Contractor, or five percent (5 ) if Work is performed by Subcontractor or Sub-subcontractor. Subcontractors and Sub-subcontractors overhead and profit in turn shall not exceed total aggregate of ten percent (10 ). Change proposals shall be binding upon Contractor and may be accepted or rejected by Owner at their discretion. Owner may, at their option, instruct Contractor to proceed with Work involved in change proposal in accordance with this section without accepting change proposal in its entirety.
  - e. Add the following subparagraph 7.2.4
    - 1) If the Owner determines that a change proposal is appropriate, the Architect will prepare and submit a request for a Change Order or Contract Amendment providing for an appropriate adjustment in the Contract Sum or Contract Time, or both, for further action by the Owner. No such change is effective until the Owner and Architect sign the Change Order.
  - f. Add the following to subparagraph 7.3.2
    - 1) ,upon prior written approval of the Owner "

25. Article 8 Time
- a. Add the following new Clause to 8.1.1
    - 1) 8.1.1.1 The project shall be substantially complete by 11-17-2023.
    - 2) Contractor may, at Contractor's option, complete the project at an earlier date to be indicated on the Bid Form.
  - b. Add the following to the end of 8.1.2
    - 1) or the date of the Notice To Proceed, whichever occurs later."
  - c. Add the following paragraphs to 8.2
    - 1) Add the following at end of 1st sentence of Section 8.2.2
      - (a) or prior to approval of Certificates of Insurance, and Additional Insured Endorsement and Notice of Cancellation Endorsement required to be submitted to Owner under Contract.
    - 2) 8.2.3 Add the following to the end of paragraph 8.2.3, "If Contractor's Work shall fall behind schedule for reasons that are not excused under the terms of the Contract, Contractor shall add additional workers or shifts, and or work overtime as necessary to maintain the Construction Schedule."
    - 3) 8.2.4 The Contractor must conform to the most recently approved Construction Schedule. The Contractor must complete the indicated Work or achieve the required percentage of completion, as applicable, within any interim completion dates established in the most recently approved Construction Schedule.
    - 4) 8.2.5 The Contractor must maintain at the Site, available to the Owner and the Architect for their reference during the progress of the Work, a copy of the approved Construction Schedule and any approved revisions thereto. The Contractor must keep current records of and mark on a copy of the approved Construction Schedule the actual commencement date, progress, and completion date of each scheduled activity indicated on the Construction Schedule.
    - 5) 8.2.6 The Contractor represents that its bid includes all costs, overhead and profit which may be incurred throughout the Contract Time and the period between Substantial and final Completion. Accordingly, the Contractor may not make any claim for delay damages based in whole or in part of the premise that the Contractor would have completed the Work prior to the expiration of the Contract time but for any claimed delay.
    - 6) 8.2.7 If the Contractor's progress is not maintained in accordance with the approved Construction Schedule, or the Owner determines that the Contractor is not diligently proceeding with the Work or has evidence reasonably indicating that the Contractor will not be able to conform to the most recently approved Construction Schedule, the Contractor must, promptly and at no additional cost to the Owner, take all measures necessary to accelerate its progress to overcome the delay and ensure that there will be no further delay in the progress of the Work and notify the Owner.
    - 7) 8.2.8 The Owner reserves the right to issue a written directive to accelerate the Work that may be subject to an appropriate adjustment, if any, in the Contract Sum. If the Owner requires an acceleration of the Construction Schedule and no adjustment is made in the Contract Sum, or if the Contractor disagrees with any adjustment made, the Contractor must file a claim as provided in Article 15 or the same will be deemed to be conclusively waived.
  - d. Change paragraph 8.3.1 as follows
    - 1) Delete the words "labor dispute" and add the words excusable weather delays as defined in Section 15.1.5.2, between the words fire and unusual in 3rd line of section 8.3.1.
  - e. Add the following language to the end of Paragraph 8.3.1
    - 1) A time extension shall be Contractor's sole remedy and compensation for all such delays other than those resulting from the acts or negligence of the Owner, the Architect, or the Owner's separate contractors (collectively "Owner Caused Delays"). For proven Owner Caused Delays, the Contractor may recoup the



- actual costs resulting from such delays, but not for any additional profit or fee.
26. Article 9 Payments And Completion
    - a. 9.2 Schedule of Values
      - 1) Add to Paragraph 9.2
        - (a) In the 1st sentence, add the words “thirty (30) days” between the words “Architect,” and “before.”
    - b. 9.3 Application for Payment
      - 1) Delete Paragraph 9.3.1 and replace as follows
        - (a) 9.3.1 At least thirty (30) days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the schedule of values. Such application shall be notarized, if required, and supported by such data substantiating the Contractor’s right to payment as the Owner or Architect may require, such as copies of requisitions from Subcontractors and material suppliers. If the Contract Documents required the Owner to retain a portion of the payments until some future time, the Applications for Payment shall clearly state the percentage and the amount to be retained. Once the Application is approved by the Architect, the Application for Payment must be submitted for approval to the City of Polk City, IA at their next regularly scheduled meeting. The application must be received at the Owner office at least one week prior to the scheduled meeting for it to be included in that meeting’s scheduled business. The form of Application for Payment shall be a notarized AIA Document G702, APPLICATION AND CERTIFICATE FOR PA MENT, supported by AIA Documents G703, CONTINUATION SHEET. Contractor shall furnish forms.
      - 2) Modify Section 9.3.1.2 by inserting the following the word “Payments” in line 1 ‘must be consistent with the approved Schedule of Values and’.
      - 3) Add the following new Clauses to 9.3.1
        - (a) 9.3.1.3 Until Substantial Completion the Owner shall pay 95 of the amount due the Contractor on account of progress payments.
        - (b) 9.3.1.4 The Owner’s release of retained funds and final payment to the Contractor shall be made in accordance with Iowa Code Chapters 26 and 573 provisions.
        - (c) 9.3.1.3 Progress payments shall be made monthly upon application. Monthly estimates will be paid to the Contractor as the work progresses in the amounts equal to ninety-five percent (95 ) of the Contract Value of the work completed, including materials and equipment delivered and properly stored at the Project site, during the preceding calendar month, and will be based upon an Application prepared by the Contractor and subject to the approval of the Architect. The Contractor shall submit the Application for Payment to the Architect not later than the first day of the following month. The Owner shall make payment to the Contractor by the last day of the month. Such monthly payments shall in no way be construed as an act of acceptance for any part of the work, partially or totally completed. The remaining balance of five percent (5 ) of the Contract Sum, shall be paid by the Owner to the Contractor no earlier than thirty-one (31) days after the date of final acceptance of said Work by the Owner, subject to the conditions and in accordance with the provisions of Chapters 26 and 573 of the Code of Iowa. No such partial of final payment will be due until the Contractor has certified to the Owner that the materials, labor and services involved in each estimate have been paid for in accordance with the requirements stated in the Specifications.
    - c. Modify Paragraph 9.5 Decisions to Withhold Certification
      - 1) Add the following to the end of Paragraph 9.5.1
        - (a) Service work not attended to.
        - (b) Evidence of lack of careful workmanship.

- (c) Unworkmanlike or over expeditious construction.
  - (d) Lack of attention to the special field duties specified.
- 2) Delete subparagraph 9.5.4 in its entirety.
- d. 9.6 Progress Payments
  - 1) Add the words following City Council approval between the words payment and in in 1st line of Section 9.6.1.
  - 2) Add the following language to the end of Paragraph 9.6.1
    - (a) Owner will, within thirty (30) days of presentation to them of Notarized Certificate for Payment, pay Contractor progress payment on basis of approved Application for Payment. Laws of State of Iowa shall be followed regarding Contractor Payment, with a five percent (5 %) retainage held from each progress payment. Final payment shall be made no sooner than thirty-one (31) days following final approval and acceptance of completed Project. Until Substantial Completion, the Owner will pay ninety-five percent (95 %) of the amount due the Contractor on account of Progress Payments, (5 %) retainage.
  - 3) Delete Paragraph 9.6.4 and substitute the following
    - (a) The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and material and equipment suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven (7) days, the Owner shall have the right to contact Subcontractors to ascertain whether they have been properly paid. Regardless of any requests made pursuant to this section, neither the Owner nor Architect Engineer shall have an obligation to pay or to see to the payment of money to a Subcontractor, except as may otherwise be required by law.
  - 4) Modify Section 9.6.8 by deleting the word 'lien' throughout and replacing it with the words 'Iowa Code Chapter 573.'
  - 5) Add new paragraph 9.6.9
    - (a) Payment to the Contractor will be made by the Owner from cash on hand from such sources as may be legally available.
    - (b) Add subparagraph 9.6.8.1 as follows
      - (1) Payment to Contractor will be made by Owner from cash on hand from such sources as may be legally available.
  - 6) Delete Section 9.7 and substitute the following
    - (a) If Owner does not pay the Contractor within sixty (60) days after the Contractor submits an Application for Payment to the Architect, the Contractor may file a claim in accordance with Article 15 of this Contract.
- e. 9.8 Substantial Completion
  - 1) Add the following language to the end of Paragraph 9.8.1
    - (a) , subject only to completion of minor punch list items, the absence of completion of which does not interfere with Owner s intended use of Project. The Contractor assumes the responsibility for notifying the Architect in writing when the Project is complete and ready for inspection and review by Architect. This letter to the Architect shall include the date after which the Contractor will be ready for final review and inspection. Designated portions of the Work will be reviewed separately.
  - 2) Add new Paragraph 9.8.6
    - (a) The Contractor shall reimburse the Owner for any Architect Engineer's Additional Services and or attorneys' fees incurred as a result of Contractor's failure to finally complete the Work within sixty (60) days after date specified in the Contract Documents for Project Substantial Completion, or subsequently modified by Change Orders or dates established in the Certificate of Substantial Completion. Reimbursement for these additional services will be deducted by the Owner from the amounts due the Contractor and paid directly to the Architect Engineer. For

purposes of this paragraph “incurred as a result of” includes any architectural fees charged to Owner as Additional Fees under the contract due to the fact that the services were performed sixty (60) days (or some other amount of time specified in the Owner Architect Agreement) after Substantial Completion. The nature of the services performed (and whether they would have otherwise been performed as normal closeout services at some point under Basic Services) is not relevant to the Contractor’s obligations for reimbursement under this section if the contract between the Owner and Architect states that any and all services and related fees are defined as Additional Services solely because they were performed more than sixty (60) days (or some other amount of time specified in the Owner Architect Agreement) after Substantial Completion.

- f. Add new subparagraph 9.8.7
  - 1) 9.8.7.1 Request for Early Release of Retainage Funds
    - (a) 9.8.7.1.1 Upon achieving Substantial Completion, as defined by Iowa Code Chapter 26, the Contractor may formally request the release of all or part of the retainage funds being held on the Project. The Contractor’s request for Release of the Retainage Funds shall be accompanied by a sworn statement that ten (10) calendar days prior to filing the Request for Release of the Funds a notice was given to all known subcontractors, sub-subcontractors and suppliers that the Contractor is requesting the early release of retainage funds. If proper documentation is received from the Contractor, the Owner will release all retainage funds at the next monthly Owner meeting or within thirty (30) days, whichever is less, except it may retain the following
    - (b) 9.8.7.1.2 An amount equal to 200% of the value of labor or materials yet to be provided on the Project as determined by the Owner and its authorized contract representative. For purposes of this section, “authorized contract representative” means the Architect of record on the Project, unless otherwise specified.
    - (c) 9.8.7.1.3 An amount equal to 200% of the value of any Chapter 573 claims currently on file at the time the Request for Release of Retainage is approved.
    - (d) 9.8.7.1.4 If the Owner withholds an amount from the retainage payment to the Contractor, the Owner will provide a reason the request is being denied to the Contractor within thirty (30) calendar days of the receipt of the request.
    - (e) 9.8.7.1.5 Operation, Maintenance, and Warranty Manuals and Record Drawings and Specifications.
- g. Add Paragraph 9.8.8
  - 1) If proper documentation requested in Subparagraph 9.8.7 is received from Contractor, Owner shall make payment due Contractor at Owner’s next monthly City Council meeting or within thirty (30) days, whichever is less, except the Owner may retain the following to the extent authorized by law
    - (a) .1 An amount equal to two hundred percent (200%) of the value of labor and materials yet to be provided on the Project as determined by the Owner and its authorized contract representative. For purposes of this Section, “authorized contract representative” means the Architect. Final values to be withheld shall be determined by the Architect Engineer based on initial estimates provided by Contractor and Architect Engineer’s on-site visits and observations.
    - (b) .2 Double the amount of any Iowa Code Chapter 573 claims currently on file.
    - (c) .3 An amount equal to one-half percent (½%) of the total value of the Project for Operation, Maintenance, and Warranty Manuals and Record Drawings and Specifications not submitted ten (10) days prior to Substantial Completion inspection.

- h. Add Paragraph 9.8.9
  - 1) If the Owner withholds any amounts of retained funds, the Architect Engineer, on behalf of the Owner, shall provide an itemization and list of reasons why amounts are being withheld within thirty (30) calendar days of receipt of request.
- i. Add the Sections 9.8.10 through 9.8.14 as follows
  - 1) 9.8.10 Warranties required by the Contract Documents will commence on the Date of Substantial Completion of the Work unless otherwise provided in the Certificate of Substantial Completion or the Contract Documents.
  - 2) 9.8.11 Upon execution of the Certificate of Substantial Completion, the Contractor will deliver custody and control of such Work to the Owner. The Owner will thereafter provide the Contractor reasonable access to such Work to permit the Contractor to fulfill the correction, completion and other responsibilities remaining under the Contract and the Certificate of Substantial Completion.
  - 3) 9.8.12 Unless otherwise provided in the Certificate of Substantial Completion, the Contractor must complete or correct all items included in the final Punch List within sixty (60) days, subject to the availability of special order parts and materials, after the Date of Substantial Completion.
  - 4) 9.8.13 Not later than ten (10) days after the date of Substantial Completion, the Contractor shall furnish to the Architect Engineer all Closeout Documentation identified in General Requirements (Division 1 of the Specifications). Except with the consent of the Owner, the Architect Engineer will perform Closeout Documentation review only during the sixty (60) day period following Substantial Completion. The Owner shall be entitled to deduct from the Contract Sum amounts paid to the Architect Engineer for additional reviews beyond the 60 day time period identified.
  - 5) 9.8.14 At the time of Substantial Completion, in addition to removing rubbish and leaving the building "broom clean," the Contractor must replace any broken or damaged materials, remove stains, spots, marks and dirt from decorated Work, clean all fixtures, vacuum all carpets and wet mop all other floors, replace HVAC filters, clean HVAC coils, and comply with such additional requirements, if any, which may be specified in the Contract Documents.
- j. 9.10 Final Completion And Final Payment
  - 1) Delete Paragraphs 9.10.1 through 9.10.5 and add the following
    - (a) 9.10.1 When the Contractor has completed or corrected all items on the final Punch List and considers that the Work is complete and ready for final acceptance, the Contractor must give written notice to the Owner and the Architect and request a final inspection of the Work as provided in Section 9.10.2. The Contractor's notice and request for a final inspection must be accompanied by a final Application for Payment and the Submittals required by Section 9.10.3.
      - (1) 9.10.1.1 The Architect Engineer will perform no more than one (1) inspection to determine whether the Work or a designated portion thereof has attained Final Completion in accordance with the Contract Documents. The Owner is entitled to reimbursement from the Contractor for amounts paid to the Architect Engineer for any additional inspections.
    - (b) 9.10.2 Upon receipt of the Contractor's notice and request for final inspection, the Owner and the Architect will promptly make such inspection and, when the Owner and the Architect concur that the Work has been fully completed and is acceptable under the Contract Documents, the Architect will issue a Certificate of Final Completion to the Owner. The Contractor's notice and request for final inspection constitutes a representation by the Contractor to the Owner and the Work has been completed in full and strict accordance with terms and conditions of the Contract Documents. The Architect will promptly notify the Contractor if the Owner or the Architect do not concur that the Work is finally complete. In such case, the Contractor

must bear the cost of any additional services of the Owner or the Architect until the Work is determined to be finally complete services of the Owner or the Architect until the Work is determined to be finally complete.

- (c) 9.10.2.1 The Contractor shall provide Project Record Documents, Operation and Maintenance Manuals, Instruction to Owner s personnel, Final Cleaning and other closeout procedures specified elsewhere.
- (d) 9.10.3 Final Payment will be made no earlier than thirty-one (31) days following approval by the Owner at a regularly scheduled meeting, receipt of all Chapter 573 Claim Releases, Sales Tax information, and all other required closeout documents, and subject to the conditions of and in accordance with the provisions of Iowa Code Chapter 573 and Iowa Code Chapter 26. Owner may withhold from final payment any and all amounts required to reimburse the Owner for all costs, fees (including reasonable attorney's fees) it incurred as a result of any Chapter 573 Claims filed on the project. Neither final payment nor any remaining retained percentage will become due until the Contractor submits the following documents to the Architect.
  - (1) 9.10.3.1 An Affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner), have been paid or otherwise satisfied, submitted on AIA Document G706, Affidavit of Payment of Debts and Claims (latest edition) or such other form as may be prescribed by the Owner.
  - (2) 9.10.3.2 A certificate evidencing that the Contractor's liability insurance and Performance Bond remain in effect during the one-year correction period following Substantial Completion as set forth in Section 12.2.2.1 and 12.2.2.2
  - (3) 9.10.3.3 A written statement that the Contractor knows of no substantial reason that the insurance will not be renewable to cover the period required by the Contract Documents
  - (4) 9.10.3.4 Consent of surety to final payment, submitted on AIA Document G707 (latest edition) or other form prescribed by the Owner
  - (5) 9.10.3.5 Other data required by the Owner establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract, to the extent and in such form as may be prescribed by the Owner
  - (6) 9.10.3.6 A certified building location survey and as-built site plan in the form and number required by the Contract Documents.
  - (7) 9.10.3.7 All warranties and bonds required by the contract Documents and
  - (8) 9.10.3.8 Record Documents as provided in Section 3.2.2 and return of Contract Documents as provided therein.
  - (9) 9.10.3.9 Release or waiver of liens and Iowa Code Chapter 573 claims on behalf of Contractor and similar release or waiver on behalf of each Subcontractor and supplier, accompanied by AIA Document G706A, Affidavit of Release of Liens (latest edition) or such other form as may be prescribed by Owner
- k. Add new paragraph 9.11
  - 1) The Contractor and the Contractor s surety, if any, shall be liable for and shall pay the Owner for any extra costs for engineering or architectural services, construction observation services and related expenses necessitated by the delayed prosecution of the work by the Contractor beyond the date of Final Completion required by the Agreement. Such costs are in no way a penalty, but represent additional expenses to the Owner caused by the Contractor s delay in completing the Work.
- l. Add paragraph 9.12

- 1) No assignment by the Contractor of any principal contract or any part thereof, or of the funds to be received thereunder by the Contractor, will be recognized unless such assignment has had the written approval of the Owner and the Surety has been given due notice of such assignment and has furnished written consent thereto. In addition to the usual recitals in the Assignment Contract, the following language must be set forth "It is agreed that the funds to be paid to the Assignee under this Assignment are subject to prior lien Iowa Code Chapter 573 claims for services rendered on materials supplied for the performance of all work called for in said Contract, in favor of all persons, firms or corporations rendering such services supplying such materials."
27. Article 10 Protection of Persons and Property
- a. Add sub-paragraph 10.1.1 as follows
    - 1) Contractor shall take all necessary precautions to keep the site and work in compliance with the safety and health regulations for construction issued by the Bureau of Labor Standards of the U.S. Department of Labor as well as the Occupational Safety and Health Standards parts 1910 and 1926 as amended and as enforced by the State of Iowa.
  - b. Modify subparagraph 10.2.2 as follows
    - 1) Add a new subparagraph 10.2.2.1 as follows
      - (a) Contractors shall comply with the Iowa Smoke Free Air Act while on Owner property and shall not smoke or use any tobacco while on Owner property. Owner property shall include, but not be limited to, inside private Contractor or employee owned vehicles while parked on Owner property.
  - c. Add Section 10.2.4.1 to Section 10.2.4
    - 1) When use or storage of explosives, or other hazardous materials, substances or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall give the Owner reasonable advance notice.
  - d. Add Section 10.2.5.1 to Section 10.2.5
    - 1) Contractors required remedial action for damage and loss to property referred to in Sections 10.2.1.2 and 10.2.1.3 shall repair the damaged materials and surfaces to their original condition, or better, to the satisfaction of the Owner. All such repairs are the responsibility of the Contractor and shall be accomplished at no additional cost to the Owner.
  - e. Add subparagraph 10.2.9 to paragraph 10.2
    - 1) 10.2.9 At the end of the day's work, all new work likely to be damaged shall be covered. During cold weather protect all work from damage. If low temperatures make it impossible to continue operations safely in spite of cold weather precautions, work shall cease after notifying Architect Engineer. All other protective measures not mentioned above which may be required shall be furnished by the particular contractor responsible for such protection.
  - f. Add subparagraph 10.2.10 to paragraph 10.2
    - 1) 10.2.10 Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations free of water.
  - g. Add subparagraph 10.2.11 to paragraph 10.2
    - 1) 10.2.11 Contractor shall at all times, protect the excavation, trenches and or the buildings from damage or rain water, spring water, ground water, backing up of drains, or sewers, etc. Provide all pumps, equipment, and enclosures to give this protection.
  - h. Add subparagraph 10.2.12 to paragraph 10.2
    - 1) 10.2.12 Contractor shall provide all shoring, bracing, and sheeting as required for safety and for the proper execution of the Work. Remove when work is completed.
  - i. Modify Section 10.3.1 by deleting the word "notify" in line six and replacing it with the words "report the condition in writing to".
  - j. Delete Section 10.4 and substitute the following

- 1) In an emergency affecting safety of persons or property, the Contractor must take all necessary action, without the necessity for any special instruction or authorization from the Owner or Architect, to prevent threatened damage, injury or loss. The Contractor must promptly, but in all events with twenty-four (24) hours of the emergency, report such action in writing to the Owner and Architect. If the Contractor incurs additional costs on account of or is delayed by such emergency, the Contractor may request a change in the Contract Sum or Contract Time to account for such additional costs or delay in accord with Articles 7, 8 and 15. The Contractor must file any such request within ten (10) days of the emergency or it is deemed waived. Any adjustment in the Contract Sum or Contract time shall be limited to the extent that the emergency work is not attributable to the fault or neglect of the Contractor or otherwise the responsibility of the Contractor under the Contract Documents.
28. Article 11 Insurance and Bonds
    - a. Section 11.1.1 shall be deleted and replaced with Exhibit A to these Supplementary Conditions, which is attached hereto and incorporated by reference herein.
    - b. Section 11.1.2 shall be deleted and replaced with the following
      - 1) The Contractor shall furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Bonds may be obtained through the Contractor's usual source and the cost thereof shall be included in the Contract Sum. The amount of each bond shall be equal to one hundred percent (100 %) of the Contract Sum.
        - (a) .1 The Contractor shall deliver the required bonds to the Owner not later than ten (10) days following the date the Agreement is entered into, or, if the Work is to be commenced prior thereto in response to a letter of intent, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished.
        - (b) .2 The Contractor shall require the attorney-in-fact who executes the required bonds on behalf of the surety to affix thereto a certified and current copy of the power of attorney.
        - (c) .3 The Contractor shall require the bonding company to be registered with authority to transact business in State of Iowa.
  29. Add the following subparagraphs
    - a. 11.1.4 Off Site Storage
      - 1) The Contractor shall provide insurance coverage for portions of the Work stored off the site after written approval of the Owner at the value established in the approval, and also for portions of the Work in transit.
  30. 11.2 Owner's Insurance
    - a. Add the following to the last sentence of Subparagraph 11.2.1
      - 1) Owner's all risk insurance will be provided by Owner with customary exclusions of certain perils.
    - b. Add the following subparagraph
      - 1) 11.2.1.1 This property insurance is written with a deductible of 1000.00 per occurrence. In the event of a paid claim, the Claimant, including subcontractors, shall be responsible for the deductible amount. Vandalism insurance shall not cover glass breakage. Should the Contractor desire this coverage, Contractor shall carry it at Contractor's cost. Payments of any insurance deductibles will be at the expense of the party claiming loss under the policy.
  31. Article 12 UNCOVERING AND CORRECTION OF WORK
    - a. Add the words "upon written authorization from Owner" between the words "Architect and be uncovered" in 2nd line of Section 12.1.1.
    - b. Add the words "upon written authorization from Owner" between the words "any request" and "to see" in 2nd line of Section 12.1.2.
    - c. Delete Section 12.2.1 and substitute the following
      - 1) The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before

Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

- d. Delete Section 12.2.2.1 and substitute the following
    - 1) In addition to Contractor's obligations under Section 3.5, if, within one (1) year after date of Substantial Completion of Work or designated portion thereof or after date of commencement of warranties established under any other provision of Contract Documents, or by terms of an applicable special warranty required by Contract Documents, any of Work is found not to be in accordance with requirements of Contract Documents, Contractor shall correct it promptly after receipt of written notice from Owner to do so. Owner shall give such notice promptly after discovery of condition. Before commencing correction of Work, Contractor shall submit to Owner written description of their proposed repairs. This proposal shall be approved by Design Professional before Contractor commences repair. Once Contractor has completed repair work, they shall notify Owner and Design Professional who shall promptly review corrected work. If Design Professional or Owner rejects corrected Work, Contractor shall continue with repairs until such time as Design Professional and Owner accept corrected Work. Where Contractor corrects defective Work during initial two (2) year period after Substantial Completion, if Owner discovers defects in corrected Work within one (1) year after repairs are made, then Contractor shall be obligated, upon written notice from Owner, to correct such defects within one (1) year from date that repairs were made.
  - e. Add Section 12.2.6 to Section 12.2 as follows
    - 1) If Contractor fails or refuses to correct Work in accordance with their obligations under Contract Documents after written notice from Owner, then Owner may correct Work and Contractor shall be liable for costs to correct Work, any related architectural, engineering or other consulting costs, attorney's fees and expenses, and fines or penalties, if any. Any amounts due to Owner from Contractor under this Section may be withheld from balance of Contract Sum not yet paid.
32. Article 13 Miscellaneous Provisions
- a. Delete Paragraph 13.1 and substitute the following Subparagraph
    - 1) The Contract shall be governed by the laws of the State of Iowa.
  - b. Add Subparagraph 13.1.1 to Paragraph 13.1 as follows
    - 1) Compliance with Law Provision the Contractor agrees that it will comply with all applicable Federal, State and local laws, statutes, codes, rules, and regulations having jurisdiction over the Project. Contractor shall take all necessary precautions to keep the site and work in compliance with the safety and health regulations for construction issued by the Bureau of Labor Standards of the U.S. Department of Labor as well as the Occupational Safety and Health Standards, as amended and as enforced by the State of Iowa.
  - c. Delete Subparagraph 13.2.2 in its entirety.
  - d. Add the following after the 2nd sentence in Section 13.4.1
    - 1) Contractor shall schedule all tests, inspections, or specific approvals required by law or Contract Documents so as to avoid any delay in Work.
  - e. Add Section 13.4.7 to Section 13.4.
    - 1) In addition to tests required by Section 13.5, Owner may at any time arrange for other tests, inspections and specific approvals to be performed by others selected by Owner, at Owner's expense. Contractor shall cooperate with Owner and provide access to Work for such tests, inspections and approvals.
  - f. Delete Paragraph 13.5 and substitute the following Paragraph
    - 1) Payments due and unpaid under the Contract Documents shall bear interest from the date the payment is due and shall bear interest at the rate established



- by Iowa Code Section 74A.2 or Iowa Code Section 573.14, whichever is less.
33. Add Sections 13.6 through 13.9 to Article 13
    - a. 13.6 Owner's Right to Occupy
      - 1) Owner shall have the right to occupy, without prejudice to rights of either party, any completed or largely completed portion of structure or Work, notwithstanding the fact that time for completing entire Work, or such portion thereof, may not have expired. Such occupancy and use shall not be an acceptance of Work taken or used.
    - b. 13.7 Rebates
      - 1) Owner shall have the right to apply for, and secure all rebates which are available when Bids are received. Contractor shall provide invoices, itemizations, and cooperation to the Owner in this regard.
    - c. 13.8 Conformance with Laws
      - 1) The Contractor shall conform with provisions of Federal Civil Rights Act, the Code of Iowa, Chapter 216 Civil Rights Commission and rules and regulations adopted thereto by the Iowa Civil Rights Commission. The Contractor shall comply with applicable federal, state, and local laws, rules, regulations, ordinances, policies and procedures, including Owner's policies and procedures, and Iowa Smoke Free Air Act. The Contractor shall require similar clauses in all of their subcontracts for service or materials.
    - d. 13.9 Equal Opportunity
      - 1) 13.9.1 The Contractor shall maintain policies of employment as follows
        - (a) 13.9.1.1 The Contractor and the Contractor's Subcontractors shall not discriminate against any employee or applicant for employment because of race, creed, religion, color, sex, national origin, ancestry, familial status, age, mental or physical disability, sexual orientation, gender identity, genetic information or any other protected class under state or federal law. The Contractor shall take affirmative action to insure that applicants are employed, and that employees are treated during employment without regard to their race, creed, religion, color, sex or national origin, ancestry, familial status, age, mental or physical disability, sexual orientation, gender identity, genetic information or any other protected class under state or federal law. Such action shall include, but not be limited to, the following employment, upgrading, demotion or transfer recruitment or recruitment advertising layoff or termination rates of pay or other forms of compensation and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of non-discrimination.
        - (b) 13.9.1.2 The Contractor and the Contractor's Subcontractors shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, creed, religion, color, sex, national origin, ancestry, familial status, age, mental or physical disability, sexual orientation, gender identify, genetic information or any other protected class under state or federal law.
  34. Modify Article 14 as follows
    - a. 14.1.1 Delete subparagraph 14.1.1 in its entirety and replace with the following
      - 1) Contractor has no right to stop Work as consequence of non-payment. In event of any disagreement between Contractor and Owner involving Contractor's entitlement to payment, Contractor's only remedy is to file Claim in accordance with Article 15. Contractor shall diligently proceed with Work pending resolution of Claim.
        - (a) .1 If, however, an Application for Payment has been approved for payment by Owner, and Owner fails to make payment within sixty (60) days of approval of payment by Owner, Contractor may upon ten (10) day written notice to Owner, stop work if payment is not made by Owner within ten (10)

- days following notice.
- b. Delete subparagraphs 14.1.2 through 14.1.4 in their entirety.
  - c. Delete Sections 14.2.1 through 14.2.4 and substitute the following
    - 1) 14.2.1 Delete the section in its entirety and replace with the following
      - (a) 14.2.1 The Owner may terminate the Contract for cause if the Contractor
        - (1) Fails to supply adequate properly skilled workers or proper materials
        - (2) Fails to make payment to Subcontractors or Suppliers for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors or Suppliers
        - (3) Fails to comply with any laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction
        - (4) Fails to perform the Work in accordance with the Contract Documents or otherwise breaches any provision of the Contract Documents
        - (5) Anticipatory breaches or repudiates the Contract
        - (6) Fails to make satisfactory progress in the prosecution of the Work required by the Contract or
        - (7) Endangers the performance of this Contract.
    - 2) 14.2.2 Delete the section in its entirety and replace with the following
      - (a) 14.2.2 Owner may terminate Contract, in whole or in part, whenever Owner determines that sufficient grounds for termination exist as provided in Section 14.2.1. Owner will provide Contractor with written notice to cure default. If default is not cured, termination for default is effective on date specified in Owner's written notice. However, if Owner determines that default contributes to curtailment of an essential service or poses an immediate threat to life, health, or property, Owner may terminate Contract immediately upon issuing oral or written notice to Contractor without any prior notice or opportunity to cure. In addition to any other remedies provided by law or Contract, Contractor shall compensate Owner for additional costs that foreseeably would be incurred by Owner, whether costs are actually incurred or not, to obtain substitute performance. Termination for default is termination for convenience if termination for default is later found to be without justification.
    - 3) 14.2.3 Upon receipt of written notice from the Owner of termination, the Contractor must
      - (a) .1 Cease operations as directed by the Owner in the notice and, if required by the Owner and County, participate in an inspection of the Work with the Owner, County and the Architect to record the extent of completion thereof to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work
      - (b) .2 Complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work
      - (c) .3 Unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site and
      - (d) .4 Except as directed by the Owner, terminate all existing subcontracts and purchase orders and enter into further subcontracts or purchase orders.
    - 4) 14.2.4 Following written notice from the Owner of termination, the Owner may
      - (a) Take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Contractor that the Owner elects to utilize in completing the Work
        - (1) Accept assignment of subcontracts and purchase orders, and
        - (2) Complete the Work by whatever reasonable method the Owner may deem expedient.
  - d. Add Sections 14.2.5 through 14.2.9 to Section 14.2

- 1) 14.2.5 Upon termination for cause, the Contractor must take those actions described in Section 14.2.3, and the Owner may take those actions described in Section 14.2.4, subject to the prior rights of the Contractor's Surety.
  - 2) 14.2.6 When the Owner terminates the Contract for cause, the Contractor is not entitled to receive further payment until the Work is completed and the costs of completion have been established.
  - 3) 14.2.7 If the unpaid balance of the Contract Sum less amounts which the Owner is entitled to offset from the unpaid Contract balance, including actual or Liquidated Damages, compensation for the Architect's services and expenses made necessary thereby, and other damages and expenses incurred by the Owner, including reasonable attorney's fees, exceeds the costs of completing the Work, including compensation for the Owner's and the Architect's services made necessary thereby, such excess will be paid to the Contractor or Surety, as directed by the Surety. If such costs exceed the unpaid Contract balance, the Contractor must pay the difference to the Owner upon written demand. This obligation for payment survives termination of the Contract.
  - 4) 14.2.8 In completing the Work following termination for cause, the Owner is not required to solicit competitive bids or to award completion work to the lowest bidder, but may obtain such completion work and related services on the basis of sole source procurement and negotiated compensation.
  - 5) 14.2.9 If the Contractor files for protection, or a petition is filed against it, under the Bankruptcy laws, and Contractor wishes to affirm the Contract, Contractor shall immediately file with the Bankruptcy Court a motion to affirm the Contract and shall provide satisfactory evidence to Owner and to the Court of its ability to cure all present defaults and its ability to timely and successfully complete the Work. If Contractor does not make such an immediate filing, Contractor accepts that Owner shall petition the Bankruptcy Court to lift the Automatic Stay and permit Owner to terminate the Contract.
35. Delete subparagraphs 14.4.1 through 14.4.3 in their entirety and replace with the following
- a. 14.4.1 The Owner may, at any time, terminate the Contract or any portion thereof or the Work for the Owner's convenience and without cause.
  - b. 14.4.2 Upon receipt of the written notice from the Owner of termination, the Contractor must
    - 1) .1 Cease operations as directed by the Owner in the notice and, if required by the Owner, participate in an inspection of the Work with the Owner and the Architect Engineer to record the extent of completion thereof, to identify the Work remaining to be completed or corrected, and to determine what temporary facilities, tools, equipment and construction machinery are to remain at the Site pending completion of the Work
    - 2) .2 Complete or correct the items directed by the Owner, and take actions necessary, or that the Owner may direct, for the protection and preservation of any stored materials and equipment and completed Work
    - 3) .3 Unless otherwise directed by the Owner, remove its tools, equipment and construction machinery from the Site, and
    - 4) .4 Except as directed by the Owner, terminate all existing subcontracts and purchase orders related to the Work and enter into no further subcontracts or purchase orders therefor.
  - c. 14.4.3 Following written notice from the Owner of termination, the Owner may
    - 1) .1 Take possession of the Site and of all materials and equipment thereon, and at the Owner's option, such temporary facilities, tools, construction equipment and machinery thereon owned or rented by the Contractor that the Owner elects to utilize in completing the Work
    - 2) .2 Accept assignment of subcontracts and purchase orders and
    - 3) .3 Complete the Work by whatever reasonable method the Owner may deem expedient.

- d. 14.4.4 In case of termination for the Owner's convenience, the Contractor will be entitled to compensation only for the following items
    - 1) Payment for acceptable Work performed up to the date of termination
    - 2) The costs of preservation and protection of the Work if requested to do so by the Owner
    - 3) The cost of terminating the following contracts including
      - (a) .1 Purchased materials but only if not returnable and provided to the Owner, or the restocking or return charge, if any, if returnable at the Owner's written election
      - (b) .2 Equipment rental contracts if not terminable at no cost but not to exceed an amount equal to thirty (30) days rental
      - (c) .3 Documented transportation costs associated with removing Contractor-owned equipment.
      - (d) .4 Documents demobilization and close-out costs and
      - (e) .5 Overhead and profit on the foregoing not to exceed ten percent (10 %).
    - 4) The Contractor will not be compensated for the cost of terminating subcontracts, which must be terminable at no cost to the Owner if the Contract is terminated.
    - 5) The Contractor will not be compensated for the cost of any idled employees unless the employee is under a written employment contract entitling the employee to continued employment after termination of the Contract and the employee cannot be assigned to other work provided that in all events the Contractor's costs must be limited to thirty (30) days of employment costs from the date of the notice of termination. The Contractor is not entitled to any other costs or compensation (including lost or expected profit, uncompensated overhead or related expenses, or the cost of preparing and documenting its compensable expenses under this Subsection 14.4.4 as a consequence of the Owner's termination of the Contract for convenience). The Contractor conclusively and irrevocably waives its right to any other compensation or damages (compensatory or punitive) arising from termination of the Contract. If the Owner and the Contractor are unable to agree upon the amounts specified in this subsection, the Contractor may submit a Claim as provided in Article 15. The Claim must be limited to resolution of the amounts specified in Subsections 14.4.4.1, 14.4.4.2, 14.4.4.3 and 14.4.4.4 of this Subsection 14.4.4. No other cost, damages or expenses may be claimed or paid to the Contractor or considered as part of the Claim, the same being hereby conclusively and irrevocably waived by the Contractor. Any such Claim must be delivered to the Owner within thirty (30) days of the termination of the Contract and must contain a written statement setting forth the specific reasons and supporting calculations and documentation as to the amounts the Contractor claims to be entitled to under this Subsection as a result of the termination of the Contract.
  - e. 14.4.5 The Contractor's obligations surviving final payment under the Contract, including without limitation those with respect to insurance, indemnification, and correction of Work that has been completed at the time of termination, remains effective notwithstanding termination for convenience of the Owner.
- 36. Delete Section 15.1.1 text and substitute the following
    - a. A Claim is a written demand or assertion by Contractor seeking, as matter of right, payment of money, a change in the Contract Time, or other relief with respect to terms of Contract. Responsibility to substantiate Claims shall rest with Contractor. Nothing contained in this section is intended to apply to or in any way limit Owner's right to make claims related to or arising out of Contract.
  - 37. Delete the words "Substantial Completion" in line 4 of Section 15.1.2 and replace it with "Final Acceptance."
  - 38. Delete the last sentence of Section 15.1.2.
  - 39. Delete Section 15.1.3.1 and substitute the following
    - a. Claims by Contractor shall be initiated by written notice to Owner and to Initial Decision Maker with copy sent to Architect Engineer, if Architect Engineer is not

serving as Initial Decision Maker. Claims by Contractor shall be initiated within ten (10) days after occurrence of event giving rise to such Claim or within ten (10) days after Contractor first recognizes condition giving rise to Claim, whichever is later. As condition of making claim for additional costs, Contractor shall maintain and produce accurate records to substantiate all additional costs actually incurred. If Claim for actual cost is approved, Owner shall pay Contractor actual costs incurred plus either (a) ten percent (10 %) for overhead and profit for work performed by Contractor, or (b) five percent (5 %) overhead and profit for work performed by subcontractor, as applicable.

40. Delete Section 15.1.4.1 and substitute the following
  - a. Pending final resolution of Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, Contractor shall proceed diligently with performance of Contract and Owner shall continue to make payments as may be required in accordance with Contract Documents.
41. Delete Section 15.1.6.2 and substitute the following
  - a. If adverse weather conditions are the basis of a Claim for additional time, the Claim shall be documented by data substantiating that the weather conditions upon which the Claim is based (1) were abnormal when compared to the previous 5-year period, during the same time frame and at the location of the Work, (2) could not have been reasonably anticipated, and (3) had an adverse effect on the date of substantial completion of the Work.
42. Add Subparagraph 15.1.6.3 and 15.1.6.4 to Subparagraph 15.1.6
  - a. 15.1.6.3 Claims for increase in the Contract Time shall set forth in detail the circumstances that form the basis for the Claim, the date upon which each cause of delay began to affect the progress of the Work, the date upon which each cause of delay ceased to affect the progress of the Work and the number of days' increase in the Contract Time claimed as a consequence of each such cause of delay. The Contractor shall provide such supporting documentation as the Owner may require including, where appropriate, a revised construction schedule indicating all the activities affected by the circumstances forming the basis of the Claim.
  - b. 15.1.6.4 The Contractor shall not be entitled to a separate increase in the Contract Time for each one of the number of causes of delay which may have concurrent or interrelated effects on the progress of the Work, or for concurrent delays due to the fault of the Contractor.
43. Delete Subparagraph 15.1.7 in its entirety.
44. Modify the first sentence of Section 15.2.1 to read as follows
  - a. Claims, excluding those arising under Sections 10.3, 10.4 and 11.5 shall be referred to the Initial Decision Maker for initial decision.
45. Delete Subparagraph 15.2.6 and substitute the following
  - a. The parties may file for mediation of an initial decision at any time, upon mutual agreement of the parties.
46. Delete Subparagraphs 15.2.6.1 and 15.2.8 in their entirety.
47. Delete Subparagraph 15.3.1 in its entirety.
48. Delete Section 15.3.2 and substitute the following
  - a. The parties shall endeavor in good faith to resolve claims, disputes and other matters in question between them by mutual agreement and may, by mutual agreement and in their discretion, submit same to non-binding mediation which shall be in accordance with Iowa Code Chapter 679C, unless otherwise mutually agreed upon by the parties. Requests for mediation shall be given in writing to the other Party to this Agreement. If the Owner and Contractor are unable to mutually agree upon mediator in writing within sixty (60) days of receiving written request for mediation, either party may then institute legal or equitable proceedings. Mediation shall be voluntary only and shall not be a prerequisite to litigation or other means of dispute resolution.
49. Delete Section 15.3.3.
50. Delete Subparagraph 15.4 and replace with the following

- a. Any legal claim brought under this Agreement shall be filed in the Iowa District Court in and for Polk County, unless otherwise mutually agreed to by the parties.
51. Add Article 16 as follows
- a. Smoking will not be allowed on Owner s property, which shall include inside private vehicles parked on Owner s property. In addition, employees of Contractor, Subcontractors, and materials suppliers shall not wear apparel that advertises tobacco, alcohol, or illicit drugs, nor has profane language or images on them.

**EXHIBIT A - City of Polk City, IA**

**MINIMUM INSURANCE REQUIREMENTS**

**COMMERCIAL GENERAL LIABILITY:**

General Aggregate Limit	2,000,000
Products - Completed Operation Aggregate Limit	2,000,000
Personal and Advertising Injury Limit	1,000,000
Each Occurrence Limit	1,000,000
Damage to a Premises Rented to you Limit	100,000
Medical Payments	5,000

Commercial General Liability policy shall be written on an occurrence form using ISO form CG 00 01 or equivalent form.

Policy shall include the following endorsements

ISO endorsement CG 20 10 or equivalent endorsement naming the City of Polk City, IA , its Council members, employees and agents as an additional insured.

ISO endorsement CG 20 32 or equivalent endorsement naming Project Engineers, Architects and Surveyors as an additional insured.

ISO endorsement CG 20 37 or equivalent endorsement naming the City of Polk City, IA , its Council members, employees and agents as an additional insured for completed operations. This endorsement shall be maintained for a minimum of two years after completion and acceptance of the project by the City of Polk City, IA .

ISO Endorsement CG 20 01 or equivalent endorsement indicating additional insured status for the City of Polk City, IA , its Council members, employees and agents is primary and non-contributory.

ISO endorsement CG 25 03 or equivalent endorsement, Designated Construction Project(s) General Aggregate Limit.

ISO endorsement CG 24 04 or equivalent endorsement, Waiver of Transfer of Rights of Recovery Against Others to Us, naming the City of Polk City, IA .

Governmental Immunities Endorsement (see attached specimen).

**BUSINESS AUTOMOBILE LIABILITY:**

Combined single limit of	1,000,000
Or	
Bodily Injury (per person)	1,000,000

Bodily Injury (per accident)	1,000,000
Property Damage	1,000,000

Business auto liability shall be written on ISO form CA 00 01 or equivalent form.  
 Policy shall include Symbol 1 (Any Auto). If no owned autos, hired and non-owned auto liability is acceptable.

Include ISO endorsement CA 04 44 or equivalent endorsement, Waiver of Transfer of Rights of Recovery Against Others to Us, naming the City of Polk City, IA .

Include ISO endorsement CA 99 48, Pollution Liability - Broadened Coverage for Covered Autos, or equivalent endorsement if the Contractor has vehicles that transport fuel onto City of Polk City, IA property.

**WORKERS COMPENSATION & EMPLOYERS LIABILITY:**

Workers Compensation - Statutory - State of Iowa  
 Employers Liability

Bodily Injury Limit Each Accident	500,000
Bodily Injury Disease - Policy Limit	500,000
Bodily Injury Disease - Limit Each Employee	500,000

Workers Compensation shall include the following endorsement WC 0003 13, Waiver of Our Right to Recover from Others, in favor of the City of Polk City, IA .

Sole Proprietors, Partners and Members must be included for coverage. Executive Officers may not be excluded from coverage.

**UMBRELLA OR EXCESS LIABILITY:**

Limit Each Occurrence	5,000,000
Aggregate Limit	

Umbrella or Excess liability policy shall provide excess coverage and be at least as broad in coverage as the following required policies and endorsements Commercial General Liability, Business Auto and Employer’s Liability.

City of Polk City, IA

**GOVERNMENTAL IMMUNITIES ENDORSEMENT**

Nonwaiver of Governmental Immunity. The insurance carrier expressly agrees and states that the purchase of this policy and the including of City of Polk City, IA as an Additional Insured does not waive any of the defenses of governmental immunity available to the City of Polk City, IA under Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time.

Claims Coverage. The insurance carrier further agrees that this policy of insurance shall cover only those claims not subject to the defense of governmental immunity under the Code of Iowa Section 670.4 as it now exists and as it may be amended from time to time. Those claims not subject to Code of Iowa Section 670.4 shall be covered by the terms and conditions of this insurance policy.

Assertion of Governmental Immunity. The City of Polk City, IA shall be responsible for asserting any defense of governmental immunity, and may do so at any time and shall do so upon the timely written request of the insurance carrier.



Non-Denial of Coverage. The insurance carrier shall not deny coverage under this policy and the insurance carrier shall not deny any of the rights and benefits accruing to the City of Polk City, IA under this policy for reasons of governmental immunity unless and until a court of competent jurisdiction has ruled in favor of the defense(s) of governmental immunity asserted by the City of Polk City, IA .

No Other Change in Policy. The above preservation of governmental immunities shall not otherwise change or alter the coverage available under the policy.

**AC NOWLEDGMENT AND CERTIFICATION**

("Company") is providing services to the City of Polk City, IA ("Owner ") as a vendor, supplier, or contractor or is operating or managing the operations of a vendor, supplier or contractor. The services provided by the Company may involve the presence of the Company's employees upon the real property of the Owner .

The Company acknowledges that Iowa law prohibits a sex offender who has been convicted of a sex offense against a minor from being present upon the real property of the Owner . The Company further acknowledges that, pursuant to law, a sex offender who has been convicted of a sex offense against a minor may not operate, manage, be employed by, or act as a contractor, vendor or supplier of services or volunteer at the Owner .

The Company hereby certifies that no one who is an owner, operator or manager of the Company has been convicted of a sex offense against a minor. The Company further agrees that it shall not permit any person who is a sex offender convicted of a sex offense against a minor to provide any services to the Owner in accordance with the prohibitions set forth above.

This Acknowledgment and Certification is to be construed under the laws of the State of Iowa. If any portion hereof is held invalid, the balance of the document shall, notwithstanding, continue in full legal force and effect.

In signing this Acknowledgment and Certification, the person signing on behalf of the Company hereby acknowledges that he she has read this entire document that he she understands its terms, and that he she not only has the authority to sign the document on behalf of the Company, but has signed it knowingly and voluntarily.

Dated

By

(name of vendor supplier contractor sub-contractor)

b.

Printed Name

Title

**END OF SECTION**

**SECTION 00 0115  
LIST OF DRAWING SHEETS**

**GENERAL**

TS TITLE SHEET  
AG1.1 BUILDING CODE PLAN  
AG1.2 ESTIMATING PLANS PHASING PLANS

**ARCHITECTURAL**

AD1.0 DEMOLITION PLANS  
A1.1 FLOOR PLANS  
A2.1 ROOF PLAN  
A3.1 DOOR SCHEDULE  
A4.1 EXTERIOR ELEVATIONS BUILDING SECTIONS  
A5.1 LIFT DETAILS  
A6.1 DETAILS  
A6.2 DETAILS  
A7.1 ENLARGED PLANS INTERIOR ELEVATIONS  
A7.2 ENLARGED PLANS INTERIOR ELEVATIONS  
A8.1 REFLECTED CEILING PLANS  
A9.1 FLOOR FINISH PLANS  
A10.1 FURNITURE LAYOUT PLANS

**FIRE PROTECTION**

F0.0 FIRE PROTECTION COVERSHEET  
FD1.0 DEMOLITION PLANS - FIRE PROTECTION  
F1.1 FLOOR PLANS - FIRE PROTECTION

**PLUMBING**

P0.0 PLUMBING COVERSHEET  
PD1.0 DEMOLITION PLANS - PLUMBING  
P1.0 UNDERFLOOR PLANS - PLUMBING  
P1.1 FLOOR PLANS - PLUMBING  
P4.0 PLUMBING DETAILS  
P6.0 PLUMBING SCHEDULES

**MECHANICAL**

M0.0 VENTILATION COVERSHEET  
MD1.0 DEMOLITION PLANS - VENTILATION  
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M4.0 MECHANICAL DETAILS  
M5.0 MECHANICAL CONTROLS

M6.0 MECHANICAL SCHEDULES

**ELECTRICAL**

- E0.0 ELECTRICAL COVERSHEET
- ED1.0 DEMOLITION PLANS - ELECTRICAL
- E1.0 FLOOR PLANS - LIGHTING
- E1.1 FLOOR PLANS - POWER
- E4.0 ELECTRICAL DETAILS
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**END OF SECTION**





## City of Polk City, Iowa City Council Agenda Communication

**Date:** January 23, 2023 City Council Meeting  
**To:** Mayor Steve Karsjen & City Council  
**From:** Chelsea Huisman, City Manager  
**Subject:** Set public hearing for Maximum Property Tax Levy

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**BACKGROUND:** On Monday, the City Council will set a public hearing for the Maximum Proposed Property tax levy, as required by State Code. Polk City is required to publish this notice, hold a public hearing, and approve the maximum proposed property tax levy in advance of the final proposed budget hearing. The maximum proposed property tax levy does not include the debt service levy and is the maximum amount the City could set the “operating” tax levy rate at when adopting the final FY24 budget.

The proposed maximum operating property tax levy for FY23-24 is \$9.75 per \$1,000 assessed, which is an increase of 15.9% from last year (\$9.13 per \$1,000 assessed). My expectation is that this proposed operating levy would decrease with the final proposed budget, and this is just the maximum amount the property tax levy could be.

If a city is expected to exceed 2% on an annual basis, the public hearing and resolution approval is required. Growth is not a factor that is considered in the equation, and Polk City is a growing community, with growing valuations an increase is not surprising.

The public hearing will be set for February 27, 2023.

**ALTERNATIVES:** None

**FINANCIAL CONSIDERATIONS:** None; the Council is not approving the budget at the February 27, 2023, meeting, they are solely approving what the maximum property tax levy, excluding the debt service levy could be.

**RECOMMENDATION:** It is my recommendation that the Council set the Maximum property tax levy public hearing for February 27, 2023.

# MAX LEVY RESOLUTION NO. 2023-05

<b>CITY NAME</b> Polk City	<b>NOTICE OF PUBLIC HEARING -PROPOSED PROPERTY TAX LEVY</b> Fiscal Year July 1, 2023 - June 30, 2024	<b>CITY CODE</b> 77-723
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The City Council will conduct a public hearing on the proposed Fiscal Year City property tax levy as follows:

<b>Meeting Date:</b> 2/27/2023	<b>Meeting Time:</b> 6:00pm	<b>Meeting Location:</b> City Hall Council Chambers
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At the public hearing any resident or taxpayer may present objections to, or arguments in favor of the proposed tax levy.

After adoption of the proposed tax levy, the Council will publish notice and hold a hearing on the proposed city budget.

<b>City Web Site (if available):</b> www.polkcityia.gov	<b>City Telephone Number:</b> 515-984-6233
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Iowa Department of Management	Current Year Certified Property Tax	Budget Year Effective Property Tax	Budget Year Proposed Maximum Property Tax	Annual % CHG
	2019/2020	2020/2021**	2020/2021	% CHG
Regular Taxable Valuation	1 307,403,769	333,380,531	333,380,531	
<b>Tax Levies:</b>				
Regular General	2 \$2,489,972	\$2,489,972	\$2,700,382	\$8.10000
Contract for Use of Bridge	3 \$0	\$0		\$0.00000
Opr & Maint Publicly Owned Transit	4 \$0	\$0		\$0.00000
Rent, Ins. Maint. Of Non-Owned Civ. Ctr.	5 \$0	\$0		\$0.00000
Opr & Maint of City-Owned Civic Center	6 \$0	\$0		\$0.00000
Planning a Sanitary Disposal Project	7 \$0	\$0		\$0.00000
Liability, Property & Self-Insurance Costs	8 \$40,000	\$40,000	\$40,000	\$0.11998
Support of Local Emer. Mgmt. Commission	9 \$0	\$0		\$0.00000
Emergency	10 \$0	\$0		\$0.00000
Police & Fire Retirement	11 \$0	\$0		\$0.00000
FICA & IPERS	12 \$75,000	\$75,000	\$75,000	\$0.22497
Other Employee Benefits	13 \$200,342	\$200,342	\$436,370	\$1.30892
<b>*Total 384.15A Maximum Tax Levy</b>	14 \$2,805,314	\$2,805,314	\$3,251,752	<b>15.91%</b>
<b>Calculated 384.15A Maximum Tax Rate</b>	15 \$9.12583	\$8.41475	\$9.75387	

Explanation of significant increases in the budget:

The only significant increase is due to the increase in taxable valuations. Polk City is a rapidly growing community, and will continue to experience this type of increase in the foreseeable future.

If applicable, the above notice also available online at:

Polk City Website www.polkcityia.gov and City of Polk City Facebook page

\*Total city tax rate will also include voted general fund levy, debt service levy, and capital improvement reserve levy

\*\*Budget year effective property tax rate is the rate that would be assessed for these levies if the dollars requested is not changed in the coming budget/year

Passed this 23 day of January 2023

\_\_\_\_\_  
Signature  
City Clerk/Treasurer

\_\_\_\_\_  
Signature  
Mayor

**NOTICE OF PUBLIC HEARING - CITY OF POLK CITY - PROPOSED PROPERTY TAX LEVY  
Fiscal Year July 1, 2023 - June 30, 2024**

The City Council will conduct a public hearing on the proposed Fiscal Year City property tax levy as follows:

**Meeting Date:** 2/27/2023 **Meeting Time:** 06:00 PM **Meeting Location:** City Hall Council Chambers 112 3rd Street Polk City, IA 50226

At the public hearing any resident or taxpayer may present objections to, or arguments in favor of the proposed tax levy. After adoption of the proposed tax levy, the City Council will publish notice and hold a hearing on the proposed city budget.

City Website (if available)  
www.polkcivia.gov

City Telephone Number  
(515) 984-6233

	<b>Current Year Certified Property Tax 2022 - 2023</b>	<b>Budget Year Effective Property Tax 2023 - 2024</b>	<b>Budget Year Proposed Maximum Property Tax 2023 - 2024</b>	<b>Annual % CHG</b>
Regular Taxable Valuation	307,403,769	333,380,531	333,380,531	
Tax Levies:				
Regular General	2,489,972	2,489,972	2,700,382	
Contract for Use of Bridge	0	0	0	
Opr & Maint Publicly Owned Transit	0	0	0	
Rent, Ins. Maint. Of Non-Owned Civ. Ctr.	0	0	0	
Opr & Maint of City-Owned Civic Center	0	0	0	
Planning a Sanitary Disposal Project	0	0	0	
Liability, Property & Self-Insurance Costs	40,000	40,000	40,000	
Support of Local Emer. Mgmt. Commission	0	0	0	
Emergency	0	0	0	
Police & Fire Retirement	0	0	0	
FICA & IPERS	75,000	75,000	75,000	
Other Employee Benefits	200,342	200,342	436,370	
<b>Total Tax Levy</b>	<b>2,805,314</b>	<b>2,805,314</b>	<b>3,251,752</b>	<b>15.91</b>
<b>Tax Rate</b>	<b>9.12583</b>	<b>8.41475</b>	<b>9.75387</b>	

**Explanation of significant increases in the budget:**

The only significant increase is due to the increase in taxable valuations. Polk City is a rapidly growing community and will continue to experience this type of increase in the foreseeable future.

**If applicable, the above notice also available online at:**

www.polkcivia.gov and the Polk City Facebook page

\*Total city tax rate will also include voted general fund levy, debt service levy, and capital improvement reserve levy.

\*\*Budget year effective property tax rate is the rate that would be assessed for these levies if the dollars requested is not changed in the coming budget year



# STANDARD AGREEMENT FOR CONSULTING SERVICES



## McCLURE ENGINEERING COMPANY

Project Name: Polk City Elevated Storage Tank Project

Project Number: 2022000929

Project Manager: Michael Washburn, P.E.

This Agreement, is made on the [Click or tap here to enter text.](#) day of January, 2023, by and between McClure Engineering Company, of Clive, Iowa, (herein referred to as "CONSULTANT") and City of Polk City, Iowa (hereinafter referred to as "OWNER"). The CONSULTANT will provide services per the terms and conditions outlined in this Agreement and in accordance with the scope and schedule presented in Exhibit 'C'. The services will be compensated for in accordance with the fees or hourly rates as presented in Exhibit 'B', for the Project described as:

### Polk City Elevated Storage Tank Project – Water Model, Elevated Storage Tank, and Water Main

- The OWNER shall provide information per the OWNER's responsibilities presented in Exhibit 'E' in a timely manner so as not to delay the services provided by the CONSULTANT.
- Payment to the CONSULTANT shall be made within 30 days of invoice for work completed to date. The invoice will include the percentage of work complete, an estimate to complete and, a brief project status summary.
- Past due amounts owed shall accrue interest at 1.5% per month from the 30th day. If the OWNER fails to make monthly payments due the CONSULTANT, the CONSULTANT may, after giving (7) days written notice to the OWNER, suspend services under this agreement.
- THIS AGREEMENT IS SUBJECT TO ALL THE TERMS AND CONDITIONS ATTACHED TO THIS AGREEMENT.
- This Agreement represents the entire and integrated agreement between the OWNER and the CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the OWNER and the CONSULTANT.
- Neither party to this AGREEMENT will be liable to the other party for unavoidable delays in performing the Scope of Services, or for the direct or indirect cost resulting from such delays, that may result from acts of God, acts of governmental authorities, extraordinary weather conditions or other natural catastrophes, or any other cause beyond the reasonable control or contemplation of either party. Each party will take reasonable steps to mitigate the impact of any force majeure. The CONSULTANT will adjust the schedule and compensation under this agreement to the extent that CONSULTANT's schedule and compensation are equitably adjusted by the OWNER.
- The amount of the CONSULTANT's compensation is \$374,000 through project bidding. Additional fees will be added via contract amendment after bidding. The contract type is Lump sum and Time and Expense. See Exhibit B for more detail.

Unavoidable Delays means delays in performance resulting from acts or occurrences outside the reasonable control of the party claiming the delay in performance, including but not limited to storms, floods, excessive rain, hail, wind, hurricanes, tornadoes, fires, explosions or other casualty losses, unusual weather conditions, global medical pandemics, including but not limited to that certain global medical pandemic which has come to be known as "Coronavirus" or "Covid-19", national medical pandemics in the United States of America, strikes, boycotts, lockouts or other labor disputes, delays in transportation or delivery of material or equipment, litigation commenced by third parties, or the acts, restrictions, or prohibitions of any federal, State or local governmental unit.

Attached Exhibits		Included	Not Included
Exhibit 'A'	Standard Terms and Conditions	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'B'	Hourly Rates and Fees	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'C'	Detailed Scope of Work	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'D'	Subconsultant(s) Contract	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Exhibit 'E'	Owner's Responsibilities to Consultant	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'F'	Duties and Responsibilities of RPR	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'G'	Drawing Depicting the Project	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'H'	Construction Item List Cost Estimate	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Exhibit 'I'	Regulatory Requirements	<input type="checkbox"/>	<input checked="" type="checkbox"/>

OWNER: City of Polk City, Iowa

CONSULTANT: McClure Engineering Company

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

Signed:  \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_ Team Leader

## McCLURE ENGINEERING COMPANY

CONSULTANT STANDARD TERMS AND CONDITIONS for City of Polk City, IA  
(Effective 1/1/2023 through 12/31/2023)



- 1.0 ACCESS TO SITE:** The **Consultant** shall at all times have access to the Project site.
- 2.0 INFORMATION PROVIDED BY OTHERS:** The **Consultant** shall be entitled to rely upon the accuracy and completeness of data provided by the **Owner** and shall not assume liability for such data. The **Consultant** does not practice law, insurance or financing, therefore, the **Owner** shall furnish all legal, accounting and insurance counseling services as may be necessary to protect themselves at any time during the Project. **Owner** shall hold **Consultant** harmless from damages that may arise as a result of inaccuracies of information or data supplied by **Owner** or others to **Consultant**.
- 3.0 OWNERSHIP AND REUSE OF DOCUMENTS:** All documents are instruments of service, and **Consultant** shall retain an ownership and property interested therein (including the copyright and the right of reuse at the discretion of the **Consultant**) whether or not the Project is completed.
  - 3.1** **Owner** may make and retain copies of documents for information and reference in connection with the use of the documents on the Project. **Consultant** grants **Owner** a limited license to use the documents on the Project, extensions of the Project, and for related uses of the **Owner**, subject to receipt by **Consultant** of full payment due and owing for all services relating to preparation of the documents, and subject to the following limitations: (1) **Owner** acknowledges that such documents are not intended or represented to be suitable for use on the Project unless completed by **Consultant**, or for use or reuse by **Owner** or others on extensions of the Project, on any other project, or for any other use or purpose, without written verification or adaptation by **Consultant**; (2) any such use or reuse, or any modification of the documents, without written verification, completion, or adaptation by **Consultant**, as appropriate for the specific purpose intended, will be at **Owner's** sole risk and without liability or legal exposure to **Consultant** or to its officers, directors, members, partners, agents, employees, and **Consultants**; (3) **Owner** shall indemnify and hold harmless **Consultant** and its officers, directors, members, partners, agents, employees, and **Consultants** from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from any use, reuse, or modification of the documents without written verification, completion, or adaptation by **Consultant**; and (4) such limited license to **Owner** shall not create any rights in third parties.
  - 3.2** If **Consultant** at **Owner's** request verifies the suitability of the documents, completes them, or adapts them for extensions of the Project or for any other purpose, then **Owner** shall compensate **Consultant** at an amount agreed upon by **Owner** and **Consultant**.
- 4.0 UNDERGROUND UTILITIES:** Due to the nature and uncertainty of the accuracy of data available for underground utilities, including drainage tile, and/or any information that may be supplied by the **Owner**, third parties, and/or research performed by the **Consultant** or its subcontractors, the **Owner** agrees to indemnify and hold harmless the **Consultant** for all claims, losses, costs and damages arising out of the location of underground utilities provided by the **Consultant** under this Agreement.
  - 4.1** The **Owner** may choose to contract separately to have extensive investigations and research conducted if the **Owner** feels it necessary to have more accurate location of underground utilities confirmed.
- 5.0 SUBSURFACE CONDITIONS:** The **Consultant** may advise the **Owner** to conduct soil and/or subsurface testing and analysis to provide information to the **Owner**, **Consultant**, and contractor(s) as to the subsurface conditions that may generally be encountered during subsurface construction.
  - 5.1** The **Consultant** cannot warrant or guarantee that the information provided is reflective of all subsurface conditions that may be encountered, or to the extent that subsurface conditions such as soil properties, groundwater, rock, etc., may vary from location to location throughout subsurface construction.
  - 5.2** Any unexpected change or unforeseen subsurface conditions (including those that may be caused by weather conditions) will be addressed when encountered and may result in a change in construction price and/or schedule, and the **Consultant** shall be held harmless from issues arising out of these unseen subsurface conditions.
- 6.0 HAZARDOUS MATERIALS – INDEMNIFICATION:** The **Consultant** is not in the business of making environmental site assessments for purposes of determining the presence of any toxic, hazardous or other environmental damaging substances. The purpose of this provision is to be certain that the **Owner** is aware of the potential liability if toxic, hazardous or environmental damaging substances are found on or under the property. **Consultant** makes no representations regarding an environmental site assessment, relies upon **Owner** to have fully investigated the need and/or scope of such assessment and assumes no responsibility for the determination to make an environmental site assessment on the subject property.
- 7.0 OPINIONS OF PROBABLE COST:** **Consultant's** opinions (if any) of probable construction costs are to be made on the basis of **Consultant's** experience, qualifications, and general familiarity with the construction industry. However, because **Consultant** has no control over the cost of labor, materials, equipment, or services furnished by others, or over contractors' methods of determining prices, or over competitive bidding or market conditions, **Consultant** cannot and does not guarantee that proposals, bids, or actual construction costs will not vary from opinions of probable construction cost prepared by **Consultant**. If **Owner** requires greater assurance as to probable construction cost, then **Owner** agrees to obtain an independent, third-party cost estimate.
- 8.0 PROJECT FUNDING AND FINANCING:** It shall be the responsibility of the **Owner** to plan, organize, and secure funding to pay all costs associated with the project. The funding may include local financing and/or funding obtained through federal or state funding programs such as low interest loans, grants, etc. If the **Consultant** is retained to help apply and/or secure funding from internal or external funding agencies, the **Consultant** shall not be responsible for the acquisition of funding and makes no guarantee funding applications prepared by the **Consultant** will successfully secure funds.
  - 8.1** If the **Owner** secures outside funding from any such programs, while the **Consultant** may be retained to help monitor and submit pay requests for loan or grant draws from the respective agencies, the **Consultant** shall not be responsible for the **Owner's** obligation to comply with any criteria required to use the funds, including responsibility for any funding match required by the **Owner**.
- 9.0 ADDITIONAL SERVICES:** It is not unusual for the **Owner** to request the **Consultant** to provide additional services or that additional work may be required to deal with a contractor during construction that was not foreseen at the time the original scope of work was agreed to when the **Consultant** contract was signed. The **Owner** recognizes the **Consultant** shall be entitled to additional compensation to coordinate such changes and schedules shall be adjusted accordingly. The **Consultant** may prepare drawings, specifications and other documents required to address the changes in the scope of work as necessary to satisfactorily complete the project.
- 10.0 BETTERMENT:** If the **Consultant** failed to include a component(s), or if during construction it is discovered a component(s) is required that was not in the **Consultant's** original plans or specifications, and that the component(s) is necessary to complete a satisfactory project, the **Consultant** shall not be responsible for paying the cost required to add such component(s) to the extent that such component(s) would have been required and included in the original construction documents.
  - 10.1** In no event shall the **Consultant** be responsible for any cost or expense that provides betterment or that upgrades or enhances the value of the **Owner's** project if the component should have originally been included in the construction drawings and/or specifications.

**11.0 SHOP DRAWING REVIEW:** If, as part of this Agreement **Consultant** reviews contractor submittals, such as shop drawings, product data, samples and other data, as required by **Consultant**, these reviews and approvals shall be only for the limited purpose of checking for conformance with the design concept and the information expressed in the contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the contractor. **Consultant** shall not be responsible for any deviations from the contract documents not brought to the attention of **Consultant** in writing by the contractor. **Consultant** shall not be required to review partial submissions or those for which submissions of correlated items have not been received.

**12.0 CONSTRUCTION OBSERVATION:** If, as part of this Agreement, **Consultant** is providing construction observation services, **Consultant** shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractor's or subconsultant's work and to determine if the work is preceding in general accordance with the Contract Documents. The **Consultant** is not a contractor and shall not at any time supervise, direct, control, or have authority over any of the contractor's and/or subconsultant's work.

12.1 **Consultant** shall not have authority over or be responsible for the means, methods, techniques, sequences, schedule, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for the security or safety at the site, nor for any failure of a contractor to comply with laws and regulations applicable to that contractor's furnishing and performing of its work.

12.2 **Consultant** shall not be responsible for the acts or omissions of any contractor

12.3 **Consultant** neither guarantees the performance of any contractor nor assumes responsibility for any contractor's failure to furnish and perform the work in accordance with the construction contract documents.

12.4 **Consultant** shall not be responsible for any decision made regarding the construction contract documents, or any application, interpretation, clarification, or modification of the construction contract documents, other than those made by the **Consultant** or its **Consultants**.

12.5 Unless otherwise specified in this Agreement, the **Owner** has not retained the **Consultant** to make detailed inspections or to provide exhaustive or continuous project review and observation services.

**13.0 DESIGN WITHOUT CONSTRUCTION PHASE SERVICES:** If **Consultant** is not retained for construction observation and/or on-site resident observation services, **Consultant** shall have no design, shop drawing review, or other obligations during construction, and **Owner** assumes all responsibility for the application and interpretation of construction contract documents, review and response to contractor claims, construction contract administration, processing of change orders and submittals, revisions to the construction contract documents during construction, construction observation and review, review of contractor's payment applications, and all other necessary construction phase administrative, engineering, surveying and professional services. **Owner** waives all claims against the **Consultant** that may be connected in any way to construction phase administrative, engineering, surveying or professional services.

**14.0 MEDIA REPRESENTATIONS:** The **Consultant** shall have the right to include photographic or artistic representations of the design of the Project among the **Consultant's** promotional and professional materials. The **Consultant** shall be given reasonable access to the completed Project to make such representations. However, the **Consultant's** materials shall not include the **Owner's** confidential or proprietary information. The **Owner** shall provide professional credit for the **Consultant** in the **Owner's** promotional materials for the Project. Notwithstanding anything to the contrary in the present agreement, the Parties' obligations outlined in this clause shall survive the termination of this Agreement for an indefinite term.

**15.0 TERMINATION:** This Agreement may be terminated by either party upon not less than seven days written notice should the other party fail substantially to perform in accordance with the terms of the Agreement through no fault of the party initiating the termination. This Agreement may

be terminated by the **Owner** upon not less than seven days' written notice to the **Consultant** in the event the Project is permanently abandoned.

15.1 Failure of the **Owner** to make payments to the **Consultant** in accordance with the Agreement shall be considered substantial non-performance and cause for termination. If the **Owner** fails to make payment when due the **Consultant** for services, the **Consultant** may, upon seven days' written notice to the **Owner**, suspend performance of services under this Agreement. Unless payment in full is received by the **Consultant** within seven days of the date of the notice, the suspension shall take effect without further notice.

15.2 In the event of a suspension of services, the **Consultant** shall have no liability to the **Owner** for delay or damage caused the **Owner** because of such suspension of services. In the event of termination not the fault of the **Consultant**, the **Consultant** shall be compensated for services performed prior to termination and all termination expenses. Termination expenses are in addition to compensation for Basic and Additional Services, and include expenses which are directly attributable to termination.

**16.0 DISPUTE RESOLUTION:** Claims, disputes or other matters in question between the parties to this Agreement arising out of or relating to this Agreement or breach thereof shall be subject to mediation unless each of the parties mutually agrees otherwise. No mediation arising out of or relating to this Agreement shall include, by consolidation, joinder or in any other manner, an additional person or entity not a party to this Agreement, except by written consent containing a specific reference to this Agreement signed by the **Owner**, **Consultant**, and any other person or entity sought to be joined. In no event shall the demand for mediation be made after the date when the institution of legal or equitable proceedings based upon such claim would be barred by the applicable statute of limitations. The award rendered in the mediation shall be non-binding.

**17.0 LIMITATION OF LIABILITY:** The **Consultant's** liability shall be limited to \$1,000,000.00 or the fee for the work performed, whichever is greater, or as specifically agreed to by separate agreement.

**18.0 STANDARD OF CARE:** In providing services under this Agreement, the **Consultant** shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

**19.0 PAYMENT:** Amounts unpaid 30 days after invoice date shall bear interest from the date payment is due at a rate of 1.5% per month compounded and shall include costs for attorney fees and other collection fees related to collecting fees for service.

**20.0 LIEN RIGHTS:** **Consultant** retains all rights to mechanic's or design professional lien rights through the completion of the obligations of this agreement at the sole judgment of the **Consultant**.

**21.0 WAIVERS:** The **Owner** and the **Consultant** waive all rights against each other and against the contractors, **Consultants**, agents and employees of the other for damages, but only to the extent covered by property insurance during construction. The **Owner** and **Consultant** each shall require similar waivers from their contractors, **Consultants** and agents.

**22.0 ASSIGNMENT:** The **Owner** and **Consultant**, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. Neither **Owner** nor **Consultant** shall assign this Agreement without the written consent of the other.

**23.0 GOVERNING LAW:** Unless otherwise provided, the Agreement shall be governed by the laws of the State of Iowa.

**24.0 COMPLETE AGREEMENT:** This Agreement represents the entire and integrated agreement between the **Owner** and **Consultant** and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both **Owner** and **Consultant**. Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the **Owner** or **Consultant**.

## EXHIBIT B

### McCLURE ENGINEERING COMPANY

FEES

Polk City Elevated Storage Tank Project



Fees for Services are shown below:

Item		Water Model 2022000929-001	Elevated Storage Tank 2022000929-002	Water Main 2022000929-003	
<input checked="" type="checkbox"/> A.	Iowa DNR Water Supply Permitting	LS	N/A	\$5,000.00	\$4,000.00
<input checked="" type="checkbox"/> B.	Preliminary Design	LS	N/A	\$79,000.00	\$54,000.00
<input checked="" type="checkbox"/> C.	Final Design	LS	N/A	\$62,000.00	\$45,000.00
<input checked="" type="checkbox"/> D.	Advertising, Bidding, Contract Award	LS	N/A	\$12,000.00	\$9,000.00
<input checked="" type="checkbox"/> E.	Construction Administration (through Substantial Completion)	LS	N/A	TBD	TBD
<input checked="" type="checkbox"/> F.	Construction Administration (Substantial to Final Completion)	T&M, Est.	N/A	TBD	TBD
<input checked="" type="checkbox"/> G.	Resident Project Representative	LS	N/A	TBD	TBD
<input type="checkbox"/> H.	Hydro-geological Investigation Coordination and Review	NIC	NIC	NIC	NIC
<input type="checkbox"/> I.	Pilot Testing Coordination and Review	NIC	NIC	NIC	NIC
<input checked="" type="checkbox"/> J.	Boundary Survey and Acquisition Plats	T&M, Est.	N/A	\$5,000.00	\$5,000.00
<input type="checkbox"/> K.	Right-of-Way Negotiations	NIC	NIC	NIC	NIC
<input checked="" type="checkbox"/> L.	Paper Copies of Final Project Documents	LS	N/A	\$2,000.00	\$2,000.00
<input checked="" type="checkbox"/> M.	Construction Staking	LS	N/A	TBD	TBD
<input checked="" type="checkbox"/> N.	Geotechnical Engineering Coordination	LS	N/A	\$6,000.00	\$5,000.00
<input checked="" type="checkbox"/> O.	Stormwater Pollution Prevention Plan (SWPPP)	LS	N/A	\$2,500.00	\$2,500.00
<input checked="" type="checkbox"/> P.	Record Drawings	LS	N/A	TBD	TBD
<input type="checkbox"/> Q.	Operator Training/Startup Services	NIC	NIC	NIC	NIC
<input type="checkbox"/> R.	Operation and Maintenance Manual	NIC	NIC	NIC	NIC



<input checked="" type="checkbox"/>	S. Loan Applications and Funding Administration	LS	N/A	\$18,000.00	\$14,000.00
<input checked="" type="checkbox"/>	T. Additional Meetings	T&M, Est.	N/A	\$4,000.00	\$3,000.00
<input checked="" type="checkbox"/>	U. Water Model	LS	\$35,000.00	N/A	N/A
			Total Fee:	\$35,000.00	\$195,500.00
<p><i>NOTE: Total Fee shown here does not include TBD Phases, which will be added via contract amendment after the projects are bid and move to construction. Also, Total Fee shown here could be more or less than indicated, depending on T&amp;M, Estimated phases.</i></p>					\$143,500.00

LS Lump Sum  
 NTE Not-to-Exceed  
 N/A Not Applicable  
 NIC Not Included  
 TBD To Be Determined  
 T&M Time and Materials  
 Est. Estimated

# EXHIBIT B

## McCLURE ENGINEERING COMPANY HOURLY RATE SCHEDULE (Effective 1/1/2023 through 12/31/2023)



<b>PERSONNEL</b>	<b>HOURLY RATE</b>
Principal .....	\$270 - \$295
Project Manager .....	\$185 - \$230
Senior Professional.....	\$185 - \$285
Professional.....	\$155 - \$185
Junior Professional.....	\$125 - \$155
Senior Technician .....	\$155 - \$175
Technician.....	\$115 - \$135
Landscape Architect .....	\$125 - \$160
On-Site Representative .....	\$115 - \$155
Client/Project Liaison .....	\$135 - \$185
Administrative .....	\$65 - \$85
Public Relations .....	\$115 - \$150
3 Member Survey Crew .....	\$280
2 Member Survey Crew .....	\$210
1 Member Survey Crew .....	\$135

<b>EQUIPMENT</b>	
3D Scanner per Scan .....	\$30.00
UAV per Flight .....	\$125.00
Sonar Boat .....	\$125.00

<b>MISCELLANEOUS EXPENSES</b>	
Survey Vehicle Mileage.....	\$0.75/Mile + \$0.15 fuel surcharge
Automobile Mileage (at current IRS rate).....	Current IRS Rate
Printing.....	Per Contract
Survey Supplies (Hubs, Lath, Paint, Nails, etc.) .....	Per Contract
Out-of-Pocket Expenses (Meals, Hotels, etc.).....	Per Contract

\*Rates are subject to change based on billing rates for future years



Item	Included	Not Included
<b>B. Preliminary Design (continued)</b> 3. Topographic Survey. 4. Prepare revised "Opinion of Probable Costs". 5. Attend meetings necessary to complete Preliminary Design (2-Meetings). 6. FAA Obstruction evaluation. 7. Hydraulic Modeling of Distribution System (Water CAD). 8. Prepare preliminary plans and specifications for Owner's review.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>C. Final Design</b> 1. Prepare final project drawings. 2. Prepare final project specifications. 3. Identify utility requirements and conflicts and coordinate resolution 4. Prepare revised Opinion of Probable Cost based on final drawing and specifications. 5. Prepare Contract Agreement Form, General Conditions, Supplementary Conditions, Bid Forms, Invitation to Bidders, and Instructions to Bidders. 6. Review 60%, 90% and 100% Final Design with Owner (3 Meetings) 7. Furnish the following number of final project drawings and specifications to Owner <ul style="list-style-type: none"> <li>• Five (5) Copies to Owner</li> </ul> 8. IDNR Air construction permit application (for generator, boiler, or combustion engine)	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>
<b>D. Advertising, Bidding, Contract Award</b> 1. Assist Owner in advertising for and obtaining bids. 2. Conduct Prebid Conference at Owner's location (1-meeting). 3. Issue addenda to interpret or clarify bid documents. 4. Review prebid submittals from bidders. 5. On-line advertisting and electronic project documents (QuestCDN) 6. Attend Bid opening (at Owner location), prepare bid tabulation (1-meeting). 7. Review bidder's qualifications, bids, and other documents and make recommendation for award of contract. 8. Attend one (1) meeting to present Bids to Owner.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>E. Construction Administration (through Substantial Completion)</b> 1. Provide general administration of construction contract as Owner's representative. 2. Visit site of construction at appropriate stages of construction to observe the Contractors work. 3. Issue interpretations and clarifications of contract documents. 4. Review shop drawings. 5. Review and respond to Requests for Information. 6. Act as initial interpreter of the requirements of the contract documents. 7. Review and process Contractor's application for payment. 8. Review and process change orders. 9. Attend construction progress meetings. 10. Cloud-based construction file management NOTE: The compensation amount stipulated in this phase is conditioned on a period of service not exceeding 18 months from Construction Notice to Proceed to Substantial Completion. Modifications to the schedule shall entitle Engineer to an equitable adjustment of compensation for services provided.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>
<b>F. Construction Administration (Substantial Completion to Final Completion)</b> 1. Provide general administration of construction contract as Owner's representative. 2. Prepare Final Punch List. 3. Coordinate with Contractor on Final Punch List. 4. Prepare statement of final completion. 5. Prepare final pay estimate and change order. 6. Resident Project Representative visits site to verify punch list is complete NOTE: The compensation amount stipulated in this phase is Time and Material and will depend on the length of time for the Contractor to complete the punch list	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>G. Resident Project Representative</b> 1. Provide a Resident Project Representative to be on site during construction (see Exhibit 'F', A Listing of Duties, Responsibilities and Limitations of Authority of the Resident Project Representative). NOTE: The Lump Sum amount set forth in this phase is based on part-time RPR services on an four-hour workday Monday through Friday over a 540 calendar day construction schedule, from Notice to Proceed to Substantial Completion. Modifications to the schedule shall entitle Engineer to an equitable adjustment of compensation for services provided.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Item	Included	Not Included
<b>H. <u>Hydro-geological Investigation Coordination and Review</u></b> <ol style="list-style-type: none"> <li>1. Specialized Testing Coordination (Hydro-geological Investigation). <ul style="list-style-type: none"> <li>• Specifications for Hydro-geological Investigation.</li> <li>• Proposal Forms for Hydro-geological Investigation.</li> <li>• Assist Owner in Advertising and Obtaining Bids.</li> <li>• Attend Meeting to receive Proposals for Hydro-geological Investigation.</li> <li>• Review Proposals/Other Documents and make Recommendations for Award of Contracts.</li> <li>• Provide General Administration of Hydro-geological Contract or Owner's Representative.</li> <li>• Issue interpretation and clarification of Contract Documents.</li> <li>• Act as initial interpreter of the requirements of the Contracts.</li> </ul> </li> <li>2. Review and discuss findings with Owner.</li> </ol>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>I. <u>Pilot Testing Coordination and Review</u></b> <ol style="list-style-type: none"> <li>1. Prepare pilot testing protocol.</li> <li>2. Summarize raw and finished water quality goals and parameters.</li> <li>3. Prepare request for proposals from treatment system manufacturers.</li> <li>4. Evaluate proposals and make recommendation of award.</li> <li>5. Establish pilot testing sampling protocol and parameters.</li> <li>6. Review pilot system operation and design parameters throughout study.</li> <li>7. Bi-weekly conference calls during pilot study.</li> <li>8. Evaluate pilot system performance.</li> <li>9. Prepare pilot study report and submit to DNR.</li> <li>10. Review and discuss findings with Owner.</li> </ol>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>J. <u>Boundary Survey and Acquisition Plats</u></b> <ol style="list-style-type: none"> <li>1. Courthouse research.</li> <li>2. Field boundary surveys.</li> <li>3. Preparation of temporary and/or permanent easement plats and legal descriptions (3 easements assumed).</li> <li>4. Preparation of acquisition plats and legal descriptions (0 acquisitions assumed).</li> <li>5. Assemble ROW files and submit to Owner.</li> <li>6. File final plats at courthouse.</li> </ol>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>K. <u>Right-of-Way Negotiations</u></b> <ol style="list-style-type: none"> <li>1. Coordinate notices to Landowners.</li> <li>2. Meet with land owners.</li> <li>3. Prepare requests for Proposals to appraisers.</li> <li>4. Review appraisals with Owner.</li> <li>5. Develop negotiation strategy.</li> <li>6. Prepare offers.</li> <li>7. Negotiations with land owners.</li> <li>8. Coordinate purchase agreements.</li> <li>9. Prepare color coded ROW map.</li> </ol>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>L. <u>Paper Copies of Final Project Documents</u></b> <ol style="list-style-type: none"> <li>1. Print sufficient number of paper copies of final project documents, per Iowa Code 26.3, and distribute to prospective bidders: <ul style="list-style-type: none"> <li>• 24 x 36 Drawings (0 estimated).</li> <li>• 11 x 17 Drawings (25 estimated).</li> <li>• Contract Documents and Specifications (25 estimated).</li> <li>• Engineer's Opinion of Probable Cost (25 estimated).</li> </ul> </li> </ol>	<input checked="" type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>M. <u>Construction Staking</u></b> <ol style="list-style-type: none"> <li>1. Establish Field Controls.</li> <li>2. Stake Construction Control Points in accordance with project specifications.</li> </ol>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<b>N. <u>Geotechnical Engineering Coordination</u></b> <ol style="list-style-type: none"> <li>1. Prepare Request for Proposal for Geotechnical Firms (soil borings).</li> <li>2. Review Proposals and make Recommendation for Award. Geotechnical Engineer to contract directly with Owner. Geotechnical Engineering Fees not included in this contract.</li> </ol>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>

Item	Included	Not Included
<b>O. <u>Stormwater Pollution Prevention Plan (SWPPP)</u></b> 1. Assist Owner in filing on-line NPDES General Permit No.2 application. 2. Prepare SWPPP specification requiring Contractor to prepare, implement, and maintain SWPPP in accordance with specifications and NPDES General Permit No.2.	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/>
<b>P. <u>Record Drawings</u></b> 1. As-Built Record Drawings (2 Hard Copies & 1 Electronic Copy Included). 2. Additional Hard Copies - 1 EA @ \$150.00 3. Additional Electronic Copies - 1 EA @ \$25.00	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
<b>Q. <u>Operator Training / Startup Services</u></b> 1. Operator Training/Workshops. 2. Equipment Startup Services.	<input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>R. <u>Operation/Maintenance Manual</u></b> 1. O&M Manual Preparation to meet requirements of DNR Construction Permit. 2. Hard Copies _____ EA @ \$ _____ 3. Electronic Copies _____ EA @ \$ _____	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/>
<b>S. <u>Loan Applications and Funding Administration:</u></b> 1. Prepare SRF Construction Loan Application. 2. Preaward Compliance Review Report. 3. Environmental Review Checklist and Coordination. 4. Attend Public Hearing on Finding of No Significant Impact (FONSI). 5. Environmental Assessment. 6. Prepare Loan Draw-down Requests. 7. Review of Payroll records. 8. Wage interviews. 9. Submit Works in Operation Report to IDNR. 10. Submit Loan Closeout to IDNR. 11. Administration of other funding sources (CDBG, RD, Other)	<input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input checked="" type="checkbox"/>
<b>T. <u>Additional Meetings</u></b> 1. Additional project meetings, other than specified above (X Meetings, if included).	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<b>U. <u>Water Model</u></b> 1. Prepare a base water model of the existing water distribution system. Base model will be based upon the existing GIS files of the Owner, to be provided to Consultant. The model will be calibrated by running field hydrant flow tests, to be completed by Consultant. Once calibrated, model will be used to evaluate new water tower elevation and location. Additional alternatives and analysis are not included. A final report is not included. Future analysis of additional improvements using the model, other than for the design of the elevated storage tank, are not included.	<input checked="" type="checkbox"/>	<input type="checkbox"/>

## EXHIBIT E

### McCLURE ENGINEERING COMPANY OWNER'S RESPONSIBILITIES



**OWNER** shall do the following in a timely manner so as not to delay the services of the **CONSULTANT**:

1. Designate in writing a person to act, as **OWNER'S** representative with respect to the services to be rendered under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define **OWNER'S** policies and decisions with respect to **CONSULTANT'S** services for the Project.
2. Provide all criteria and full information as to **OWNER'S** requirements for the Project, including design objectives and constraints, space, capacity and performance requirements, flexibility and expendability, and any budgetary limitations; and furnish copies of all design and construction standards, which **OWNER** will require to be included in the drawings and specifications.
3. Assist **CONSULTANT** by placing at **CONSULTANT'S** disposal all available information pertinent to the Project including previous reports and any other data relative to design or construction of the Project.
4. Arrange for access to make all provisions for **CONSULTANT** to enter upon public and private property as required for **CONSULTANT** to perform services under this Agreement.
5. Examine all studies, reports, sketches, drawings, specifications, proposals and other documents presented by **CONSULTANT**, obtain advice of an attorney, insurance counselor and other consultants as **OWNER** deems appropriate for such examination and render in writing decisions pertaining thereto within a reasonable time so as not to delay the services of **CONSULTANT**.
6. Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
7. Attend the prebid conference, bid opening, preconstruction conferences, construction progress and other job related meetings and substantial completion inspection and final payment inspection.
8. Give prompt written notice to **CONSULTANT** whenever **OWNER** observes or otherwise becomes aware of any development that affects the scope or timing of **CONSULTANT'S** services, or any defect or non-conformance in the work of any Contractor.
9. Arrange for financing and pay for services as agreed to in this Agreement.

## MCCLURE ENGINEERING COMPANY

A LISTING OF THE DUTIES, RESPONSIBILITIES, AND LIMITATIONS OF AUTHORITY  
OF THE RESIDENT PROJECT REPRESENTATIVE (RPR)



**CONSULTANT** shall furnish a Resident Project Representative (RPR), assistants and other field staff to assist **OWNER** in observing performance of the Work of the Contractor.

Through on-site observations of the Work in progress and field checks of materials and equipment by the RPR and assistants, **CONSULTANT** shall endeavor to provide further protection for **OWNER** against defects and deficiencies in the Work; but, the furnishing of such services will not make **CONSULTANT** responsible for or give **CONSULTANT** control over construction means, methods, techniques, sequences, procedures, storm water runoff, erosion control, or for safety precautions or programs, or responsibility for **CONTRACTOR**'s failure to perform the Work in accordance with the Contract Documents.

The duties and responsibilities of the RPR are limited to those of **CONSULTANT** in **CONSULTANT**'S agreement with the **OWNER** and in the construction Contract Documents, and are further limited and described as follows:

### 1. GENERAL

RPR is **OWNER**'S agent at the site, will act as directed by and under the direction of **OWNER**, and will confer with **OWNER** regarding RPR's actions. RPR's dealings in matters pertaining to the on- site work shall in general be with **OWNER** and **CONTRACTOR** keeping **OWNER** advised as necessary. RPR's dealings with sub-contractors shall only be through or with the full knowledge and approval of **CONTRACTOR**.

### 2. DUTIES AND RESPONSIBILITIES OF RPR

- A. *Conferences and Meetings:* Attend meetings with **CONTRACTOR**, such as pre-construction conferences, progress meetings, job conferences and other project- related meetings.
  - i. Liaison:
    - 1. Serve as **OWNER**'S liaison with **CONTRACTOR**, working principally through **CONTRACTOR**'s superintendent and assist in understanding the intent of the Contract Documents; and assist **OWNER** in serving as **OWNER**'S liaison with **CONTRACTOR** when **CONTRACTOR**'s operations affect **OWNER**'S on-site operations.
    - 2. Assist in obtaining from **OWNER** additional details or information, when required for proper execution of the Work.
- B. Shop Drawings and Samples:
  - i. Receive samples that are furnished at the site by **CONTRACTOR** and notify **OWNER** of availability of samples for examination.
  - ii. Advise **OWNER** and **CONTRACTOR** of the commencement of any Work requiring a Shop Drawing or sample if the submittal has not been approved by **OWNER**.
- C. Review of Work, Rejection of Defective Work, Inspections and Tests:
  - i. Conduct on-site observations of the Work in progress to assist **OWNER** in determining if the work is in general proceeding in accordance with the Contract Documents.
  - ii. Report to **OWNER** whenever RPR believes that any Work is unsatisfactory, faulty or defective or does not conform to the Contract Documents, or has been damaged, or does not meet the requirements of any inspection, test or approval required to be made; and advise **OWNER** of Work that RPR believes should be corrected or rejected or should be uncovered for observation, or requires special testing, inspection or approval.
  - iii. Verify that tests, equipment and systems startups and operating and maintenance training are conducted in the presence of appropriate personnel and that **CONTRACTOR** maintains adequate records thereof; and observe, record and report to **OWNER** appropriate details relative to the test procedures and startups.
  - iv. Accompany visiting inspectors representing public or other agencies having jurisdiction over the Project, record the results of these inspections and report to **OWNER**.



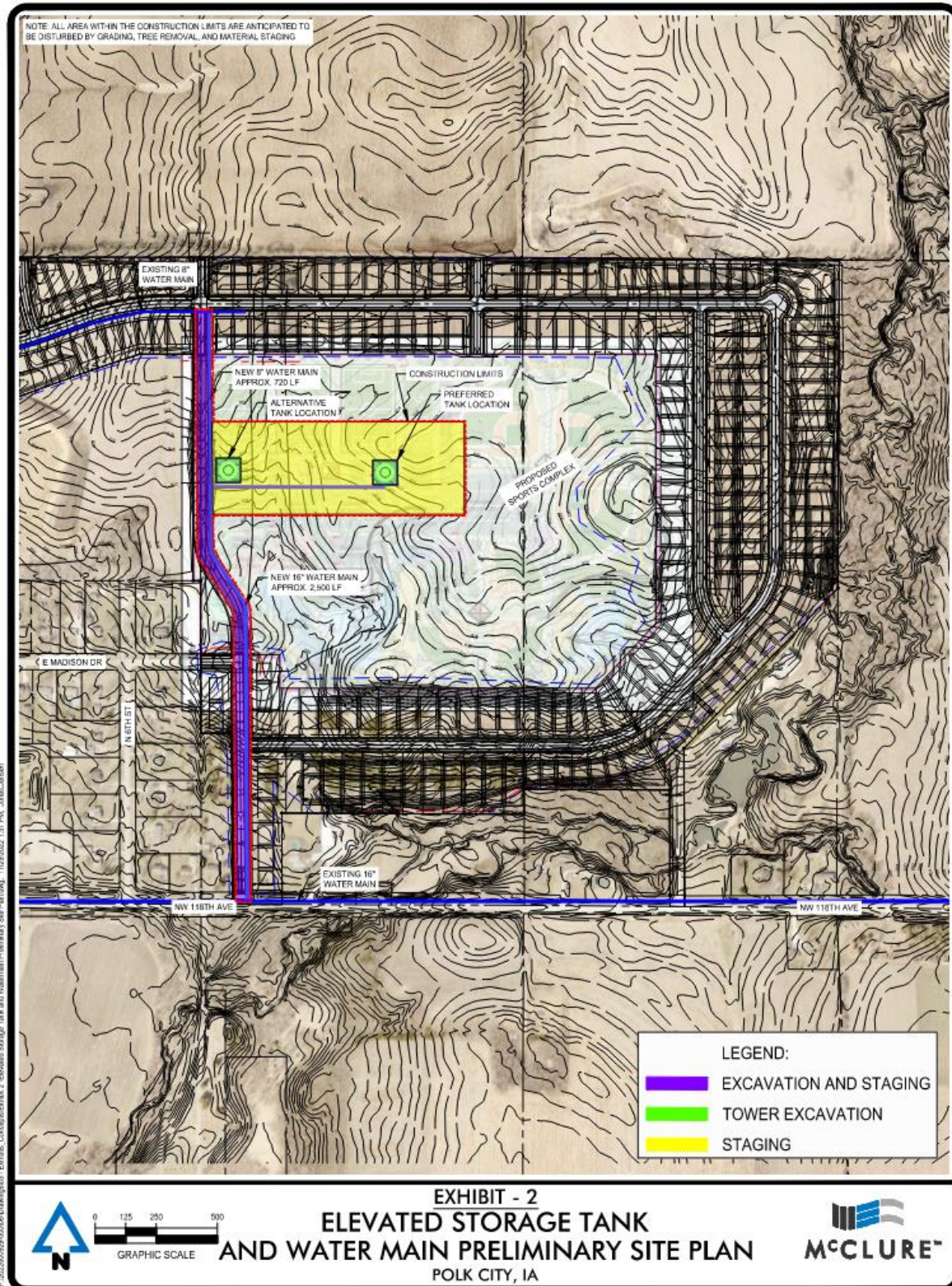
- D. *Interpretation of Contract Documents:* Report to **OWNER** when clarifications and interpretations of the Contract Documents are needed and transmit to **OWNER** clarifications and interpretations as issued by **OWNER**.
- E. *Modifications:* Consider and evaluate CONTRACTOR's suggestions for modifications in Drawing or Specifications and report with RPR's recommendations to **OWNER**. Transmit to CONTRACTOR decisions as issued by **OWNER**.
- F. Records:
  - i. Maintain at the job site orderly files for correspondence, reports of job conferences. Shop Drawings and samples, reproductions of original Contract Documents including all Work Directive Changes, Addenda, Change Orders, Field Orders, and additional Drawings issued subsequent to the execution of the Contract. **OWNER'S** clarifications and interpretations of the Contract Documents, progress reports, and other Project related documents.
  - ii. Keep a diary or log book, recording CONTRACTOR hours on the job site, weather conditions, data relative to questions of Work Directive Changes, Change Orders or changed conditions, list of job site visitors, daily activities, decisions, observations in general and specific observations in more detail as in the case of observing test procedures; and send copies to **OWNER**.
  - iii. Record names, addresses and telephone numbers of all CONTRACTORS, subcontractors and major suppliers of materials and equipment.
- G. *Reports:*
  - i. Furnish **OWNER** periodic reports as required of progress of the Work and of CONTRACTOR's compliance with the progress schedule and schedule of Shop Drawing and sample submittals.
  - ii. Consult with **OWNER** in advance of schedule major tests, inspections or start of important phases of the Work.
  - iii. Draft proposed Change Orders and Work Directive Changes, obtaining backup material from CONTRACTOR and recommend to **CONSULTANT** Change Orders, Work Directive Changes and Field Orders.
  - iv. Report immediately to **OWNER** upon occurrence of any accident.
- H. *Payment Requests:* Review applications for payment with CONTRACTOR for compliance with the established procedure for their submission and forward with recommendations to **CONSULTANT**, noting particularly the relationship of the payment requested to the schedule of values. Work completed, and materials and equipment delivered at the site but not incorporated in the Work.
- I. *Certificates, Maintenance and Operation Manuals:* During the course of the Work, verify that certificates, maintenance and operation manuals and other data required to be assembled and furnished by CONTRACTOR are applicable to the items actually installed and in accordance with the Contract Documents, and have this material delivered to **OWNER** for review and forwarding to **OWNER** prior to final payment for the Work.
- J.

### **3. LIMITATIONS OF AUTHORITY**

- A. Resident Project Representative:
  - i. Shall not authorize any deviation from the Contract Documents or substitution of materials or equipment, unless authorized by **OWNER**.
  - ii. Shall not exceed limitations of **OWNER'S** authority as set forth in the Contract Documents.
  - iii. Shall not undertake any of the responsibilities of CONTRACTOR, subcontractors or CONTRACTOR's superintendent.
  - iv. Shall not advise on, issue directions relative to or assume control over any aspect of the means, methods, techniques, sequences, storm water management, erosion control or other procedures of construction.
  - v. Shall not advise on, issue directions regarding or assume control over safety precautions and programs in connection with the Work.
  - vi. Shall not accept Shop Drawings or sample submittals from anyone other than CONTRACTOR.
  - vii. Shall not authorize **OWNER** to occupy the Project in whole or in part.
  - viii. Shall not participate in specialized field or laboratory tests or inspections conducted by other except as specifically authorized by **OWNER**.

# EXHIBIT G

**McCLURE ENGINEERING COMPANY**  
DRAWING DEPICTING THE PROJECT  
Polk City Elevated Storage Tank Project



# EXHIBIT H

**McCLURE ENGINEERING COMPANY**  
 CONSTRUCTION ITEM LIST / COST ESTIMATE  
 Polk City Elevated Storage Tank Project



## Alternative No. 3 - 1.5 MG Tower

Item	Description	Quantity	Unit	Unit Price	Extension
1	Mobilization	1	LS	\$ 122,000	\$ 122,000
2	Grading (Cut)	22,045	CY	\$ 15	\$ 330,675
3	Clearing and Grubbing	4.7	AC	\$ 15,000	\$ 70,500
4	Access Road	2,600	SY	\$ 25	\$ 65,000
5	Fencing	400	LF	\$ 70	\$ 28,000
6	16 IN. Watermain	2,510	LF	\$ 180	\$ 451,800
7	8 IN. Watermain	715	LF	\$ 125	\$ 89,375
8	Fittings	2,692	LB	\$ 25	\$ 67,300
9	Connect to Existing WM	1	LS	\$ 4,000	\$ 4,000
10	1.5 MG Tower	1	LS	\$ 5,218,500	\$ 5,218,500
11	Deep Foundations	1	LS	\$ 150,000	\$ 150,000
12	Dewatering	1	LS	\$ 80,000	\$ 80,000
13	Mixing Equipment	1	LS	\$ 40,000	\$ 40,000
14	SCADA & Electrical	1	LS	\$ 100,000	\$ 100,000
15	Additional Controls	1	LS	\$ 50,000	\$ 50,000
16	Contingency	1	LS	\$ 664,000	\$ 664,000
				Subtotal	\$7,531,000
	Engineering, Legal, Administration				\$753,000
				Total Project Cost	\$8,284,000

ENGINEERING SERVICES AGREEMENT

This agreement made between The City of Polk City, Iowa

the CLIENT and SNYDER & ASSOCIATES, INC., Consulting Engineers, The ENGINEER, for services concerning the following PROJECT:

2023 Street Repairs Project

See Attached Exhibit "A" which by this reference is made a part hereof.

SNYDER & ASSOCIATES, INC. agrees to perform the following professional services in connection with the PROJECT;

See Attached Exhibit "A"

The CLIENT hereby agrees to provide the ENGINEER all criteria, design and construction standards, and full information as to the CLIENT'S requirements for the PROJECT. Other terms and conditions of this contract, including time of performance are as follows:

See Attached Exhibit "A"

The CLIENT agrees to compensate the ENGINEER for the engineering services rendered under this agreement on the following basis:

See Attached Exhibit "A"

Progress payments shall be made in proportion to services as rendered and as indicated within this agreement, and shall be due and owing within 10 days of the ENGINEER'S submittal of his monthly statement. Past due amounts owed shall accrue interest at 1.5% per month from the 30th day. If the CLIENT fails to make monthly payments due the ENGINEER, the ENGINEER may after giving seven (7) days written notice to the CLIENT suspend services under this agreement.

THIS AGREEMENT IS SUBJECT TO ALL THE TERMS AND CONDITIONS LISTED ON THE REVERSE SIDE OF THIS PAGE.

This agreement represents the entire and integrated agreement between the CLIENT and the ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This agreement may be amended only by written instrument signed by both the CLIENT and the ENGINEER.

FOR CLIENT

FOR SNYDER & ASSOCIATES, INC.

City of Polk City, Iowa  
CLIENT NAME

DATE

DATE

ROUTE EXECUTED COPY TO: Travis Thornburgh

## TERMS AND CONDITIONS

1. The ENGINEER intends to render its services under this agreement in accordance with the generally accepted professional practices for the intended use of the PROJECT.
2. Upon full payment of all monies due to ENGINEER under the terms of this agreement, the ENGINEER grants to CLIENT a nonexclusive license to reproduce the ENGINEER'S final certified copy of the Instruments of Service, if any, solely for purposes of designing, administering, using and maintaining the Project.
  - 2.1 ENGINEER agrees to allow transfer of its electronic media file(s) to the CLIENT, CLIENT understands and agrees that as a condition precedent, it will sign the ENGINEER'S "Electronic Media Transfer Agreement" form prior to the transfer of an electronic media file. A copy of the "Electronic Media Transfer Agreement" will be made available to CLIENT upon CLIENT'S request.
  - 2.2 All reports, plans, specifications, designs, field data, notes, drawings, computer files, construction documents and other documents and instruments prepared by the ENGINEER, if any, are acknowledged by CLIENT to be instruments of service and shall remain the property of the ENGINEER. Unless otherwise provided, ENGINEER shall retain all common law, statutory and other reserved rights, including copy rights.
  - 2.3 The CLIENT shall not reuse or make any modification to the Instruments of Service without the prior written consent of the ENGINEER.
  - 2.4 OWNERSHIP OF DOCUMENTS "All final documents and electronic media (hereinafter referred as "documents") pertaining to the PROJECT prepared under this agreement, including but not limited to survey, reports, design plans, specifications and special studies shall become the property of the CLIENT upon completion or termination of the services and full and final payment to the ENGINEER. The ENGINEER may make copies of these documents for their records. The ENGINEER will not be responsible for any claim, liability, or other costs arising out of any unauthorized reuse or modification to the documents from, or through, the CLIENT without written authorization of the ENGINEER.
3. Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, strikes, walkouts, accidents, Government acts, or other events beyond the control of the other or the other's employees and agents.
4. **CONSTRUCTION OBSERVATION.** If Construction Observation is included in the scope of services, the ENGINEER shall visit the Project site at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the CLIENT and the ENGINEER, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of Contractor's work but rather are to allow the ENGINEER, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the construction Contract Documents.
  - 4.1 Based on this general observation, the ENGINEER shall keep the CLIENT informed about the progress of the Work and shall endeavor to guard the CLIENT against deficiencies in the Work.
  - 4.2 Construction Observation will follow the "Critical Path" services as outlined in Exhibit "D" attached to this Agreement. If CLIENT desires more extensive project observation or full-time project representation, the CLIENT shall request that such the services be provided by the ENGINEER as Additional Services on a Work Order or as Additional Services by way of a Change Order.
  - 4.3 The ENGINEER shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the Contractor in accordance with the Construction Contract Documents.
  - 4.4 The ENGINEER shall not be responsible for any acts or omissions of the Contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The ENGINEER does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Construction Contract Documents or any applicable laws, codes, rules or regulations.
5. Any Opinion of the Construction Cost prepared by the ENGINEER represents his judgment as a design professional and is supplied for the general guidance of the CLIENT. Since the ENGINEER has no control over the cost of labor and material or over competitive bidding or market conditions, the ENGINEER does not guarantee the accuracy of such opinions as compared to Contractor bids or actual cost to the CLIENT.
6. The CLIENT will require any Contractor or Subcontractor performing work in connection with drawings and specifications produced under this agreement to hold harmless, indemnify and defend the CLIENT and the ENGINEER their consultants, and each of their officers, agents and employees from any and all liability claims, losses, or damages arising out of or alleged to arise from the Contractor's (or Subcontractor's) negligence in the performance of the work described in the construction contract documents.
7. Normal and customary engineering and related services do not include services defined as Additional Services. Additional Services shall be performed as requested in writing by the CLIENT and shall be billed to the CLIENT on an hourly basis at hourly fees set forth in the Standard Fee Schedule attached hereto or as set forth in a written Scope of Services defined by the CLIENT and the ENGINEER.

8. The ENGINEER shall maintain insurance to protect the ENGINEER from claims under Workmen's Compensation Acts claims due to personal injury or death of any employee or any other person claims due to injury or destruction of property and claims arising out of errors, omissions, or negligent acts for which the ENGINEER is legally liable. The minimum amounts and extent of such insurance is as follows

<u>T</u> <u>C</u>	<u>L</u> <u>L</u>
1. Worker's Compensation	Statutory
Bodily Injury by Accident	500,000 each Accident
Bodily Injury by Disease	500,000 each Employee
Bodily Injury by Disease	500,000 Policy Limit
2. Commercial General Liability	
Bodily Injury (including death) and Property Damage	1,000,000 Combined Single Limit
3. Business Auto Liability	
Bodily Injury (including death) And Property Damage	1,000,000 Combined Single Limit
4. Professional Liability	1,000,000 per claim 1,000,000 annual aggregate

8.1 Policies providing the insurance specified in number 2 and 3 above may be endorsed to include CLIENT as an additional insured upon CLIENT'S request. CLIENT shall pay for any additional premium charged by the insurer for this endorsement.

8.2 All policies may include, upon CLIENTS request, a provision restricting the right of the insurer to cancel such coverage except upon written thirty (30) day's notice to CLIENT.

8.3 Certificates evidencing the coverage above shall be delivered, upon CLIENT'S request, to CLIENT prior to performing any Services under this Agreement.

9. Any direct expenses in connection with submittal of fees to any and all regulatory agencies required by the PROJECT shall be paid for directly by CLIENT. Any and all soils or other testing and analysis performed by an independent testing laboratory shall be billed directly to the CLIENT for payment.
10. All services performed on an hourly basis shall be performed in accordance with the current fiscal year Snyder Associates, Inc. Standard Fee Schedule in affect at the time of actual performance. All services quoted on a lump sum basis shall be valid for one year from the contract date.
11. If the CLIENT fails to pay the undisputed portion of the ENGINEER'S invoices within 30 days of presentation, the ENGINEER shall cease work on the project and the CLIENT shall waive any claim against the ENGINEER, and shall defend and hold the ENGINEER harmless from any claims for loss resulting from cessation of service. In the event of remobilization, the CLIENT and ENGINEER shall renegotiate appropriate terms and conditions of the AGREEMENT, such as those associated with budget, schedule or scope of service. In the event any bill or portion thereof is disputed by the CLIENT, the CLIENT shall notify the ENGINEER within ten (10) days of receipt of the invoice in question, and the CLIENT and ENGINEER shall work to resolve the matter within sixty (60) days of notification by the CLIENT of the dispute. If resolution is not attained within sixty (60) days, either party may terminate this AGREEMENT, in accordance with the Termination Section of this AGREEMENT.
12. The ENGINEER or CLIENT may, after giving seven (7) days written notice to the other party, terminate this agreement and the ENGINEER shall be paid for services provided to the termination notice date, including reimbursable expenses due, plus termination expenses. Termination expenses are defined as reimbursable expenses directly attributed to the termination.
13. In the event of any litigation arising from or related to the services provided under this Agreement, the prevailing party will be entitled to recovery of all reasonable costs incurred, including staff time, court costs, attorneys fees and other related expenses. It is further agreed that any legal action between the Client and the Engineer arising out of this Agreement or the performance of the services shall be brought in a court of competent jurisdiction in the State of Iowa.
14. Neither the CLIENT nor the ENGINEER shall delegate, assign, or otherwise transfer his duties under this agreement without the written consent of the other.
15. In the event any provisions of this agreement shall be held to be invalid and unenforceable, the remaining provisions shall be valid and binding upon the parties. One or more waivers by either party of any provision, term, condition or covenant shall not be construed by the other party as a waiver of a subsequent breach of the same by the other party.
16. ENGINEER shall not be responsible or liable for compliance with any storm water discharge requirements at the site, if any, other than the preparation of the Notice of Intent for Storm Water Discharge Permit No. 2 applicable to the site and creation of the initial storm water pollution prevent plan (SWPPP) for the site.

**EXHIBIT 'A'**  
**POLK CITY: 2023 STREET REPAIRS PROJECT**

**CLIENT:** CITY OF POLK CITY

**ENGINEER:** SNYDER & ASSOCIATES, INC.  
2727 SW SNYDER BOULEVARD  
ANKENY, IOWA 50023

**PROJECT:** TO PROVIDE ENGINEERING SERVICES RELATED TO PREPARATION OF CONSTRUCTION DOCUMENTS AND PROVISION OF BID PHASE AND CONSTRUCTION PHASE SERVICES FOR THE 2023 STREET REPAIRS PROJECT.

**DATE:** JANUARY 18, 2023

**SCOPE OF SERVICES:**

**A. BASIC SERVICES:**

1. Street Repair
  - a. The street repairs on the project include ten to twelve (10-12) locations to be identified by City Staff following approval of this agreement.
  - b. The Engineer will visit the site once repair locations have been identified to determine repair extents and magnitude of needed repairs. The Engineer will mark these extents for review by City Staff and measure the removal limits with GPS equipment as necessary for preparation of construction drawings.
  - c. The Engineer will prepare a staging plan to maintain a minimum of 1-way traffic through all street repair locations.
2. The Engineer will provide project administration as required for this project.
3. The Engineer will prepare construction documents for the above described improvements. These documents include construction drawings, form of contract, and technical specifications.
4. The Engineer will prepare an Opinion of Probable Construction Cost for the project.
5. The Engineer will provide bid phase services, including advertising, bid letting, bid tabulation, and making a recommendation to the City Council regarding award.
6. The Engineer shall provide 3 copies of the construction drawings for review by City Staff. The Engineer shall supply the necessary documents to bidders for letting purposes.
7. The Engineer will attend one meeting with City Staff and City Council meetings as required.

**B. CONSTRUCTION PHASE SERVICES:**

Upon award of the construction contract, the Engineer shall provide services as follows:

1. Construction administration for the project as outlined in Exhibit “B”, including conducting a preconstruction conference with the contractor and City staff, reviewing and processing applications for partial payment, reviewing shop drawings, preparing change orders for approval by the City. Upon completion of the project in substantial conformance to the approved construction documents, the Engineer shall recommend acceptance of the project.
2. All patching locations are small enough where staking is not required.
3. Construction observation services are not included in this agreement.

**C. ADDITIONAL SERVICES:**

The following items shall be considered additional services and are not included within the Scope of Work. These items are listed to further assist with clarity of project scope as well as provide a listing of services, which Snyder & Associates, Inc. could perform upon request.

1. Construction Observation
2. Assessment plats and schedules
3. Easement plats and/or acquisition plats
4. Right-of-way services
5. Submittal fees and/or permit fees to any and all regulatory agencies.
6. NPDES permit application fees (if required)
7. Street lighting design
8. Client requested major revisions
9. Utility company locates

**D. FEES:**

The fees for Engineering Services shall be as described below.

1. Basic Services:			
a.	Project Administration	\$ 2,500	
b.	Final Design and Plans	\$ 6,000	
c.	Bid Phase Services	<u>\$ 3,000</u>	
	Lump Sum Fee for Basic Services		<b><u>\$11,500</u></b>
2. Construction Phase Services:			
a.	Construction Administration	\$ 5,000	
b.	Construction Staking/Marking	\$ 1,500	
	Lump Sum fee for Construction Phase Services		<b><u>\$6,500</u></b>
<b>TOTAL FEE</b>			<b>\$18,000</b>



## Exhibit “B”

### **SNYDER & ASSOCIATES, INC. CONSTRUCTION ADMINISTRATION SERVICES FOR POLK CITY PUBLIC IMPROVEMENT PROJECTS**

Upon the CLIENT’s award of the construction contract, the ENGINEER shall perform the following construction administrative services during construction of the project:

General Administration of Construction Contract. Consult with CLIENT and act as CLIENTS’ representative as provided in the General Conditions of the construction contract. The extent and limitations of the duties, responsibilities and authority of ENGINEER as assigned in said General Conditions shall not be modified, except as ENGINEER may otherwise agree in writing. All of CLIENT’s instructions to Contractor will be issued through ENGINEER, who shall have authority to act on behalf of CLIENT dealings with Contractor to the extent provided in the Agreement and said General Conditions except as otherwise provided in writing.

Pre-construction Conference The ENGINEER shall arrange and conduct a pre-construction conference for the project with the Contractor and CLIENT to review the contract requirements, details of construction, and work schedule prior to commencement of construction.

Contractor Payment Requests The ENGINEER shall review the requests of the contractor for progress payments and shall approve a request, based on site observations, which authorizes payments and is a declaration that the contractor's work has progressed to the point indicated.

Notification of Non-conformance The ENGINEER shall notify the CLIENT of any known work which does not conform to the construction contract, make recommendations to the CLIENT for the correction of non-conforming work and, at the request of the CLIENT, see that these recommendations are implemented by the contractor.

Clarifications, Interpretations and Field Orders The ENGINEER shall issue necessary clarifications and interpretations of the Contract Documents as appropriate to the orderly completion of the Contractor’s work. Such clarifications and interpretations will be consistent with the intent of and reasonably inferable from the Contract Documents. The ENGINEER may issue Field Orders authorizing minor variations from the requirements of the Contract Documents.

Shop Drawings The ENGINEER shall review shop drawings and other submissions of the Contractor for general compliance with the construction contract documents. This review shall not include review of the accuracy or completeness of details, such as quantities, dimensions, weights or gauges, fabrication processes, construction means or methods, coordination of the work with other trades or construction safety precautions, all of which are the sole responsibility of the Contractor.

Substitutes and “or-equal” The ENGINEER shall evaluate and determine the acceptability of substitute or “or-equal” material and equipment proposed by Contractor.

Change Orders The ENGINEER shall negotiate and prepare change orders for approval of the CLIENT.

Testing The ENGINEER will coordinate the acceptance testing and monitoring according to the specifications including the services provided by an independent testing laboratory retained by the Contractor. The ENGINEER's review of such testing and certificates will be for the purpose of determining that the results certified indicate compliance with the Contract Documents and will not constitute an independent evaluation that the content or procedures of such observations, tests, or approvals comply with the requirements of the Contract Documents. The ENGINEER shall be entitled to rely on the results of such tests.

Substantially Complete and Final Site Observation The ENGINEER shall perform a site observation to determine if the project is substantially complete according to the plans and specifications, prepare a punchlist and make recommendation on final payment upon completion of punchlist items.

- The ENGINEER shall receive and review maintenance and operating instructions, schedules and guarantees and transmit to the CLIENT.
- If the Contractor exceeds the estimated working days in completing construction of the project, or if change orders or project additions require additional working days, the ENGINEER will be compensated for administration, construction observation and staking services based on established hourly rates and fixed expenses outlined in the ENGINEER's Standard Fee Schedule.

Final Acceptance It is understood that the CLIENT will accept any portion of the project only after recommendation by the ENGINEER. Final acceptance of the project by the CLIENT shall not be deemed to release the Contractor from responsibility for insuring that the work is done in a good and workmanlike manner, free of defects in materials and workmanship nor the ENGINEER for his liability of design.

## MEMO

Date: December 12, 2022  
 To: Mayor Steve Karsjen & City Council  
 Chelsea Huisman, City Manager  
 From: Kathleen Connor, City Engineering Representative  
 Subject: Amended Parking Regulations

### BACKGROUND:

In conjunction with the staff review of the P.U.D. Master Plan for Leonard Senior Living, the developer requested consideration of a reduction to Polk City's zoning code requirement for off-street parking stalls for independent living, assisted living, and memory care facilities. As a result, we researched the parking regulations for these uses in other cities in the metro area and our findings were outlined in the November 8, 2022 Memo provided in the packets for the November 28, 2022 Council meeting. Staff has prepared a draft Ordinance for Council consideration based on those findings, with the proposed parking requirements summarized below, along with other minor cleanup items to clarify the code requirements related to off-street parking areas. The proposed Ordinance also increases the setback for parking lots along public streets from a five feet setback to a ten feet setback to allow more space for trees as discussed by the Planning and Zoning Commission at their November meeting.

Use	Off-Street Parking Requirement
Independent Living Facilities	1 stall per dwelling unit, a minimum of 50% of which shall be garage spaces, plus 1 stall per staff member on maximum shift, plus 1 visitor parking stall per 10 dwelling units
Assisted Living Facilities	1 stall per every two dwelling units, a minimum of 50% of which shall be garage spaces, plus 1 stall per staff member on maximum shift, plus 1 visitor parking stall per 10 dwelling units
Memory Care Units in Senior Living Facility	1 stall per staff member on maximum shift, plus 1 visitor parking stall per 10 dwelling units"
Nursing care institutions, intermediate care institutions, transitional facilities for infirm persons, and facilities for persons with disabilities	1 stall per employee on maximum shift, plus 1 visitor parking stall per 10 beds"

### ALTERNATIVES:

Approve the proposed Ordinance amending parking regulations as presented.  
 Amend the proposed Ordinance prior to adoption.  
 Do not approve the proposed Ordinance amending parking regulations.

### RECOMMENDATION:

Staff recommends City Council approval of the Ordinance amending parking regulations.

**ORDINANCE NO. 2022-2600**

**AN ORDINANCE AMENDING CHAPTER 165 ZONING REGULATIONS,  
SECTION 165.18 OFF-STREET PARKING AREA**

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**BE IT ORDAINED** by the City Council of the City of Polk City, Iowa, as follows:

**Section 1.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by replacing the existing requirements in subsection 1.D, Table of Parking Requirements of Section 165.18, Off-Street Parking Area, under the classification of Residential use, with the following requirements:

“Independent Living Facilities: 1 space per dwelling unit, a minimum of 50% of which shall be garage spaces, plus 1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units

Assisted Living Facilities: 1 space for every two dwelling units, a minimum of 50% of which shall be garage spaces, plus 1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units”

**Section 2.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by adding the following requirements to subsection 1.D, Table of Parking Requirements of Section 165.18, Off-Street Parking Area, under the classification of Institutional Residence or Care or Confinement Facilities use:

“Memory Care Units in Senior Living Facility: 1 space for every employee on maximum shift, plus 1 visitor parking space per 10 dwelling units”

**Section 3.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by deleting the following requirements in subsection 1.D, Table of Parking Requirements of Section 165.18, Off-Street Parking Area, under the classification of Institutional Residence or Care or Confinement Facilities:

“Nursing care institutions, intermediate care institutions, institutions for infirm persons or persons with disabilities, childcare institutions: 3 spaces for every five beds. Multi-family units developed or sponsored by a public or nonprofit agency for limited income families, or the elderly require only 1 space per unit”

and replacing it instead with the following requirements:

“Nursing care institutions, intermediate care institutions, transitional facilities for infirm persons, or facilities for persons with disabilities: 1 space per employee on maximum shift, plus 1 visitor parking space per 10 beds”

**Section 4.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by adding the following clause to the end of subsection 7.A of Section 165.09:

“and except for independent and assisting living units in a senior living facility.”

**Section 5.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by replacing the first sentence of sub section 4.A of Section 165.18, Off-Street Parking Area with the following sentence:

“No part of any parking space shall be closer than ten feet to any established public street right-of-way or five feet to any established alley line.”

**Section 6.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by deleting the following clause in subsection 3.C.:

“Mini-storage units, including access drives and parking areas, shall be on paved surfaces.”

and replacing it with the following clause:

“Mini-storage facilities, mini-warehouses, and outdoor storage spaces for recreational vehicles of any kind, including all access drives and parking areas, shall be on paved surfaces”.

**Section 7.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by amending subsection 1.D, Table of Parking Requirements of Section 165.18, Off-Street Parking Area, under the classification of Office, Clerical, Research and Services not Primarily Related to Goods or Merchandise, by deleting the following use:

“Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, physicians, other professions, insurance and stockbrokers, travel agents, government office buildings, etc.”

and replacing it with the following:

“Operations designed to attract and serve customers or clients on the premises, such as the offices of attorneys, insurance agents, financial professionals and stockbrokers, travel agents, government offices, and similar professional offices”

**Section 8.** Chapter 165, of the Polk City Code of Ordinances; Zoning Regulations, is hereby amended by amending subsection 1.D, Table of Parking Requirements of Section 165.18, Off-Street Parking Area, under the classification of Office, Clerical, Research and Services not Primarily Related to Goods or Merchandise, by deleting the following use:

“Office or clinics of physicians or dentists with no more than 10,000 square feet of gross floor area.”

and replacing it with the following:

“Clinics of physicians, dentists or similar medical professionals with no more than 10,000 square feet of gross floor area.”

**Section 9.** All Ordinances or parts of any Ordinance in conflict with the provisions of this Ordinance are hereby repealed to the extent of the conflict.

**Section 10.** This Ordinance shall be in full force and effect after its passage, approval and publication as provided by law.

**PASSED AND APPROVED** this \_\_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Steve Karsjen, Mayor

ATTEST:

\_\_\_\_\_  
Jenny Coffin, City Clerk

First Reading: \_\_\_\_\_

Second Reading: \_\_\_\_\_

Third Reading: \_\_\_\_\_

Date Adopted: \_\_\_\_\_

Date of Publication: \_\_\_\_\_

	Polk City	Ankeny	Grimes	Johnston	Pleasant Hill	Bondurant	Altoona	Urbandale	Clive	Waukee	Norwalk
Vehicle Sales & Service	1/200 sqft	1/ 200 sqft	4/service bay	1/300 Sqft	2/bay plus 1/empl	1/200sqft	1/200sqft	-	1/1000sqft	3/bay 1per serv vehicle 2.5/1000 sqft	1/300 Sqft 1/empl working
Banks, Business and Pro Services	1/200 sqft		3/1000sqft	1/200 sqft	1/250 sqft + 3 per drive up and ATM	1/200sqft	1/200sqft + 5per window	-	3/ 1000sqft	3/1000sqft 3/ drive through lane	1/250 sqft 1/empl working
Bowling Allys	1 per 3 people plus 1 per 200 sqft	1 per 3 people plus 1 per 200 sqft	3/lane	5/alley	4/lane	5/lane	5/lane	5/lane	5/lane	5/lane	5/alley 1/ 4 spectators
Churches	1/ 80sqft plus 1 per 2 empl	1/ 80sqft plus 1 per 2 empl	1/3 seats	1 each 3 seats	1/4 seats	1/80sqft	1/80sqft + 1/2empl	1/3seats	1/4 seats	1/4seats	1/ 3seats 1/classroom
Event Centers	1/ 4 seats	1/ 300 sqft	1/4 seats 20/1000sqft	1/ 100 sqft	1/4 seats	1/100sqft	1/100sqft	1/50sqft	1/3 seats if under 399 seats plus 1 per 4 over 400	1/3 seats or 20/1000	1/100 sqft 4/seat
Child Care Centers	1 per employee plus 1/300 sqft	1 per employee plus 1/300 sqft	1/staff plus loading for 1/6children	5 or 1 per 5 client	1/employee plus 1/10kids	1/2empl + 1/5kids	1/empl + 1.5/10 clients	1/empl + 1/6 kids	1/6 students +1/van 5 min	1/6 students +1/van 5 min	5 or 1/each 5
Funeral Homes	1/ 100 sqft	1/ 100 sqft	1/4 seats 10/1000sq	15 or 1/each 4 seats	1/250sqft 1/4seats	1/5seats	1/5 seats	1/5 seats	1/4 fixed seats or 10/1000 sqft	1/4 fixed seats or 10/1000 sqft	15 or 1/each 4 seats
Furniture, Appliance, Large Item Stores	1/400 sqft			5 or 1 for each 400 sqft	1/ 250 sqft	1/400sqft	1/200sqft	-	2.5/1000 sqft	2.5/1000 sqft	1/250 sqft to 2000 sqft and 1/ 200 thereafter
Gas Stations	1/ 150 sqft	1/ 200 sqft	3/ 1000sqft	3 or 1/175 sqft whichever is greater	2/bay plus 1/empl	1/150sqft	1/150sqft	-	5/1000 sqft	5/1000 sqft	3 or 1/175 sqft whichever is greater
Golf Course	1/200 sqft of buildings plus 1/3 persons outdoor capacity	1/ 200 sqft of buildings plus 1/ 3 person		6 for each whole and 1/empl	4/hole or tee	-	-	-	6/hole	6/hole	6 for each whole and 1/empl
Driving Range	1/tee plus 1/200sq	1 per 200 sqft		1.5/ each tee	4/hole or tee	-	-	-	2/tee		1.5/ each tee
Health clubs			2.25/1000sqft	10 plus 1/each 200 sqft	1/250 sqft	-	-	-	2.25/1000sqft	1/2 units + 1/staff	10 plus 1/each 200 sqft
Hospitals and Nursing homes	2/ bed or 1per 150 sqft	2/ bed or 1per 150 sqft		1/ each 4 patient beds and 1/ each empl	3/bed	2/bed or 1/150sqft	2/bed 1/150sqft	1/2beds +1/empl	1/2 units +1/staff		1/ each 4 patient beds and 1/ each empl
Hotels, Motels and Boarding houses			1.25/ room	1/ each guest room and 1/ each 2 empl	1/bedroom	1/room	1/room	1/room	1/room	1/room	1/ each guest room and 1/ each 2 empl
Industrial Plants			1/3employees working no less 1/1000	1.5/ each 2 empl max working or 1/ 500 sqft	1/1000 sqft	1/1.5 empl + 1	1/empl	1/1000sqfr	1.5/1000 sqft	1/1000 sqft 2/2 employees	1.5/ each 2 empl max working or 1/ 500 sqft
Schools	1.75 per classroom	1.75 per classroom	elem: 1/staff plus 1/4seats in auditorium/gym	elem/middle: 1/ each staff 1/ 10 student desks HS: 1/each staff 1/ 9 desks	1/4 student desks + 1/employee at peak	1/2empl or 1/8seats in auditorium	1/2empl or 1/8seats in auditorium	2/emp + 1/5 students	1/2empl or 1/8seats in auditorium	1/empl 1/classroom 1/4 seats in auditorium	elem/middle: 1/ each staff 1/ 10 student desks HS: 1/each staff 1/ 9 desks



**Date** January 19, 2023

**To:** Chelsea Huisman  
 City of Polk City  
 P.O. Box 426  
 Polk City, IA 50226-0426

**INVOICE SUMMARY - DECEMBER SERVICES**

Services from December 1, 2022 through December 31, 2022

**GENERAL ENGINEERING**

<u>Meetings</u>	122.0001.01	\$	500.00
<i>Council and P&amp;Z Meetings, City staff meetings, and meetings with developers and developer's engineers.</i>			
<u>Development and Building:</u>	122.0001.01	\$	1,250.00
<i>Coordination with developers, engineers, building inspector, and staff regarding various potential and ongoing projects, and building permits.</i>			
<u>Water Dept:</u>	122.0001.01	\$	100.00
<i>Respond to Developer's questions re: water main locations, size of existing and proposed water mains, connection fees, etc.</i>			
<u>Sanitary Sewers:</u>	122.0001.01	\$	200.00
<i>Respond to Developer's questions re: sanitary sewer availability, schedule for construction of future trunk sewers, hookup fees, etc.</i>			
<u>Storm Sewers:</u>	122.0001.01	\$	-
<u>Street Dept.</u>	122.0001.01	\$	450.00
<i>Coordinate with staff regarding STBG funding application for 3rd/Broadway, ROW acquisition, and street name changes.</i>			
<u>General:</u>	122.0001.01	\$	1,450.00
<i>Coordination with City staff and City Attorney re: agendas, minutes, resolutions, ordinances, and miscellaneous issues.</i>			
<u>GIS</u>	122.0001.01	\$	800.00
<i>Prepare exhibit for 250' notification area for variance request.</i>			

**SUBTOTAL** **\$ 4,750.00**

**CAPITAL IMPROVEMENT PROJECTS / WORK ORDERS**

N. 3rd Street & Vista Lake Avenue Intersection Improvements	121.0455.01	\$	674.50
Broadway & 3rd Street Intersection Study	122.0001.01J	\$	5,400.00
<b>SUBTOTAL</b>		<b>\$</b>	<b>6,074.50</b>

**REIMBURSABLE DEVELOPMENT REVIEW PROJECTS**

Antler Ridge: Development Agr, Prelim Plat, and Const Dwgs	122.0178.01	\$	248.00
Gateway Crossings: Rezoning	122.1398.01	\$	1,193.50
Kahler Golf Maintenance Building Site Plan	122.1488.01	\$	1,445.50
Lakefront Office Park Lot 1 Site Plan	122.1532.01	\$	183.25
Wolf Creek Townhomes Plat 13	121.0581.01	\$	4,786.00
<b>SUBTOTAL</b>		<b>\$</b>	<b>7,856.25</b>

**TOTAL** **\$ 18,680.75**